



## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of  
**MIKE MCCARTNEY**  
Director

Department of Business, Economic Development, and Tourism  
before the

**HOUSE COMMITTEE ON CONSUMER PROTECTION &  
COMMERCE**

Wednesday, February 16, 2022

2:00 PM

State Capitol, Conference Room 329

In consideration of

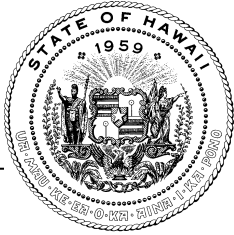
**HB2178, HD1**

**RELATING TO TAX EXPENDITURE ACCOUNTABILITY.**

Chair Johanson, Vice Chair Kitagawa, and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) supports the intent of HB2178, HD1, which seeks to require laws that enact, modify, or extend the availability of a tax expenditure to contain specific information, revenue estimates, and analyses before becoming law.

Identifying the intent and the analyses of economic and employment impact and benefit to the state are important components of data-driven, results-oriented policies and laws. Tax incentives promote growth and investments in targeted industries in the state and encourage businesses to develop infrastructure, hire local talents, and support diverse set of businesses. The tax credits for enterprise zones, renewable energy technologies, film, and research as they pertain to DBEDT, have supported our mission to provide Hawaii citizens the opportunities in innovative job sectors.

DBEDT looks forward to working with the legislature and the Department of Taxation to shape the tax credit policies. Thank you for the opportunity to testify.



# HAWAII STATE ENERGY OFFICE STATE OF HAWAII

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SCOTT J. GLENN  
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Testimony of  
**SCOTT J. GLENN, Chief Energy Officer**

before the  
**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

Wednesday, February 16, 2022  
2:00 PM

State Capitol, Conference Room 329 & Videoconference

**COMMENTS  
HB 2178 HD1  
RELATING TO TAX EXPENDITURE ACCOUNTABILITY.**

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee, the Hawai'i State Energy Office (HSEO) offers comments on HB 2178, HD1, which requires laws that enact, modify, or extend the availability of a tax expenditure to contain specific information, revenue estimates, and analyses before becoming law; and allows the disclosure of certain tax expenditure information.

HSEO's testimony is guided by its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, decarbonized economy, and by the Chief Energy Officers' mandate in HRS 196-72(d)(1) to "Formulate, analyze, recommend, and implement specific policies, strategies, and plans, in coordination with public and private sector stakeholders, to cost-effectively and equitably achieve the State's energy goals."

HSEO appreciates the requirement that the enactment or extension of a tax expenditure include "an explanation of the intent in enacting each tax expenditure..."<sup>1</sup>

The focus on analyzing the economic and employment benefits to the state is appropriate in those cases where "economic and employment benefits" are the public

<sup>1</sup> HB2178, HD1, page 1 lines 6-7

policies intended to be addressed by the tax expenditure, which HSEO understands to include both tax credits and exemptions.

HSEO notes that since the scope of government responsibility is broader than tax revenue receipts and job creation;<sup>2</sup> if the intent of a tax expenditure is to accomplish those other public policy objectives, it may be appropriate to acknowledge to what extent the subject tax expenditure is effective in accomplishing those objectives.

In some cases it may be necessary and appropriate for the Legislature to use taxes and tax credits as a means to balance and support the variety of economic, social, and environmental challenges faced by our state.

Tax credits have been shown to be an effective means of directing private investment towards public objectives; the processes and metrics to use when quantifying the effectiveness of the various policies is a rich area of research and policy development which may be worthy of further Committee consideration.<sup>3</sup>

Thank you for the opportunity to testify.

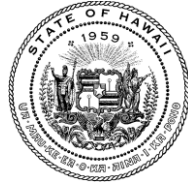
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<sup>2</sup> The [State Constitution](#) lists several areas of government interest, including [Article IX, Public Health and Welfare](#) (public health; care of handicapped persons public assistance; economic security of the elderly; housing, slum clearance, development and rehabilitation; management of state population growth; public sightliness and good order; preservation of a healthful environment; cultural resources; and public safety); [Article X, Education](#); [Article XI, Conservation, Control And Development Of Resources](#) (conservation and development of resources; management and disposition of natural resources; agricultural lands; public land banking; marine resources; water resources; nuclear energy; environmental rights; farm and home ownership);and [Article XII, Hawaiian Affairs](#).

<sup>3</sup> For example, the [Journal of Public Policy](#); [Governing](#) magazine; and the [Public Policy Center at the University of Hawai'i at Mānoa](#).

DAVID Y. IGE  
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To: The Honorable Aaron Ling Johanson, Chair;  
The Honorable Lisa Kitagawa, Vice Chair;  
and Members of the House Committee on Consumer Protection & Commerce

From: Isaac W. Choy, Director  
Department of Taxation

Date: Wednesday, February 16, 2022  
Time: 2:00 P.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 2178, H.D. 1, Relating to Tax Expenditure Accountability**

The Department of Taxation (Department) strongly supports H.B. 2178, H.D. 1, an Administration measure, and offers the following comments for the committee's consideration.

H.B. 2178, H.D. 1, adds new sections to chapter 231, Hawaii Revised Statutes (HRS), to require all laws that enact, modify, or extend the availability of a tax expenditure to include:

- An explanation of the intent in enacting each tax expenditure, including the expected economic and employment benefit to the State;
- An analysis of whether the economic or employment benefit to the State provided by the tax expenditure, if any, outweighs its cost;
- A repeal date that makes the tax expenditure available for no more than thirty-six months;
- A static revenue estimate of the tax expenditure for each of the fiscal years in the State's financial plan; and
- For existing tax expenditures that are modified or extended:
  - The total cost of the tax expenditure over the previous three fiscal years;
  - A static revenue estimate for each of the fiscal years in the State's financial plan if the tax expenditure were repealed; and
  - An analysis describing the extent to which the tax expenditure is fulfilling its desired purpose, including whether the State has realized the anticipated economic benefit and increase in tax revenue, the number of jobs created in the State, and whether the cost of the tax expenditure is outweighed by its benefits.

“Tax expenditure” is defined to mean any credit, deduction, exclusion, exemption, or any other tax benefit that provides a preferential rate of tax or deferral of tax liability, authorized under State law for the purpose of incentivizing economic activity, except for changes enacted to

conform with the Internal Revenue Code, or any modifications required by the U.S. or State Constitutions.

The measure also requires the disclosure of claimant taxpayer identities and expenditure amounts for tax expenditures that encourage certain economic activities. The list of tax expenditures included in this disclosure provision can be found on page 4 of the measure, from subsection (c)(1) through subsection (c)(14).

Requiring a thorough analysis of the value and efficacy of tax expenditures, as well as disclosure of the identity of taxpayers and amounts claimed, is critical for maintaining transparency, public trust, and fairness. The Department is in strong support of this bill and is able to implement the measure as drafted. Thank you for the opportunity to testify on this measure.

THE CIVIL BEAT  
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House Committee on Consumer Protection & Commerce  
Honorable Aaron Ling Johanson, Chair  
Honorable Lisa Kitagawa, Vice Chair

**RE: Testimony Supporting H.B. 2178 H.D. 1,  
Relating to Tax Expenditure Accountability**  
Hearing: February 16, 2022 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony **supporting** H.B. 2178 H.D. 1.

H.B. 2178 H.D. 1 codifies a process for analyzing and explaining the costs and benefits of tax preferences, as well as providing public information about who receives certain tax benefits. To the extent such analysis occurs now, it does not occur consistently. Public confidence in government suffers when the people of Hawai'i cannot reliably obtain information to understand the scope and purpose of special preferences provided to certain taxpayers.

The Department of Taxation correctly summarized the issue in its Justification Sheet.

The disclosure of the identity of the taxpayers and amount of tax expenditures claimed is important to support public trust and fairness. When only certain taxpayers receive preferential treatment, the other taxpayers have the right to know who the recipients are.

Thank you again for the opportunity to testify in support of H.B. 2178 H.D. 1.

# TAX FOUNDATION OF HAWAII

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Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Tax Expenditure Accountability

BILL NUMBER: HB 2178 HD 1

**LATE**

INTRODUCED BY: House Committee on Economic Development

EXECUTIVE SUMMARY: Requires laws that enact, modify, or extend the availability of a tax expenditure to contain specific information, revenue estimates, and analyses before becoming law. Allows the public disclosure of certain tax credit information.

SYNOPSIS: Adds a new section to chapter 231, HRS, requiring that all laws that enact, modify, or extend the availability of a tax expenditure shall include: (1) An explanation of the intent in enacting each tax expenditure, including the expected economic and employment benefit to the State; (2) An analysis of whether the economic or employment benefit to the State provided by the tax expenditure, if any, outweighs its cost; (3) A repeal date that makes the tax expenditure available for no more than thirty-six months; (4) A static revenue estimate of the tax expenditure for each of the fiscal years in the State's financial plan; [and] (5) For tax expenditures that are modified or extended: (A) The total cost of the tax expenditure over the previous three fiscal years; (B) A static revenue estimate for each of the fiscal years in the State's financial plan if the tax expenditure were repealed; (C) An analysis describing the extent to which the tax expenditure is fulfilling its desired purpose, including whether the State has realized the anticipated economic benefit and increase in tax revenue. The analysis should also include the number of jobs created in the State and whether the cost of the tax expenditure is outweighed by its benefits.

Defines a "tax expenditure" as any credit, deduction, exclusion, exemption, or any other tax benefit that provides a preferential rate of tax or deferral of tax liability, authorized under title 14 for the purpose of incentivizing economic activity. The term "tax expenditure" does not include tax measures enacted as a result of conformity with the Internal Revenue Code, nor any modifications to tax measures required by the United States or state constitutions.

Adds another new section to chapter 231, HRS, providing that for tax expenditures that encourage certain economic activities, the claimant taxpayer's identity and the amount of tax expenditure claimed shall be subject to public disclosure under chapter 92F (the state Uniform Information Practices Act).

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: This is an Administration bill sponsored by the department of taxation and designated TAX-04 (22).

At present, the availability of estimated revenue impact information on bills wending their way through the legislature is spotty at best. Even when the Department of Taxation testifies on tax

bills, some testifiers share revenue impact information with the legislature; others don't; others share information with the legislative committees and leave the public in the dark; and still others share information with the committees and the public only in response to questions asked at a hearing. Having the information would be a great step toward openness and transparency in important legislative decisions.

Is the current bill a way to make that happen? Probably not. No consequence is provided in the bill for noncompliance with its provisions, so lawmakers who really want discussion to proceed on a particular tax expenditure matter can just bulldoze ahead.

We note that the State Auditor is required to review existing income tax credits under HRS sections 23-91 to 23-96 on a five-year rolling basis, and the reports issued by the Auditor are supposed to trigger legislative review. New credits are supposed to be added to the list in those sections of chapter 23, but none of these sections were amended after 2017.

Regarding the provision of the bill requiring disclosure of tax expenditure recipients, current law, including sections 235-116 and 237-34, HRS, prohibits the disclosure of tax return information by any person or any officer or employee of the State. Violation of the law is punishable as a class C felony. If the Legislature decides, as a policy matter, that it is better to make such a public disclosure, then appropriate amendments need to be made to the tax return confidentiality statutes to allow for the disclosure contemplated, and adequate notice to the public should be given that the names of tax credit recipients will be released into the public domain.

Digested: 2/15/2022