

JAN 19 2023

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# A BILL FOR AN ACT

RELATING TO TAX EXPENDITURE ACCOUNTABILITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 231, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§231-A Tax expenditures. (a) All laws that enact,  
5 modify, or extend the availability of a tax expenditure shall  
6 include the following:

7           (1) An explanation of the intent in enacting each tax  
8 expenditure, including the expected economic and  
9 employment benefit to the State;

10          (2) An analysis of whether the economic or employment  
11 benefit to the State provided by the tax expenditure,  
12 if any, outweighs its cost;

13          (3) A repeal date that makes the tax expenditure available  
14 for no more than thirty-six months;

15          (4) A static revenue estimate of the tax expenditure for  
16 each of the fiscal years in the State's financial  
17 plan; and



- 1       (5) For tax expenditures that are modified or extended:
- 2           (A) The total cost of the tax expenditure over the
- 3           previous three fiscal years;
- 4           (B) A static revenue estimate for each of the fiscal
- 5           years in the State's financial plan if the tax
- 6           expenditure were repealed; and
- 7           (C) An analysis describing the extent to which the
- 8           tax expenditure is fulfilling its desired
- 9           purpose, including whether the State has realized
- 10          the anticipated economic benefit and increase in
- 11          tax revenue. The analysis shall also include the
- 12          number of jobs created in the State and whether
- 13          the cost of the tax expenditure is outweighed by
- 14          its benefits.
- 15          (b) The director shall adopt rules pursuant to chapter 91
- 16          necessary to effectuate the purposes of this section.
- 17          (c) For the purposes of this section:
- 18           "State financial plan" refers to the financial plan
- 19           required under section 37-69.
- 20           "Static revenue estimate" means a revenue estimate that
- 21           assumes that the gross domestic product will remain unchanged by



1 the legislative proposal. A "static revenue estimate" may take  
2 into account taxpayers' likely behavioral responses to proposed  
3 changes in tax law. For the purposes of this definition,  
4 "behavioral responses" can be broadly characterized as:

- 5 (1) Shifts in the timing of transactions and income  
6 recognition;
- 7 (2) Shifts between business sectors and entity form;
- 8 (3) Shifts in portfolio holdings;
- 9 (4) Shifts in consumption; and
- 10 (5) Tax planning and avoidance strategies.

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

19 **§231-B Lawful disclosure of certain tax expenditure**  
20 **information.** (a) Notwithstanding any law to the contrary, for  
21 tax expenditures that encourage certain economic activities, the



1 claimant taxpayer's identity and the amount of tax expenditure  
2 claimed shall be subject to public disclosure under chapter 92F.  
3 The identity of any taxpayer to which a tax expenditure subject  
4 to this section flows through shall not be subject to public  
5 disclosure.

6 (b) The director shall adopt rules pursuant to chapter 91  
7 necessary to effectuate the purposes of this section, including  
8 rules that subject other tax expenditures authorized under this  
9 title to this section.

10 (c) For the purpose of this section:

11 "Tax expenditure" has the same meaning as defined in  
12 section 231-A.

13 "Tax expenditures that encourage certain economic  
14 activities" include:

15 (1) Exemption from general excise tax for eligible  
16 business activities in an enterprise zone under  
17 section 209E-11;

18 (2) Renewable energy technologies income tax credit under  
19 section 235-12.5(b) (1) (C), (2) (C), and (3) (C);

20 (3) Motion picture, digital media, and film production  
21 income tax credit under section 235-17;



- 1        (4) Fuel tax credit for commercial fishers under section
- 2                235-110.6;
- 3        (5) Ship repair industry tax credit under section
- 4                235-110.65;
- 5        (6) Tax credit for research activities under section
- 6                235-110.91;
- 7        (7) Important agricultural land qualified agricultural
- 8                cost tax credit under section 235-110.93;
- 9        (8) Exemption from general excise tax for certain
- 10                convention, conference, and trade show fees under
- 11                section 237-16.8;
- 12        (9) Exemption from general excise tax for services related
- 13                to ships and aircraft under section 237-24.3(3);
- 14        (10) Exemption from general excise tax for labor
- 15                organizations under section 237-24.3(9);
- 16        (11) Exemption from general excise tax and use tax for
- 17                aircraft leasing under section 237-24.3(11) and
- 18                paragraph (6) of the definition of "use" under section
- 19                238-1, respectively;
- 20        (12) Exemption from general excise tax and use tax for
- 21                aircraft service and maintenance facilities under



1 section 237-24.9 and paragraph (8) of the definition  
2 of "use" under section 238-1, respectively;

3 (13) Exemption from general excise tax for ship building  
4 and ship repair under section 237-28.1;

5 (14) Exemption from general excise tax for affordable  
6 housing projects under sections 237-29 and 238-3(j);  
7 and

8 (15) Renewable fuels production tax credit under Act 216,  
9 Session Laws of Hawaii 2022."

10 SECTION 2. In codifying the new sections added by  
11 section 1 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Kurt Ferrel*



# S.B. NO. 268

**Report Title:**

Tax Expenditure Accountability; Tax Expenditures; Disclosure

**Description:**

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 disclosure of certain tax credit information.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

