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## A BILL FOR AN ACT

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RELATING TO BUSINESS DEVELOPMENT IN CENTRAL OAHU.

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

1       SECTION 1. The legislature finds the federal Tax Cuts and  
2 Jobs Act of 2017, P.L. 115-97, authorized a community economic  
3 development program called the opportunity zones program to  
4 encourage long-term investments in economically distressed  
5 communities nationwide.

6       The legislature also finds that the program provides for  
7 incentives for investors to re-invest unrealized capital gains  
8 into "opportunity funds" established by the private sector in  
9 exchange for temporary tax deferral and other tax benefits.

10       Hawaii has nominated, and the United States Department of  
11 the Treasury has already designated, twenty-five census tracts  
12 as opportunity zones. Two of these are in the Pearl-City/Aiea  
13 neighborhood and one in the Waipahu Neighborhood. These include  
14 Census Tract 80.01 (Hale Mohalu Hospital), Census Tract 80.03  
15 (manana) and Census Tract 87.02 (St. Joseph School).



1       The legislature further finds that Pearl-City Aiea and  
2       Waipahu are excellent locations for residents living in the area  
3       as well as those commute to jobs in Honolulu, Ewa and Central  
4       Oahu.

5       Additionally the legislature finds that by fostering  
6       neighborhood improvements and future urban development such as  
7       multi-family housing, parking management and boulevard treatment  
8       along Farrington Highway our communities not only see  
9       infrastructure repairs and upgrades but economic and housing  
10      opportunities that were previously unattainable in the Central  
11      Oahu area.

12      The purpose of this Act is to incentivize investments in  
13      the area for business development and housing and to incentivize  
14      businesses or owner-occupants to invest in electrical and water  
15      upgrades at in the Pearl-City/Aiea neighborhood and the Waipahu  
16      neighborhood opportunity zones.

17      SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
18      amended by adding a new section to part VI to be appropriately  
19      designated and to read as follows:

20      "§235-       Central Oahu infrastructure upgrade tax credit.

21      (a) There shall be allowed to each taxpayer subject to the tax



1 imposed under this chapter, a tax credit that shall be  
2 deductible from the taxpayer's net income tax liability, if any,  
3 imposed by this chapter for the taxable year in which the credit  
4 is properly claimed.

5 In the case of a partnership, S corporation, estate, or  
6 trust, the tax credit allowable is for qualified expenses  
7 incurred by the entity for the taxable year. The expenses upon  
8 which the tax credit is computed shall be determined at the  
9 entity level. Distribution and share of credit shall be  
10 determined by rule.

11 (b) The amount of the tax credit shall be equal to the  
12 qualified expenses of the taxpayer, up to a maximum of \$150,000.

13 (c) Every taxpayer claiming a credit under this section,  
14 before March 31 of each year in which qualified expenses were  
15 incurred by the taxpayer in the previous taxable year, shall  
16 submit a written, certified statement to the director of  
17 business, economic development, and tourism identifying:

18 (1) Qualified expenses incurred in the previous taxable  
19 year; and



1        (2) The amount of the tax credit claimed by the taxpayer  
2                    pursuant to this section, if any, in the previous  
3                    taxable year.

4        (d) The department of business, economic development, and  
5 tourism shall:

6        (1) Maintain records of the names and addresses of the  
7                    taxpayers claiming the credits under this section and  
8                    the total amount of the qualified expenses upon which  
9                    the tax credits are based;

10       (2) Verify the nature and amount of the qualified  
11                   expenses;

12       (3) Total all qualified and cumulative expenses that the  
13                   department certifies; and

14       (4) Certify the amount of the tax credit for each taxpayer  
15                   for each taxable year and the cumulative amount of the  
16                   tax credit.

17       Upon each determination made under this subsection, the  
18 department of business, economic development, and tourism shall  
19 issue a certificate to the taxpayer verifying information  
20 submitted to the department of business, economic development,  
21 and tourism, including amounts of qualified expenses, the credit



1 amount certified for the taxpayer for each taxable year, and the  
2 cumulative amount of tax credits certified. The director of  
3 business, economic development, and tourism may adopt rules  
4 under chapter 91 as necessary to implement the certification  
5 requirements under this section.

6 The taxpayer shall file the certificate with the taxpayer's  
7 tax return with the department of taxation. Notwithstanding the  
8 authority of the department of business, economic development,  
9 and tourism under this section, the director of taxation may  
10 audit and adjust the tax credit amount to conform to the  
11 information filed by the taxpayer.

12 (e) The director of taxation:

13 (1) Shall prepare any forms that may be necessary to claim  
14 a tax credit under this section;

15 (2) May require the taxpayer to furnish reasonable  
16 information to ascertain the validity of the claim for  
17 the tax credit made under this section; and

18 (3) May adopt rules under chapter 91 necessary to  
19 effectuate the purposes of this section.

20 (f) If the tax credit under this section exceeds the  
21 taxpayer's income tax liability, the excess of the credit over



1 liability may be used as a credit against the taxpayer's income  
2 tax liability in subsequent years until exhausted. All claims  
3 for the tax credit under this section, including amended claims,  
4 shall be filed on or before the end of the twelfth month  
5 following the close of the taxable year for which the credit may  
6 be claimed. Failure to comply with the foregoing provision  
7 shall constitute a waiver of the right to claim the credit.

8 (g) As used in this section, "qualified expenses" means  
9 costs that are necessary and directly incurred by the taxpayer  
10 for upgrading the electrical and water systems In the Pearl-City  
11 - Aiea and Waipahu opportunity zones as designated in their  
12 census tracts."

13 SECTION 3. Section 237-23, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) This chapter shall not apply to the following  
16 persons:

- 17 (1) Public service companies as that term is defined in  
18 section 239-2, with respect to the gross income,  
19 either actual gross income or gross income estimated  
20 and adjusted, that is included in the measure of the  
21 tax imposed by chapter 239;



- 1           (2)   Public utilities owned and operated by the State or  
2                   any county, or other political subdivision thereof;
- 3           (3)   Fraternal benefit societies, orders, or associations,  
4                   operating under the lodge system, or for the exclusive  
5                   benefit of the members of the fraternity itself,  
6                   operating under the lodge system, and providing for  
7                   the payment of death, sick, accident, a legal service  
8                   plan, or other benefits to the members of the  
9                   societies, orders, or associations, and to their  
10                  dependents;
- 11          (4)   Corporations, associations, trusts, or societies  
12                   organized and operated exclusively for religious,  
13                   charitable, scientific, or educational purposes, as  
14                   well as that of operating senior citizens housing  
15                   facilities qualifying for a loan under the laws of the  
16                   United States as authorized by section 202 of the  
17                   Housing Act of 1959, as amended, as well as that of  
18                   operating a legal service plan, as well as that of  
19                   operating or managing a homeless facility, or any  
20                   other program for the homeless authorized under part  
21                  XVII of chapter 346;



1           (5) Business leagues, chambers of commerce, boards of  
2           trade, civic leagues, agricultural and horticultural  
3           organizations, and organizations operated exclusively  
4           for the benefit of the community and for the promotion  
5           of social welfare that shall include the operation of  
6           a legal service plan, and from which no profit inures  
7           to the benefit of any private stockholder or  
8           individual;

9           (6) Hospitals, infirmaries, and sanitararia;

10          (7) Companies that provide potable water to residential  
11          communities that lack any access to public utility  
12          water services and are tax exempt under section  
13          501(c)(12) of the Internal Revenue Code of 1986, as  
14          amended;

15          (8) Cooperative associations incorporated under chapter  
16          421 or Code section 521 cooperatives which fully meet  
17          the requirements of section 421-23, except Code  
18          section 521 cooperatives need not be organized in  
19          Hawaii; provided that:

20            (A) The exemption shall apply only to the gross  
21            income derived from activities that are pursuant



1 to purposes and powers authorized by chapter 421,  
2 except those provisions pertaining to or  
3 requiring corporate organization in Hawaii do not  
4 apply to Code section 521 cooperatives;

5 (B) The exemption shall not relieve any person who  
6 receives any proceeds of sale from the  
7 association of the duty of returning and paying  
8 the tax on the total gross proceeds of the sales  
9 on account of which the payment was made, in the  
10 same amount and at the same rate as would apply  
11 thereto had the sales been made directly by the  
12 person, and all those persons shall be so  
13 taxable; and

14 (C) As used in this paragraph, "Code section 521  
15 cooperatives" mean associations that qualify as a  
16 cooperative under section 521 (with respect to  
17 exemption of farmers' cooperatives from tax) of  
18 the Internal Revenue Code of 1986, as amended;

19 (9) Persons affected with Hansen's disease and kokuas,  
20 with respect to business within the county of Kalawao;



1       (10) Corporations, companies, associations, or trusts  
2       organized for the establishment and conduct of  
3       cemeteries no part of the net earnings of which inures  
4       to the financial benefit of any private stockholder or  
5       individual; provided that the exemption shall apply  
6       only to the activities of those persons in the conduct  
7       of cemeteries and shall not apply to any activity the  
8       primary purpose of which is to produce income, even  
9       though the income is to be used for or in the  
10      furtherance of the exempt activities of those persons;  
11      [and]

12      (11) Nonprofit shippers associations operating under part  
13      296 of the Civil Aeronautics Board Economic  
14      Regulations[-]; and

15      (12) Businesses investing more than \$750,000 over a ten-  
16      year period and creating a minimum of fifty job  
17      positions for the purpose of business development in  
18      the Pearl-City Aiea and Waipahu opportunity zones."

19      SECTION 4. Statutory material to be repealed is bracketed  
20      and stricken. New statutory material is underscored.



1       SECTION 5. This Act shall take effect upon its approval;  
2 provided that section 2 shall apply to taxable years beginning  
3 after December 31, 2022.

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INTRODUCED BY:

Val Okun

JAN 25 2022



# H.B. NO. 2325

**Report Title:**

General Excise Tax Exemption; Tax Credit; Businesses Development; Pearl-City Aiea Opportunity Zone; Waipahu Opportunity Zone

**Description:**

Authorizes a GET exemption for businesses investing more than \$750,000 over a 10-year period and creating a minimum of 50 job positions for the purpose of business development in the Pearl-City Aiea and Waipahu opportunity zones. Establishes a tax credit for upgrading infrastructure in the Pearl-City Aiea and Waipahu opportunity zones.

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