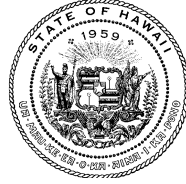


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DEPUTY DIRECTOR

To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Rona M. Suzuki, Director
Department of Taxation

Re: **H.B. 885, H.D. 1, Relating to Taxation**

Date: Tuesday, March 17, 2020

Time: 10:35 A.M.

Place: Conference Room 211, State Capitol

The Department of Taxation (Department) **supports the intent** of H.B. 885, H.D. 1.

H.B. 885, H.D. 1, places a mandatory sunset on all new income tax credits. The mandatory sunset is either a five-year sunset date or a gradual reduction of one-third of the credit over three years. The bill has a defective effective date of July 1, 2030 and otherwise applies beginning January 1, 2020.

The Department suggests **adding a detailed definition of “new credit” to clarify the application of the mandatory sunset.** The bill should also address the amendment of existing credits, extension of existing sunset dates in existing credits, and replacement of existing credits by new credits.

Also, the Department recommends **clarifying the start date of the mandatory sunset.** As currently drafted, it is unclear when the five-year period begins.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Require New Income Tax Credits to Sunset

BILL NUMBER: HB 885, HD-1

INTRODUCED BY: House Committee on Economic Development and Business

EXECUTIVE SUMMARY: Requires that new income tax credits include a five-year sunset or a gradual reduction.

SYNOPSIS: Adds a new section to chapter 235, HRS, stating that beginning January 1, 2020, any income tax credit is to include either a five-year sunset date or a three-year phaseout beginning with the sixth year the credit is in effect, either of which shall trigger legislative review and determination of whether an extension is advisable or necessary.

EFFECTIVE DATE: July 1, 2030.

STAFF COMMENTS: We have concerns over whether this bill, if enacted, would be effective. Normally a current legislature can't bind a future legislature, and later enacted legislation normally prevails over older legislation when the two conflict. Thus, if a future legislature were to pass a bill adding a new tax credit with neither a sunset nor a phaseout, and the bill were signed into law, the law would be effective with neither a sunset nor a phaseout.

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.

Digested 3/14/2020