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To: The Honorable Russell E. Ruderman, Chair;
The Honorable Karl Rhoads, Vice Chair;
and Members of the Senate Committee on Human Services

From: Rona M. Suzuki, Director
Department of Taxation

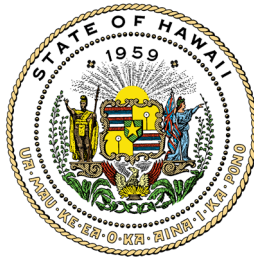
Re: S.B. 2283, Relating to Taxation
Date: Monday, January 27, 2020
Time: 2:45 P.M.
Place: Conference Room 016, State Capitol

The Department of Taxation (Department) offers the following comments regarding S.B. 2283.

S.B. 2283 creates a refundable income tax credit equal to an unspecified percentage of eligible child care expenses during the taxable year.

The Department notes that a tax credit for child care expenses already exists under Hawaii Revised Statutes (HRS) section 235-55.6. That section provides a refundable income tax credit for expenses for household and dependent care necessary for gainful employment and would apply to expenses paid for child care. If the Committee wishes to amend or expand the State's existing tax incentives for child care, the Department suggests doing so by amending HRS section 235-55.6, rather than creating a new tax credit.

Thank you for the opportunity to provide comments.



SENATE COMMITTEE ON HUMAN SERVICES
The Honorable Russell E. Ruderman, Chair
The Honorable Karl Rhoads, Vice Chair

Testimony of the Office of the Auditor on
S.B. NO. 2283, RELATING TO TAXATION

Hearing: Monday, January 27, 2020, 2:45 p.m.

The Office of the Auditor takes **no position** on S.B. No. 2283 and offers the following comments related to reviews of tax exemptions, exclusions, and credits.

The bill amends Chapter 235, Hawai'i Revised Statutes (HRS), by adding a new section that establishes a child care expense tax credit.

We are required to annually review the effectiveness of certain tax exemptions, exclusions, and credits. The questions we are asked to determine include whether: (1) a tax provision has achieved and continues to achieve the purpose for which it was enacted by the legislature, and (2) the benefit, if any, outweighs the cost of the exemption, exclusion, credit, or deduction. HRS §§ 23-71, et seq. and 23-91, et seq.

Evaluations of tax preferences require good data, which includes information about what a preference is intended to do as well as how to assess whether it is achieving its intended purpose. Therefore, for all exemptions, exclusions, credits, and deductions, we recommend the Legislature consider including the purpose of the incentive and clear measurables to determine its effectiveness. We also suggest the Legislature, in consultation with the Department of Taxation, consider the information a claimant should be required to provide that may be necessary for our evaluation of the preference. The Department of Labor and Industrial Relations may be required to assist with job creation and wage data.

The following is sample language from The Washington State Legislative Auditor's *Guidance for Drafting Performance Statements in Tax Preference Legislation* (2014) which recommends legislation include:

- A clear statement of purpose with a “logic chain” which identifies a sequence of steps to achieve the policy objective (for example, “It is the Legislature’s specific public policy objective to reduce the amount of carbon dioxide emissions in Washington. It is the Legislature’s intent to exempt solar powered cars from sales and use tax, in order to reduce the price charged to customers for solar-powered cars, thereby inducing some customers to buy solar-powered cars when they might not otherwise, thereby increasing the number of solar-powered cars on the road in Washington, thereby reducing the amount of carbon dioxide emissions in Washington.”).

- Measurements of effectiveness, including clear and specific targets (for example, “If a review finds that average employment at solar-powered car manufacturing plants increased by 15 percent in the five years following enactment of this tax preference, then the Legislature intends to extend the expiration date of the tax preference.”). However, we note Washington suggests exercising caution when including causal language when describing the measurable condition, as it is often not possible to conclude a direct causal link.
- Identification of potential data sources that would allow measurement of effectiveness (for example, “In order to obtain the data necessary to perform the review in subsection (3), the Joint Legislative Audit and Review Committee may refer to the employment and wage data available from the employment security department.”).

We agree with the Washington State Legislative Auditor that including a statement of purpose and measurements of effectiveness for proposed or existing tax provisions allows for more meaningful analysis of tax preferences.

Thank you for considering our testimony related to S.B. No. 2283.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

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SUBJECT: NET INCOME, Refundable Child Care Expense Credit Taxation

BILL NUMBER: SB 2283

INTRODUCED BY: DELA CRUZ

EXECUTIVE SUMMARY: Establishes a child care expense refundable tax credit that is equal to an unspecified per cent of the amount the taxpayer spent on eligible child care expenses during that taxable year. Defines "eligible child care expenses" as the total amount the taxpayer paid to a child care facility in the State for the care of a child who is under the age of 13 and for whom the taxpayer is entitled to a deduction under section 235-54(a), HRS. Prohibits a taxpayer from claiming both the child care expenses tax credit and the credit for employment-related expenses for household and dependent care services under section 235-55.6, HRS. Applies to taxable years beginning after December 31, 2019.

SYNOPSIS: Adds a new section to chapter 235, HRS, to allow a refundable child care expense tax credit equal to ___% of the taxpayer's eligible child care expenses during the taxable year.

Defines "eligible child care expenses" as the total amount of money the taxpayer paid to a licensed child care facility in the State during the taxable year for the care of a child: (1) who is under the age of thirteen; and (2) for whom the taxpayer is entitled to a personal exemption for income tax purposes.

All claims, including amended claims, for a tax credit shall be filed on or before the end of the twelfth month following the close of the taxable year. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

States that no other tax credit or deduction shall be claimed under this chapter for the certain expenses used to claim a tax credit under this section for the taxable year.

States that a taxpayer shall not be eligible to claim a tax credit under this section if the taxpayer is claiming a credit under section 235-55.6 (credit for expenses for household and dependent care services necessary for gainful employment).

EFFECTIVE DATE: Taxable years beginning after December 31, 2019.

STAFF COMMENTS: There are some issues to consider with refundable credits targeted at low-income and homeless people generally and with the proposed credit in particular.

First, a tax return is one of the most complicated documents for government agencies to process. The administrative costs associated with each one can quickly make heads spin. Furthermore, as the U.S. Treasury has experienced with the Earned Income Tax Credit, the combination of complexity and a refundable credit result in a certain percentage of improper payouts, some due to mistake or misunderstanding, and some due to bad actors.

Second, the credit as proposed overlaps, as the bill recognizes, with the existing credit for expenses for household and dependent care services necessary for gainful employment. This overlap inevitably will cause some taxpayers to claim one credit while being entitled to the other, and the foot fault could well result in disallowance of both credits. For example, suppose a divorced taxpayer with a child that spends some time out of state with a former spouse is under child support obligations and incurs expenses for a child care facility out of state. Those expenses would be eligible for the existing credit but are not eligible for the new one. If the taxpayer claims the credit under this bill, and is audited a year later, the credit will be disallowed (a child care facility in Hawaii is required) and it will be too late to claim the proper credit (more than 12 months after the close of the taxable year in which expenses were incurred).

Third, even for those in the target population who do qualify for this credit, the relief that the credit provides comes in a tax refund which is paid, at the earliest, in the early part of the year after the tax return filer needs the relief. A person who qualifies for the credit in 2017, for example, won't get a check until early 2018.

Fourth, as a policy matter, lawmakers might prefer that the recipient of the refund not use the money obtained on certain things, illegal drugs for example. But the tax system contains no way of restricting the uses of a refund check; other departments do have systems in place to give some assurance that the payment will go toward legitimate living expenses such as groceries (EBT, for example).

The better solution is to get such people out of the tax system entirely. They receive peace of mind because they don't have to worry about tax returns, and the department doesn't have to worry about processing those returns. If additional relief to such people is considered desirable, it can be delivered through the agencies that are better equipped to do so.

Indeed, the Foundation has recently written about the TANF (Temporary Assistance for Needy Families) program, where Hawaii so far has left \$281 million of federal money on the table and is not up to par with other states in providing child care subsidies. A reprint of the article (published Dec. 2, 2019) follows:

TANF: \$281M Federal Money We Haven't Spent

This week we focus on our safety net systems for people or families in need. In the early 1990s, a major part of this net came from the federal Aid to Families with Dependent Children (AFDC) program, which matched state dollars of financial assistance for a needy family. That program was replaced with what we have now, Temporary Assistance for Needy Families (TANF), which is a federal block grant program that, at least in theory, gives states a substantial amount of federal money for purposes like cash assistance, work activities, work supportive services, and child care.

Hawaii gets about [\\$99 million a year](#) under this program. In 2017, it spent \$52 million in federal funds while it spent about three times that amount from its own funds.

That means there was \$47 million in federal money left over just from that year. A state can (at least for now) carry the money over to future years, but...as of last year, [Hawaii](#)

[had \\$281 million](#) in unspent TANF money. That means our state was underutilizing this money on a consistent, year-to-year basis.

A post on the website [efficient.gov](#) quotes an assistant division administrator for the Department of Human Services as saying, “I’m concerned the reserve is larger than it needs to be. I do worry that if we don’t spend it, then our clients aren’t benefiting from it. We definitely need to make changes to get that money out the door.”

The federal program also has what is known as a maintenance of effort (MOE) requirement. It says that states must [maintain a certain level](#) of state TANF spending which is based on a state’s spending for AFDC and similar programs before TANF was enacted. In other words, we needed to and did spend our taxpayer dollars on this program while we left the federal money on the table.

Worse, a good chunk of the federal dollars we did spend were spent in a questionable place—at least in relation to the purpose of the TANF program. The [Center on Budget and Policy Priorities](#) stated that nearly \$32 million of TANF money was spent on the University of Hawaii. Perhaps the justification was that the dollars went to financial aid for needy students. But CBPP pointed out that this “funding served families with incomes up to 300 percent of the federal poverty line and was not focused on helping TANF cash assistance recipients prepare for work. In comparison, the TANF benefit level for a single-parent family of three in Hawaii represents 31 percent of the federal poverty line.”

Not only that. Another central principle behind the TANF program was that states could spend more of the funds on child care subsidies — which are essential to enabling low-income parents to work — rather than on direct financial assistance. Nationally, states spent about 16% of TANF money on child care. [Hawaii spent just 5%](#).

So here we have a double-edged problem. We aren’t spending the federal money we can get, thereby increasing the burden on local taxpayers. We are spending the money on programs targeted not just to the poor, and we are as a result shortchanging the effort to get people off the dole and into the workforce. To put it another way, the money intended to help the poor is being skimmed off to do something else.

Lawmakers, wake up and smell the plumerias! Let’s get some of this federal money pulled down. Let’s get our state money directed to where it is supposed to do the most good. Maybe we can even use it to combat our homeless crisis!

SB-2283

Submitted on: 1/26/2020 8:10:26 PM

Testimony for HMS on 1/27/2020 2:45:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Dale	Individual	Support	No

Comments:

Aloha: This bill provides tax relief for those with children, and is worthy of passage. Please do so.

Sincerely, Dale Head sunnymakaha@yahoo.com

To: Committee on Human Services
Committee Chair Senator Russell Ruderman
Committee Vice Chair Senator Karl Rhoads

Date: January 26, 2020

RE: **Support for SB 2283; Relating to Taxation**

The Early Childhood Action Strategy (ECAS) is a statewide public-private collaborative designed to improve the system of care for Hawai'i's youngest children and their families. ECAS partners are working to align priorities for children prenatal to age eight, streamline services, maximize resources, and improve programs to support our youngest keiki. ECAS supports SB 2283, which would establish a child care expense refundable tax credit.

The cost of child care in Hawai'i has risen over the past years and ranks as one of the highest tuition rates in the country. Across all settings, the average cost of monthly full-time tuition is over \$700. For infants and toddlers, the average cost of monthly full-time care is \$1200. There are 116,205 families with children in Hawaii and 48.5 percent of them have income below the ALICE threshold. 31.7% of two-parent and two-children households make less than it takes to afford their basic needs.

While the cost of care has risen dramatically, child care subsidies has not and has failed to keep pace with inflation. This means parents are shouldering majority of the cost of care at unaffordable rates. A child care expense refundable tax credit is designed to help working families afford (and offset) the high cost of care.

All Children in Hawai'i should have the opportunity to live in families that can provide for their need and invest in their future. We respectfully urge the Committee to support the passage of SB 2283. Thank you for the opportunity to provide this testimony.



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

January 26, 2020

To: Senator Ruderman, Chair
Senator Rhoads, Vice Chair
Senate Committee on Human Services

Re: **SB 2283, Establishing a child care expense refundable tax credit**
Hawaii State Capitol, Room 016
2:45PM, 1/27/2020

Chair Ruderman, Vice Chair Rhoads, and committee members,

On behalf of Hawaii Children's Action Network Speaks!, we offer comments of SB 2283- Relating to taxation.

Hawaii has one of the highest cost in the nation for child care. Families spend on average 14% of their income on child care, with the cost of infant care being the most expensive. We appreciate the intent of SB2283 and suggest that instead of creating a new tax credit for child care, amend the current child and dependent care tax credit so more families can access the credit and can claim more of their expenses. The existing child and dependent care tax credit is refundable and is scaled based on the tax filer's income.

The current Child and Dependent Care tax credit was the second most commonly claimed credit for year 2017 (most recent year data is available). Tax filers are familiar with and already using the child and dependent care tax credit and it seems to serve the same purpose.

We appreciate the intent of SB 2283 and the opportunity to provide comments.

Thank you,

Kathleen Algire
Director, Public Policy and Research