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To: The Honorable Sylvia Luke, Chair;
The Honorable Ty J.K. Cullen, Vice Chair;
and Members of the House Committee on Finance

From: Isaac W. Choy, Director
Department of Taxation

Date: February 25, 2021
Time: 12:00 P.M.
Place: Via Video Conference, State Capitol

Re: H.B. 1273, H.D. 1, Related to Tax Credits

The Department of Taxation (Department) offers the following comments regarding H.B. 1273, H.D. 1, for your consideration.

This measure requires the Department of Business, Economic Development, and Tourism to make a public disclosure identifying the names of the taxpayers who are receiving tax credits for the motion picture, digital media, and film production income tax credit, the tax credit for research activities, and/or the enterprise zone credit, as well as the total amount of tax credit received. H.D. 1 has a defective effective date of July 1, 2050 and otherwise applies to taxable years beginning after December 31, 2021.

The Department will be able to administer this measure as it is written, but notes that it is important that the application of this measure remain prospective as is written currently as taxpayers would be consenting to the disclosure of taxpayer information by claiming the applicable credit.

Thank you for the opportunity to provide comments.



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 FINANCE

Thursday, February 25, 2021
12:00 PM

State Capitol, Conference Room 308

In consideration of

HB 1273 HD1
RELATING TO TAX CREDITS.

Chair Luke, Vice Chair Cullen, and members of the Committee on Finance. The Department of Business, Economic Development and Tourism (DBEDT) offers comments for HB1273, HD1 that proposes DBEDT file a public disclosure identifying the name of taxpayers receiving certain credits and the total amount of the tax credits received.

Chapter 209E is DBEDT's Enterprise Zone Program. DBEDT does not certify the actual tax credit amounts for this program. Rather, DBEDT certifies that companies have met the program requirements of job creation and that EZ companies can then file for the non-reimbursable tax credits, i.e., the tax credit is a percentage and only comes from the money the company owes the state in a given tax year. In DBEDT's EZ Annual Report EZ companies are listed and note those that have met the requirements of the program and thus can take the tax credits when they complete their taxes. Because it is a non-reimbursable tax credit and a percentage, DBEDT does not know the amount of the tax credit claimed by individual EZ company.

With regard for section 235-17, HRS, this measure requires DBEDT to file a

public disclosure identifying the names of taxpayers who receive the Motion Picture, Digital Media, and Film Production Income Tax Credit and the total amount of the tax credit received upon certification by DBEDT that the taxpayer has received the tax credit.

Under section 235-17, HRS, DBEDT only provides a letter to the Department of Taxation specifying the amount of tax credit for which a taxpayer qualifies. DBEDT does not certify that a taxpayer has actually received the tax credit, nor does it certify the amount of tax credit actually received. This information remains between the taxpayer and Department of Taxation and is information to which DBEDT is not privy.

Also, this new requirement is inconsistent with section 235-17(i)(4), HRS, which provides that DBEDT's annual report to the Legislature detailing the qualified productions costs that form the basis of the tax credit claims be "in a redacted format to preserve the confidentiality of the taxpayers claiming the tax credit."

This change in the law may act as a deterrent for applicants seeking to utilize the film credits.

Thank you for the opportunity to testify.

TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, MISCELLANEOUS, Public Disclosure of Credit Recipients

BILL NUMBER: HB 1273, HD1

INTRODUCED BY: House Committee on Economic Development

EXECUTIVE SUMMARY: Requires the Department of Business, Economic Development, and Tourism to make a public disclosure identifying the names of the taxpayers who are receiving certain tax credits and the total amount of tax credit received for specific economic activities

SYNOPSIS: Adds a new section to chapter 201, HRS, requiring DBEDT to publicly identify the taxpayers receiving any of the following tax credits: (1) the motion picture, digital media, and film production income tax credit (section 235-17, HRS); (2) the tax credit for research activities (section 235-110.91, HRS); and (3) credits under the enterprise zone program (chapter 209E, HRS).

EFFECTIVE DATE: 7/1/2050

STAFF COMMENTS: 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 here contemplated.

Digested 2/23/2021

HB-1273-HD-1

Submitted on: 2/23/2021 10:37:51 PM

Testimony for FIN on 2/25/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members,

Please support HB1273.

Thank you,

Andrea Quinn

HB-1273-HD-1

Submitted on: 2/24/2021 8:21:23 PM

Testimony for FIN on 2/25/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

I support hb1273 hd1