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# A BILL FOR AN ACT

RELATING TO THE HOUSEHOLD AND DEPENDENT CARE SERVICES TAX  
CREDIT.

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

1           SECTION 1. The legislature finds that the average cost of  
2 full-time child care in Hawaii currently exceeds \$13,000 per  
3 year for working families. The rising cost of child care should  
4 be reflected in the income tax credits allowed for expenses for  
5 household and dependent care services, which include child care  
6 services. Such services facilitate the academic and social  
7 development of young children and allow parents to obtain stable  
8 employment, thereby increasing the economic well-being of the  
9 family as a whole.

10           The legislature further finds that Act 163, Session Laws of  
11 Hawaii 2023 (Act 163), partially strengthened the household and  
12 dependent care services tax credit by raising the amount of the  
13 employment-related expenses incurred during any taxable year  
14 that may be taken into account for the purposes of the credit.  
15 Yet, Act 163 did not increase the maximum percentage of  
16 household and dependent care expenses that may be claimed for



1 the purposes of the tax credit. Without adjusting the maximum  
2 percentage of expenses that taxpayers can claim, the increases  
3 to the claimable amounts of the household and dependent care  
4 services tax credit provide limited benefit to working families.

5 The legislature additionally finds that in statements to  
6 the media, public officials said that they intended to provide  
7 approximately \$47,000,000 of financial relief to working  
8 families through the household and dependent care services tax  
9 credit under Act 163. The department of taxation later  
10 estimated the cost of the provisions of Act 163 relating to the  
11 household and dependent care services tax credit at only about  
12 \$9,500,000. This discrepancy can be rectified by amending the  
13 tax credit to increase the percentage of child and dependent  
14 care expenses for which the credit may be applied, thereby  
15 fulfilling the legislature's original intent for Act 163.

16 The purpose of this Act is to amend the taxpayer's  
17 applicable percentage of employment-related expenses that may be  
18 claimed for the household and dependent care services tax  
19 credit.

20 SECTION 2. Section 235-55.6, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           **"§235-55.6 Expenses for household and dependent care**  
2 **services necessary for gainful employment.** (a) Allowance of  
3 credit.

4           (1) In general. For each resident taxpayer, who files an  
5 individual income tax return for a taxable year, and  
6 who is not claimed or is not otherwise eligible to be  
7 claimed as a dependent by another taxpayer for federal  
8 or Hawaii state individual income tax purposes, who  
9 maintains a household which includes as a member one  
10 or more qualifying individuals (as defined in  
11 subsection (b)(1)), there shall be allowed as a credit  
12 against the tax imposed by this chapter for the  
13 taxable year an amount equal to the applicable  
14 percentage of the employment-related expenses (as  
15 defined in subsection (b)(2)) paid by the individual  
16 during the taxable year. If the tax credit claimed by  
17 a resident taxpayer exceeds the amount of income tax  
18 payment due from the resident taxpayer, the excess of  
19 the credit over payments due shall be refunded to the  
20 resident taxpayer; provided that tax credit properly  
21 claimed by a resident individual who has no income tax



1 liability shall be paid to the resident individual;  
 2 and provided further that no refunds or payment on  
 3 account of the tax credit allowed by this section  
 4 shall be made for amounts less than \$1.

5 (2) Applicable percentage. For purposes of paragraph (1),  
 6 the taxpayer's applicable percentage shall be  
 7 ~~[determined as follows:~~

| 9  | <del>Adjusted gross income</del> | <del>Applicable percentage</del> |
|----|----------------------------------|----------------------------------|
| 10 | <del>Not over \$25,000</del>     | <del>25%</del>                   |
| 11 | <del>Over \$25,000 but</del>     | <del>24%</del>                   |
| 12 | <del>not over \$30,000</del>     |                                  |
| 13 | <del>Over \$30,000 but</del>     | <del>23%</del>                   |
| 14 | <del>not over \$35,000</del>     |                                  |
| 15 | <del>Over \$35,000 but</del>     | <del>22%</del>                   |
| 16 | <del>not over \$40,000</del>     |                                  |
| 17 | <del>Over \$40,000 but</del>     | <del>21%</del>                   |
| 18 | <del>not over \$45,000</del>     |                                  |
| 19 | <del>Over \$45,000 but</del>     | <del>20%</del>                   |
| 20 | <del>not over \$50,000</del>     |                                  |
| 21 | <del>Over \$50,000</del>         | <del>15%.]</del>                 |



1           equal to           per cent reduced by           percentage  
 2           point for each \$           , or fraction thereof, by  
 3           which the taxpayer's adjusted gross income exceeds the  
 4           threshold amount; provided that the applicable  
 5           percentage shall not be reduced below           per cent.

6           (3) Threshold amount. For purposes of paragraph (2) for  
 7           taxable years beginning after December 31, 2023, the  
 8           threshold amount shall be \$           .

9           (b) Definitions of qualifying individual and employment-  
 10 related expenses. For purposes of this section:

11           (1) Qualifying individual. The term "qualifying  
 12 individual" means:

13           (A) A dependent of the taxpayer who is under the age  
 14 of thirteen and with respect to whom the taxpayer  
 15 is entitled to a deduction under section 235-  
 16 54(a),

17           (B) A dependent of the taxpayer who is physically or  
 18 mentally incapable of caring for oneself, or

19           (C) The spouse of the taxpayer, if the spouse is  
 20 physically or mentally incapable of caring for  
 21 oneself.



1 (2) Employment-related expenses.

2 (A) In general. The term "employment-related  
3 expenses" means amounts paid for the following  
4 expenses, but only if such expenses are incurred  
5 to enable the taxpayer to be gainfully employed  
6 for any period for which there are one or more  
7 qualifying individuals with respect to the  
8 taxpayer:

9 (i) Expenses for household services~~[7]~~; and

10 (ii) Expenses for the care of a qualifying  
11 individual.

12 Such term shall not include any amount paid for  
13 services outside the taxpayer's household at a  
14 camp where the qualifying individual stays  
15 overnight.

16 (B) Exception. Employment-related expenses described  
17 in subparagraph (A) which are incurred for  
18 services outside the taxpayer's household shall  
19 be taken into account only if incurred for the  
20 care of:



- 1 (i) A qualifying individual described in
- 2 paragraph (1)(A), or
- 3 (ii) A qualifying individual (not described in
- 4 paragraph (1)(A)) who regularly spends at
- 5 least eight hours each day in the taxpayer's
- 6 household.
- 7 (C) Dependent care centers. Employment-related
- 8 expenses described in subparagraph (A) which are
- 9 incurred for services provided outside the
- 10 taxpayer's household by a dependent care center
- 11 (as defined in subparagraph (D)) shall be taken
- 12 into account only if:
- 13 (i) Such center complies with all applicable
- 14 laws, rules, and regulations of this State,
- 15 if the center is located within the
- 16 jurisdiction of this State; or
- 17 (ii) Such center complies with all applicable
- 18 laws, rules, and regulations of the
- 19 jurisdiction in which the center is located,
- 20 if the center is located outside the State;
- 21 and



1 (iii) The requirements of subparagraph (B) are  
2 met.

3 (D) Dependent care center defined. For purposes of  
4 this paragraph, the term "dependent care center"  
5 means any facility [~~which:~~] that:

6 (i) Provides care for more than six individuals  
7 (other than individuals who reside at the  
8 facility), and

9 (ii) Receives a fee, payment, or grant for  
10 providing services for any of the  
11 individuals (regardless of whether such  
12 facility is operated for profit).

13 (c) Dollar limit on amount creditable. The amount of the  
14 employment-related expenses incurred during any taxable year  
15 which may be taken into account under subsection (a) shall not  
16 exceed:

17 (1) \$10,000 if there is one qualifying individual with  
18 respect to the taxpayer for such taxable year[7]; or

19 (2) \$20,000 if there are two or more qualifying  
20 individuals with respect to the taxpayer for such  
21 taxable year.



1 The amount determined under paragraph (1) or (2) (whichever is  
2 applicable) shall be reduced by the aggregate amount excludable  
3 from gross income under section 129 (with respect to dependent  
4 care assistance programs) of the Internal Revenue Code for the  
5 taxable year.

6 (d) Earned income limitation.

7 (1) In general. Except as otherwise provided in this  
8 subsection, the amount of the employment-related  
9 expenses incurred during any taxable year which may be  
10 taken into account under subsection (a) shall not  
11 exceed:

12 (A) In the case of an individual who is not married  
13 at the close of such year, such individual's  
14 earned income for such year, or

15 (B) In the case of an individual who is married at  
16 the close of such year, the lesser of such  
17 individual's earned income or the earned income  
18 of the individual's spouse for such year.

19 (2) Special rule for spouse who is a student or incapable  
20 of caring for oneself. In the case of a spouse who is  
21 a student or a qualified individual described in



1 subsection (b)(1)(C), for purposes of paragraph (1),  
2 such spouse shall be deemed for each month during  
3 which such spouse is a full-time student at an  
4 educational institution, or is such a qualifying  
5 individual, to be gainfully employed and to have  
6 earned income of not less than:

7 (A) \$200 if subsection (c)(1) applies for the taxable  
8 year, or

9 (B) \$400 if subsection (c)(2) applies for the taxable  
10 year.

11 In the case of any husband and wife, this paragraph  
12 shall apply with respect to only one spouse for any  
13 one month.

14 (e) Special rules. For purposes of this section:

15 (1) Maintaining household. An individual shall be treated  
16 as maintaining a household for any period only if over  
17 half the cost of maintaining the household for the  
18 period is furnished by the individual (or, if the  
19 individual is married during the period, is furnished  
20 by the individual and the individual's spouse).



- 1           (2) Married couples must file joint return. If the  
2           taxpayer is married at the close of the taxable year,  
3           the credit shall be allowed under subsection (a) only  
4           if the taxpayer and the taxpayer's spouse file a joint  
5           return for the taxable year.
- 6           (3) Marital status. An individual legally separated from  
7           the individual's spouse under a decree of divorce or  
8           of separate maintenance shall not be considered as  
9           married.
- 10          (4) Certain married individuals living apart. If:
- 11           (A) An individual who is married and who files a  
12           separate return:
- 13           (i) Maintains as the individual's home a  
14           household that constitutes for more than  
15           one-half of the taxable year the principal  
16           place of abode of a qualifying individual,  
17           and
- 18           (ii) Furnishes over half of the cost of  
19           maintaining the household during the taxable  
20           year, and



1 (B) During the last six months of the taxable year  
2 the individual's spouse is not a member of the  
3 household,  
4 the individual shall not be considered as married.  
5 (5) Special dependency test in case of divorced parents,  
6 etc. If:  
7 (A) Paragraph (2) or (4) of section 152(e) of the  
8 Internal Revenue Code of 1986, as amended,  
9 applies to any child with respect to any calendar  
10 year, and  
11 (B) The child is under age thirteen or is physically  
12 or mentally incompetent of caring for the child's  
13 self,  
14 in the case of any taxable year beginning in the  
15 calendar year, the child shall be treated as a  
16 qualifying individual described in subsection  
17 (b)(1)(A) or (B) (whichever is appropriate) with  
18 respect to the custodial parent (within the meaning of  
19 section 152(e)(1) of the Internal Revenue Code of  
20 1986, as amended), and shall not be treated as a



1           qualifying individual with respect to the noncustodial  
2           parent.

3           (6) Payments to related individuals. No credit shall be  
4           allowed under subsection (a) for any amount paid by  
5           the taxpayer to an individual:

6           (A) With respect to whom, for the taxable year, a  
7           deduction under section 151(c) of the Internal  
8           Revenue Code of 1986, as amended (relating to  
9           deduction for personal exemptions for dependents)  
10          is allowable either to the taxpayer or the  
11          taxpayer's spouse, or

12          (B) Who is a child of the taxpayer (within the  
13          meaning of section 151(c)(3) of the Internal  
14          Revenue Code of 1986, as amended) who has not  
15          attained the age of nineteen at the close of the  
16          taxable year.

17          For purposes of this paragraph, the term "taxable  
18          year" means the taxable year of the taxpayer in which  
19          the service is performed.

20          (7) Student. The term "student" means an individual who,  
21          during each of five calendar months during the taxable



1 year, is a full-time student at an educational  
2 organization.

3 (8) Educational organization. The term "educational  
4 organization" means a school operated by the  
5 department of education under chapter 302A, an  
6 educational organization described in section  
7 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,  
8 as amended, or a university, college, or community  
9 college.

10 (9) Identifying information required with respect to  
11 service provider. No credit shall be allowed under  
12 subsection (a) for any amount paid to any person  
13 unless:

14 (A) The name, address, taxpayer identification  
15 number, and general excise tax license number of  
16 the person are included on the return claiming  
17 the credit,

18 (B) If the person is located outside the State, the  
19 name, address, and taxpayer identification  
20 number, if any, of the person and a statement  
21 indicating that the service provider is located



1 outside the State and that the general excise tax  
2 license and, if applicable, the taxpayer  
3 identification numbers are not required, or  
4 (C) If the person is an organization described in  
5 section 501(c)(3) of the Internal Revenue Code  
6 and exempt from tax under section 501(a) of the  
7 Internal Revenue Code, the name and address of  
8 the person are included on the return claiming  
9 the credit.

10 In the case of a failure to provide the information  
11 required under the preceding sentence, the preceding  
12 sentence shall not apply if it is shown that the  
13 taxpayer exercised due diligence in attempting to  
14 provide the information so required.

15 (f) No credit shall be allowed under this section for any  
16 taxable year in the disallowance period. For purposes of this  
17 subsection, the disallowance period is:

18 (1) The period of ten taxable years after the most recent  
19 taxable year for which there was a final  
20 administrative or judicial decision that the



1           taxpayer's claim for credit under this section was due  
2           to fraud; and

3           (2) The period of two taxable years after the most recent  
4           taxable year for which there was a final  
5           administrative or judicial decision disallowing the  
6           taxpayer's claim for credit.

7           [~~(f)~~] (g) Rules. The director of taxation shall prescribe  
8 such rules under chapter 91 as may be necessary to carry out the  
9 purposes of this section."

10           SECTION 3. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12           SECTION 4. This Act shall take effect on July 1, 3000, and  
13 shall apply to taxable years beginning after December 31, 2023;  
14 provided that on June 30, 2029, this Act shall be repealed and  
15 section 235-55.6, Hawaii Revised Statutes, shall be reenacted in  
16 the form in which it read on the day prior to the effective date  
17 of this Act.



**Report Title:**

Taxation; Household and Dependent Care Services; Tax Credit

**Description:**

Amends a taxpayer's applicable percentage of employment-related expenses that may be claimed for the household and dependent care services tax credit for five years. Sunsets 6/30/2029. Effective 7/1/3000. (HD2)

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

