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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that the cost of full-  
2 time child care has risen over the past years. Such cost  
3 increases should be reflected in the income tax credits allowed  
4 for expenses for household and dependent care services. The  
5 legislature further finds that early learning programs  
6 facilitate the academic and social development of young children  
7 and should therefore be supports. Full-time child care programs  
8 allow parents to obtain and retain secure, stable employment,  
9 which increases the economic well-being of the family as a  
10 whole.

11           The purpose of this Act is to increase the taxpayer's  
12 applicable percentage of employment-related expenses and dollar  
13 limit on the amount creditable, which constitute the tax credit  
14 for expenses for household and dependent care services necessary  
15 for gainful employment.

16           SECTION 2. Section 235-55.6, Hawaii Revised Statutes, is  
17 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~~] that includes as a  
10 member one or more qualifying individuals (as defined  
11 in subsection (b)(1)), there shall be allowed as a  
12 credit 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 a 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:

| Adjusted gross income                  | Applicable percentage         |
|--|-------------------------------|
| Not over \$25,000                      | <del>[25%]</del> <u>75%</u>   |
| Over \$25,000 but<br>not over \$30,000 | <del>[24%]</del> <u>70%</u>   |
| Over \$30,000 but<br>not over \$35,000 | <del>[23%]</del> <u>65%</u>   |
| Over \$35,000 but<br>not over \$40,000 | <del>[22%]</del> <u>60%</u>   |
| Over \$40,000 but<br>not over \$45,000 | <del>[21%]</del> <u>55%</u>   |
| Over \$45,000 but<br>not over \$50,000 | <del>[20%]</del> <u>50%</u>   |
| Over \$50,000                          | <del>[15%]</del> <u>25%</u> . |



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

3 (1) Qualifying individual. The term "qualifying  
4 individual" means:

5 (A) A dependent of the taxpayer who is under the age  
6 of thirteen and with respect to whom the taxpayer  
7 is entitled to a deduction under section  
8 235-54(a) [7];

9 (B) A dependent of the taxpayer who is physically or  
10 mentally incapable of caring for oneself [7]; or

11 (C) The spouse of the taxpayer, if the spouse is  
12 physically or mentally incapable of caring for  
13 oneself.

14 (2) Employment-related expenses.

15 (A) In general. The term "employment-related  
16 expenses" means amounts paid for the following  
17 expenses, but only if [~~such~~] the expenses are  
18 incurred to enable the taxpayer to be gainfully  
19 employed for any period for which there are one  
20 or more qualifying individuals with respect to  
21 the taxpayer:



- 1 (i) Expenses for household services~~[ ]~~; and
- 2 (ii) Expenses for the care of a qualifying
- 3 individual.

4 ~~[Such]~~ The term shall not include any amount paid  
5 for services outside the taxpayer's household at  
6 a camp where the qualifying individual stays  
7 overnight.

8 (B) Exception. Employment-related expenses described  
9 in subparagraph (A) ~~[which]~~ that are incurred for  
10 services outside the taxpayer's household shall  
11 be taken into account only if incurred for the  
12 care of:

- 13 (i) A qualifying individual described in
- 14 paragraph (1)(A) ~~[ ]~~; or
- 15 (ii) A qualifying individual (not described in
- 16 paragraph (1)(A)) who regularly spends at
- 17 least eight hours each day in the taxpayer's
- 18 household.

19 (C) Dependent care centers. Employment-related  
20 expenses described in subparagraph (A) ~~[which]~~  
21 that are incurred for services provided outside



1 the taxpayer's household by a dependent care  
2 center (as defined in subparagraph (D)) shall be  
3 taken into account only if:

4 (i) [~~Such~~] The center complies with all  
5 applicable laws, rules, and regulations of  
6 this State, if the center is located within  
7 the jurisdiction of this State; or

8 (ii) [~~Such~~] The center complies with all  
9 applicable laws, rules, and regulations of  
10 the jurisdiction in which the center is  
11 located, if the center is located outside  
12 the State;

13 and

14 [~~(iii)~~] The the requirements of subparagraph (B)  
15 are met.

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

19 (i) Provides care for more than six individuals  
20 (other than individuals who reside at the  
21 facility) [~~7~~]; and



1 (ii) Receives a fee, payment, or grant for  
2 providing services for any of the  
3 individuals (regardless of whether [~~such~~]  
4 the facility is operated for profit).

5 (c) Dollar limit on amount creditable. The amount of the  
6 employment-related expenses incurred during any taxable year  
7 [~~which~~] that may be taken into account under subsection (a)  
8 shall not exceed:

9 (1) [~~\$2,400~~] \$13,000 if there is one qualifying individual  
10 with respect to the taxpayer for [~~such~~] the taxable  
11 year[~~]~~; or

12 (2) [~~\$4,800~~] \$26,000 if there are two or more qualifying  
13 individuals with respect to the taxpayer for [~~such~~]  
14 the taxable year.

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

20 (d) Earned income limitation.



1           (1) In general. Except as otherwise provided in this  
2           subsection, the amount of the employment-related  
3           expenses incurred during any taxable year [~~which~~] that  
4           may be taken into account under subsection (a) shall  
5           not exceed:  
6           (A) In the case of an individual who is not married  
7           at the close of [~~such~~] the year, [~~such~~] the  
8           individual's earned income for [~~such~~] the  
9           year[~~7~~]; or  
10          (B) In the case of an individual who is married at  
11          the close of [~~such~~] the year, the lesser of  
12          [~~such~~] the individual's earned income or the  
13          earned income of the individual's spouse for  
14          [~~such~~] the year.  
15          (2) Special rule for spouse who is a student or incapable  
16          of caring for oneself. In the case of a spouse who is  
17          a student or a qualified individual described in  
18          subsection (b)(1)(C), for purposes of paragraph (1),  
19          [~~such~~] the spouse shall be deemed for each month  
20          during which [~~such~~] the spouse is a full-time student  
21          at an educational institution, or is [~~such~~] a



1           qualifying individual, to be gainfully employed and to  
2           have earned income of not less than:

3           (A) \$200 if subsection (c)(1) applies for the taxable  
4           year~~[7]~~; or

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

7           In the case of any husband and wife, this paragraph  
8           shall apply with respect to only one spouse for any  
9           one month.

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

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

17          (2) Married couples must file joint return. If the  
18          taxpayer is married at the close of the taxable year,  
19          the credit shall be allowed under subsection (a) only  
20          if the taxpayer and the taxpayer's spouse file a joint  
21          return for the taxable year.



- 1           (3) Marital status. An individual legally separated from  
2           the individual's spouse under a decree of divorce or  
3           of separate maintenance shall not be considered as  
4           married.
- 5           (4) Certain married individuals living apart. If:
- 6           (A) An individual who is married and who files a  
7           separate return:
- 8           (i) Maintains as the individual's home a  
9           household that constitutes for more than  
10           one-half of the taxable year the principal  
11           place of abode of a qualifying  
12           individual[7]; and
- 13           (ii) Furnishes over half of the cost of  
14           maintaining the household during the taxable  
15           year[7]; and
- 16           (B) During the last six months of the taxable year  
17           the individual's spouse is not a member of the  
18           household,  
19           the individual shall not be considered as married.
- 20           (5) Special dependency test in case of divorced parents,  
21           etc. If:



- 1 (A) Paragraph (2) or (4) of section 152(e) of the  
2 Internal Revenue Code of 1986, as amended,  
3 applies to any child with respect to any calendar  
4 year~~[7]~~; and
- 5 (B) The child is under age thirteen or is physically  
6 or mentally incompetent of caring for the child's  
7 self,  
8 in the case of any taxable year beginning in the  
9 calendar year, the child shall be treated as a  
10 qualifying individual described in subsection  
11 (b)(1)(A) or (B) (whichever is appropriate) with  
12 respect to the custodial parent (within the meaning of  
13 section 152(e)(1) of the Internal Revenue Code of  
14 1986, as amended), and shall not be treated as a  
15 qualifying individual with respect to the noncustodial  
16 parent.
- 17 (6) Payments to related individuals. No credit shall be  
18 allowed under subsection (a) for any amount paid by  
19 the taxpayer to an individual:
- 20 (A) With respect to whom, for the taxable year, a  
21 deduction under section 151(c) of the Internal



1 Revenue Code of 1986, as amended (relating to  
2 deduction for personal exemptions for  
3 dependents), is allowable either to the taxpayer  
4 or the taxpayer's spouse[-]; or

5 (B) Who is a child of the taxpayer (within the  
6 meaning of section 151(c)(3) of the Internal  
7 Revenue Code of 1986, as amended) who has not  
8 attained the age of nineteen at the close of the  
9 taxable year.

10 For purposes of this paragraph, the term "taxable  
11 year" means the taxable year of the taxpayer in which  
12 the service is performed.

13 (7) Student. The term "student" means an individual who,  
14 during each of five calendar months during the taxable  
15 year, is a full-time student at an educational  
16 organization.

17 (8) Educational organization. The term "educational  
18 organization" means a school operated by the  
19 department of education under chapter 302A, an  
20 educational organization described in section  
21 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,



1 as amended, or a university, college, or community  
2 college.

3 (9) Identifying information required with respect to  
4 service provider. No credit shall be allowed under  
5 subsection (a) for any amount paid to any person  
6 unless:

7 (A) The name, address, taxpayer identification  
8 number, and general excise tax license number of  
9 the person are included on the return claiming  
10 the credit~~[ ]~~;

11 (B) If the person is located outside the State, the  
12 name, address, and taxpayer identification  
13 number, if any, of the person and a statement  
14 indicating that the service provider is located  
15 outside the State and that the general excise tax  
16 license and, if applicable, the taxpayer  
17 identification numbers are not required~~[ ]~~; or

18 (C) If the person is an organization described in  
19 section 501(c)(3) of the Internal Revenue Code  
20 and exempt from tax under section 501(a) of the  
21 Internal Revenue Code, the name and address of



1           the person are included on the return claiming  
2           the credit.

3           In the case of a failure to provide the information  
4           required under the preceding sentence, the preceding  
5           sentence shall not apply if it is shown that the  
6           taxpayer exercised due diligence in attempting to  
7           provide the information so required.

8           (f) On September 30, 2020, and on September 30 of each  
9           year thereafter, the department of taxation shall calculate an  
10           adjustment to the adjusted gross income thresholds under  
11           subsection (a) and the dollar limits on amounts creditable under  
12           subsection (c) based on the annual change in the urban Hawaii  
13           consumer price index or successor index for the twelve months  
14           prior to September 1 of that year, as calculated by the United  
15           States Department of Labor. The adjusted gross income  
16           thresholds and dollar limits on amounts creditable shall take  
17           effect on January 1 of the following year.

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



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2050, and  
4 shall apply to taxable years beginning after December 31, 2019.



**Report Title:**

Income Tax Credit; Expenses for Household and Dependent Care Services Necessary for Gainful Employment; Keiki Caucus

**Description:**

Amends the income tax credit for expenses for household and dependent care services necessary for gainful employment by increasing the taxpayer's applicable percentage of employment-related expenses and dollar limit on amounts creditable that constitute the tax credit. Requires the Department of Taxation to make annual adjustments for inflation to the adjusted gross income thresholds and dollar limits on amounts creditable. Applies to taxable years beginning after 12/31/2019. Effective 7/1/2050. (SD1)

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