JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAIʻI
DEPARTMENT OF TAXATION
Ka ʻOihana ʻAuhau
P.O. BOX 259
HONOLULU, HAWAIʻI 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:
H.B. No. 1203, Relating to Taxation

BEFORE THE:
House Committee on Labor & Government Operations

DATE: Tuesday, February 14, 2023
TIME: 9:30 a.m.
LOCATION: State Capitol, Room 309

Chair Matayoshi, Vice-Chair Garrett, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 1203 for your consideration.

H.B. 1203 adds a new section to chapter 235, Hawaii Revised Statutes (HRS), creating two income tax credits, to be administered by the Department. The first credit is a nonrefundable credit which shall either be: (1) up to 30 percent of the "cost of operation" of an employer-provided child care facility, less the amount paid for child care by the employees, or (2) 20 percent of employer-sponsored child care for their employees at a facility within a reasonable distance from the employer's workplace premises. This credit, including any carryforward credit from prior tax years, is not to exceed 50 percent of the employer's net tax liability with excess benefit available carried forward for five years from the close of the taxable year in which the "cost of operation" was incurred. The "cost of operation" cannot include the cost of "qualified child care property."

The second credit is a nonrefundable credit which shall be up to 100 percent of the cost of "qualified child care property" purchased or acquired by the employer for an employer-provided child care facility during the taxable year that the facility is first placed in service. The credit shall be claimed at an amount prorated equally over a period of 10 years. The yearly prorated credit, including any previous years' carryover credit shall not exceed 50 percent of the employers tax liability in that year with the excess benefit carried forward for a maximum of three years from the close of the taxable year in which the credit is claimed. This credit is subject to a “recapture event” provision, equal to a “recapture percentage.” The definitions for “qualified child care property,” “recapture event,” and “recapture percentage” are included in the measure.

The bill applies to taxable years beginning after December 31, 2022.

The Department notes that the bill contains conflicting language regarding whether the credit will be nonrefundable or refundable. To avoid ambiguity, the Department recommends that subsection (f) in section 1, on page 6, lines 12 through 16 of the bill, be removed and the following subsections be renumbered.

Due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session in time for the tax year 2023 and requests that the effective date be changed to taxable years beginning after December 31, 2023. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

Thank you for the opportunity to provide comments on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIAʻĀINA

CATHY BETTS
DIRECTOR
KA LUNA HOʻOKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HOʻOKELE

STATE OF HAWAII
KA MOKUʻĀINA O HAWAIʻI
DEPARTMENT OF HUMAN SERVICES
KA ʻOIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 12, 2023

TO: The Honorable Representative Scot Z. Matayoshi, Chair
House Committee on Labor and Government Operations

FROM: Cathy Betts, Director

SUBJECT: **HB 1203 – RELATING TO TAXATION.**

Hearing: February 14, 2023, 9:30 a.m.
Conference Room 309 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure, offers comments, and defers to the Department of Taxation.

PURPOSE: The bill proposes to establish an employer child care tax credit for employers who provide or sponsor approved child care.

DHS is the regulatory agency of the state's child care system codified in Chapter 346, Part VIII, Hawaii Revised Statutes (HRS). The department points out that the term "child care facility" proposed in this measure is not defined in the child care definitions established under section 346-151, HRS. DHS requests clarification on whether the intent is for the tax credit only to be applicable when an employer provides or sponsors a group child care center, which includes both infant and toddler child care centers and group child care centers (i.e., that may include preschools). If so, DHS suggests an amendment to reference "group child care centers" as defined under section 346-151, HRS, rather than using the term "child care facility," which is currently not defined.

Thank you for the opportunity to provide comments on this measure.

Chamber of Commerce HAWAII
The Voice of Business

Testimony to the House Committee on Labor & Government Operations
Tuesday, February 14, 2023, at 9:30 A.M.
Conference Room 309 & Videoconference

RE: HB 1203 Relating to Taxation

Aloha Chair Matayoshi, Vice Chair Takuya Garrett, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports HB 1203**, which establishes an employer child care tax credit for employers who provide or sponsor approved child care.

The average cost of childcare in Hawaii is $640 a month per child. This is typically the second largest expense in a family budget after rent or mortgage. Meanwhile, one of the biggest challenges for the local business community is the workforce shortage.

Hawaii's resident population continues to decline due to the high cost of living and many employees did not return to the workforce after COVID. The most recent data released in October 2022 by the Bureau of Labor Statistics shows that only 60.8% of Hawaii's population over 16 years of age is working or actively looking for work.

Our Chamber members, especially our Hawaii Chamber Young Professional members, cite the lack of childcare resources and the extremely high cost of childcare as significant barriers to reentering the workforce. Families with young children must choose between spending a significant portion of their income on childcare or leaving the workforce altogether to become a full-time caregiver.

The Chamber believes that Hawaii would benefit from supporting businesses that support the childcare needs of our workforce. Our keiki also deserve quality care to prepare them to enter our future workforce.

When companies offer childcare benefits, they see increased employee retention and loyalty, improved productivity, and a better workplace environment. Despite the clear advantages, 2020 data from the Bureau of Labor Statistics indicates just 11% of all workers have access to employer-provided childcare, and those with lower incomes were less likely to receive a benefit.

Employer-Provided Child Care Credit, under the Internal Revenue Code Section 45F, offers employers a tax credit of up to 25% of qualified childcare expenditures and 10% of qualified child care resource and referral expenditures. Currently, 18 U.S. states have passed employer provided childcare incentives, including New York, Oregon, Colorado, and Georgia. Other states plan to follow this year, and we hope Hawaii is one of them.

733 Bishop Street, Suite 1200 • Honolulu, Hawaii 96813 • Phone: (808) 545-4300 • Facsimile: (808) 545-4369

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Thank you for the opportunity to testify.

733 Bishop Street, Suite 1200 • Honolulu, Hawaii 96813 • Phone: (808) 545-4300 • Facsimile: (808) 545-4369

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Employer Child Care Tax Credit

BILL NUMBER: HB 1203

INTRODUCED BY: MATAYOSHI, AMATO, BELATTI, COCHRAN, GANADEN, GARRETT, GATES, HASHIMOTO, HOLT, HUSSEY-BURDICK, ICHIYAMA, KAPELA, KILA, KITAGAWA, LAMOSAO, LOWEN, MARTEN, MORIKAWA, NAKASHIMA, NISHIMOTO, PERRUSO, POEPOE, QUINLAN, TAKAYAMA, TAKENOUCHI, TAM, TARNAS, TODD, WOODSON, Martinez

EXECUTIVE SUMMARY: Establishes an employer child care tax credit for employers who provide or sponsor approved child care.

SYNOPSIS: Adds a new section to Chapter 235, HRS, that would provide a refundable tax credit for employers providing child care. The amount of the credit is:

- 30% of the cost of operation to an employer less any amounts paid for by employees during a taxable year; or
- 20% of the costs incurred by an employer as a result of providing employer-sponsored child care at a child care facility within a reasonable distance from the employer's workplace premises.

This credit is subject to conditions and limitations:

- The credit shall not exceed 50% of the amount of the taxpayer's income tax liability for the taxable year as computed without regard to any other credits;
- Any credit claimed but not used in any taxable year may be carried forward for five years from the close of the taxable year in which the cost of operation was incurred; and
- The employer shall certify to the department the names of the employees, name of the child care provider, and such other information as may be required by the department to ensure that credits are granted only to employers who provide or sponsor approved child care.

In addition to the above credit, a taxpayer is allowed a credit for 100% of the cost of qualified child care property. Ten per cent can be claimed in the year the property is placed in service, and the same amount can be claimed each year thereafter for nine more years.

This credit is subject to conditions and limitations:

- Any such credit claimed in any taxable year but not used in such taxable year may be carried forward for three years from the close of such taxable year; provided that the sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit in any succeeding taxpayer;

- In no event shall the amount of any such tax credit, including any carryover of such credit from a prior taxable year, exceed fifty per cent of the taxpayer's income tax liability as determined without regard to any other credits; and
- For every year in which a taxpayer claims such credit, the taxpayer shall attach a schedule to the taxpayer's Hawaii income tax return setting forth detailed information.

The child care property credit can be recaptured if the property is disposed of or otherwise ceases to be qualified child care property with respect to the taxpayer, except for:

(1) Any transfer by reason of death;

(2) Any transfer between spouses or incident to divorce;

(3) Any change in the form of conducting the taxpayer's trade or business so long as the property is retained in such trade or business as qualified child care property and the taxpayer retains a substantial interest in such trade or business; or

(4) Any accident or casualty.

The percentage of credit recaptured is 100% if the recapture event occurs within five years after the property is placed in service. For each year thereafter the recapture percentage goes down by 10% until the end of the recapture period, which is the close of 14 years after the property is placed in service.

Defines "employer-provided" as child care offered on the premises of the employer.

Defines "employer-sponsored" as [child care provided through] a contractual arrangement with a child care provider that is paid for by the employer.

Defines "premises of the employer" as any location within the State and located on the workplace premises of the employer providing the child care or one of the employers providing the child care in the event that the child care property is owned jointly or severally by the taxpayer and one or more employers; provided that if such workplace premises are impracticable or otherwise unsuitable for the on-site location of such child care facility, as determined by the director of human services, such facility may be located within a reasonable distance of the employer's workplace premises.

Defines "qualified child care property" as a all real property and tangible personal property purchased or acquired on or after December 31, 1999, or which property is first placed in service on or after December 31, 1999, for use exclusively in the construction, expansion, improvement, or operation of an employer-provided child care facility; provided that:

(1) The facility is licensed and approved by the department of human services;

(2) At least ninety-five per cent of the children who use the facility are children of employees of:

(A) The taxpayer and other employers in the event that the child care property is owned jointly or severally by the taxpayer and one or more employers; or

(B) A corporation that is a member of the taxpayer's affiliated group, as defined by section 1504(a) of the federal Internal Revenue Code of 1986; and

(C) The taxpayer has not previously claimed any tax credit for the cost of operation for such qualified child care property placed in service prior to taxable years beginning on or after January 1, 2000.

The term includes but is not limited to amounts expended on land acquisition, improvements, buildings, and building improvements and furniture, fixtures, and equipment.

Defines "cost of operation" as reasonable direct operational costs incurred by an employer as a result of providing employer-provided child care facilities, but excludes the cost of qualified child care property.

All claims for the tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure shall constitute a waiver of the right to claim the credit.

The credit amount is determined at the entity level. The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility in any succeeding taxpayer.

EFFECTIVE DATE: Taxable years beginning after December 31, 2022.

STAFF COMMENTS: There are some technical issues:

- Subsection (f) appears to say that the credit is refundable. However, a refund will never be allowed because of provisions limiting the credit to 50% of the taxpayer's net income tax liability (subsections (b)(1) and (d)(2)).

Hawaii already offers a credit to families for dependent care expenses necessary for gainful employment (HRS section 235-55.6). This measure gives additional credits to any employer who pays for child care for the employer's employees or builds out a facility to do so. Although the credits appear complementary, they are not. The existing credit is only given to families at or below specified income levels, while the proposed employer credits are not. The existing credit has strict limits on the amount of credit given, while the proposed employer credit does not. If the idea is to provide a complementary credit when an employer provides child care, lawmakers should consider integrating the two credits so that no windfalls are created (such as the State subsidizing child care of families with income levels well north of the limits contained in the existing credit).

Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. Indeed, tax credits are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

Furthermore, the additional credits would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation or subsidy, or adding on to an existing program, may be a far less costly method to accomplish the same thing. At least with a direct appropriation or subsidy, the taxpayers know what they are buying and what they are paying for it. With a tax credit you know neither and must simply total up the damage later.

Digested: 2/11/2023

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

HAWAI'I Women LAWYERS

February 13, 2023

Representative Scot Z. Matayoshi, Chair
House Committee on Labor & Government Operations

Re: **H.B. 1203 RELATING TO TAXATION.**

Hearing: **Tuesday, February 14, 2023, 9:30 a.m.**
Conf. Rm 309 & videoconference

Dear Chair Matayoshi and Members of the Committee on Labor & Government Operations:

Hawaii Women Lawyers ("HWL") **supports H.B. 1203**, which establishes an employer child care tax credit for employers who provide or sponsor approved child care.

HWL is a lawyer's trade organization that aims to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

High-quality early childhood care and education programs can provide children with opportunities for cognitive, language, emotional, and social development and provide parents with the ability to work and generate income for their families. Providing a solid learning foundation for children, while also fostering productivity for working parents, contributes to the economic stability and prosperity of the State.

Child care is often expensive and, in many cases, it consumes a significant share of what workers earn. Working families in Hawaii need affordable solutions. Creating incentives through tax credits encourages more businesses to support their employees with their child care needs and allows more parents to work.

H.B. 1203 recognizes the importance high-quality child care and strives to make it more affordable for working parents; and HWL supports this bill.

Thank you for the opportunity to submit testimony on this measure.

P.O. Box 2072 • Honolulu, Hawaii 96805
Email: hawaiiwomenlawyers@gmail.com

MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON
LABOR & GOVERNMENT OPERATIONS
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 309
TUESDAY, FEBRUARY 14, 2023 AT 9:30 A.M.

To The Honorable Scot Z. Matayoshi, Chair
The Honorable Andrew Takuya Garrett, Vice Chair
Members of the Committee on Labor & Government Operations

SUPPORT HB1203 RELATING TO TAXATION

The Maui Chamber of Commerce **SUPPORTS HB1203** which establishes an employer child care tax credit for employers who provide or sponsor approved child care.

One of the biggest challenges for the local business community is the workforce shortage.

The Chamber understands workers across the state cite the lack of childcare resources and the extremely high cost of childcare as significant barriers for reentering the workforce. The average cost of childcare in Hawaii is $640 a month per child. This is typically the second largest expense in a family budget after rent or mortgage. We often hear that families with young children must choose between spending a significant portion of their income on childcare or leaving the workforce to become a full-time caregiver to their children.

When companies offer childcare benefits, they see increased employee retention and loyalty, improved productivity, and a better workplace environment. Despite the clear advantages, 2020 data from the Bureau of Labor Statistics indicates just 11% of all workers have access to employer-provided childcare, and those with lower incomes were less likely to receive a benefit.

Employer-Provided Child Care Credit, under the Internal Revenue Code Section 45F, offers employers a tax credit of up to 25% of qualified childcare expenditures and 10% of qualified child care resource and referral expenditures. Currently, 18 U.S. states have passed employer provided childcare incentives, including New York, Oregon, Colorado, and Georgia. Other states plan to follow this year, and we hope Hawaii is one of them.

For these reasons, we **support HB1203**.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HB-1203
Submitted on: 2/12/2023 7:24:56 PM
Testimony for LGO on 2/14/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB1203.