DAVID Y. IGE
GOVERNOR

COLEEN MOMOHARA
INERIM DIRECTOR

STATE OF HAWAI'I
Executive Office on Early Learning
2759 South King Street
HONOLULU, HAWAI'I 96826

February 7, 2022

TO: Representative Justin H. Woodson, Chair
Representative Jeanne Kapela, Vice Chair
House Committee on Education

Representative Sean Quinlan, Chair
Representative Daniel Holt, Vice Chair
House Committee on Economic Development

FROM: Coleen Momohara, Interim Director
Executive Office on Early Learning

SUBJECT: **Measure:** H.B. No. 2215 – RELATING TO TAX CREDIT FOR ON-SITE EARLY CHILDHOOD FACILITIES
Hearing Date: Tuesday February 8, 2022
Time: 2:00 p.m.
Location: Room 309 and Videoconfrence

Bill Description: Establishes an income tax credit for employers who create on-site early childhood facilities. Establishes and appropriates funds for 1.0 FTE on-site early childhood facility coordinator position. Applies to taxable years beginning after 12/31/2022. Takes effect on 7/1/2023.

EXECUTIVE OFFICE ON EARLY LEARNING'S POSITION: Support the Intent

Aloha. I am Coleen Momohara, Interim Director of the Executive Office on Early Learning (EOEL). We support the intent of H.B. 2215 and defer to the Department of Taxation (DOT) and Department of Human Services (DHS) as it pertains to provisions of the bill related to their departments.

High-quality child care fulfills two important national goals: keeping children safe while their parents work and nurturing and developing children in ways that prepare them for school and beyond. As such, EOEL also supports the intent of the 1.0 FTE on-site group child care center coordinator position within the EOEL. We believe that partnering with the private sector is the most cost-effective, time-efficient means for the State to increase access to early learning opportunities. This bill would increase capacity for high-quality early learning programs by incentivizing employers to develop on-site facilities.

We recommend Section 3 be amended as follows:

"There is established one full-time equivalent (1.0 FTE) on-site group child care coordinator position in the executive office on early learning to assist with ~~licensure and~~ accreditation requirements, work with providers, and ensure appropriate facility and/or classroom design of on-site group child care centers ~~established by employers~~ in the State by providing technical assistance to implement a high-quality learning environment for young children."

Regulatory oversight of registered and licensed facilities falls under the DHS, and EOEL would defer to the department to ensure child care licensing requirements are met. EOEL provides high-quality learning experiences through the EOEL Public Prekindergarten Program that address children's physical development and health, social and emotional development, cognition, language and literacy, and approaches to learning. EOEL can utilize our expertise and knowledge in building and designing high-quality programs to support on-site group child care centers.

We would also like to respectfully request that any appropriation not supplant budget priorities identified in the executive supplemental budget.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR

ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Justin H. Woodson, Chair
The Honorable Jeanne Kapela, Vice Chair
and Members of the House Committee on Education

From: Isaac W. Choy, Director
Department of Taxation

Date: Tuesday, February 8, 2022
Time: 2:00 P.M.
Place: Via Video Conference, State Capitol

Re: H.B. 2215, Relating to Tax Credit for On-Site Early Childhood Facilities

The Department of Taxation (Department) has concerns regarding H.B. 2215 in its current form and offers the following comments regarding for your consideration.

H.B. 2215 adds a new section to chapter 235, Hawaii Revised Statutes (HRS), to create a non-refundable tax credit for employers that create on-site early childhood facilities. H.B. 2215 takes effect July 1, 2023; provided that Section 2, pertaining to the tax credit, shall apply to taxable years beginning after December 31, 2022.

First, the Department prefers that an agency with subject matter expertise be designated to certify the credit as outlined in Section 2 subsections (b) and (c). Subsection (d) makes reference to Department of Human Services (DHS) certification of approval to qualify on-site early childhood facilities, but no other part of the new tax credit discusses whether this certification exists or how it would be carried out. The Department suggests clarifying the details regarding certifications, including which agency will be certifying the credit. For other credits, taxpayers submit a statement of qualifying costs to the certifying agency and that agency issues a certificate, either for the taxpayer's records or required to be attached to an income tax return claiming the associated credit.

Second, while the Department appreciates the inclusion of a per taxpayer cap as well as an aggregate cap to this tax credit, it is not able to administer an aggregate cap as the credit claims come in with tax returns. In other credits that have an aggregate cap, such as the Important Agricultural Land Tax Credit under section 235-110.93(h), HRS, the aggregate cap is enforced through a certification process that requires immediately discontinuing certifying credits when the cap is reached.

In addition, because most taxpayers report taxes on a calendar year, the Department suggests applying the aggregate cap to the calendar year instead of the fiscal year. The Department further notes that subsection (f) makes provision for priority to be given to certified taxpayers in subsequent years when they are denied this tax credit due to the aggregate cap having been met in a claimed year. The final sentence of the section provides "priority for the credit over taxpayers who receive certification in the <u>subsequent</u> fiscal year. The Department recommends changing the term "subsequent" to "preceding" in order to meet the intent of the priority for taxpayers denied the credit in the preceding year.

To adopt the foregoing suggestions, and assuming that a certifying agency could exist in subsections (b) and (c), the Department recommends amending subsection (f) to read as follows:

(f) The total amount of tax credits allowed und this section shall be equal to twenty-five per cent of the taxpayer's qualified costs subject to the following:

(1) The total credit allowed for a taxpayer in any taxable year shall not exceed $_______.

(2) The total amount of tax credits allowed under this section shall not exceed $_______ for all taxpayers, in the aggregate, in any taxable year. If the total amount of credits claimed under this section by all taxpayers in any taxable year exceeds the aggregate cap of $______, the department of ___________ shall immediately discontinue issuing certifications and notify the department of taxation. In no instance shall the department of ____________ issue certificates for a total amount of credits exceeding $_______ per year. To comply with this restriction, the department of __________ shall issue certificates for credits on a first come, first serve basis. Any taxpayer whose qualified costs are not eligible to be issued a certificate by the department of ___________ in a year due to the $_________ cap having been exceeded for that year shall receive priority for a certificate of qualified costs incurred in the subsequent year over those that received certification in the preceding year. The department of taxation shall not allow the aggregate amount of credits claimed to exceed $_______ per year.

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

DAVID Y. IGE
GOVERNOR

CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 7, 2022

TO: The Honorable Representative Justin H. Woodson, Chair
House Committee on Education

FROM: Cathy Betts, Director

SUBJECT: **HB 2215 – RELATING TO TAX CREDIT FOR ON-SITE EARLY CHILDHOOD FACILITIES.**

Hearing: Tuesday, February 8, 2022, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the bill to expand capacity and access for Hawaii's families to early childhood facilities, requests clarification, and provides comments. DHS defers to the Department of Taxation and the Executive Office of Early Learning on relevant parts. In addition, DHS defers to Counties regarding applicable building codes.

PURPOSE: The purpose of the bill is to establish an income tax credit for employers who create on-site early childhood facilities. Establishes and appropriates funds for 1.0 FTE on-site early childhood facility coordinator position. Applies to taxable years beginning after 12/31/2022. Takes effect on 7/1/2023.

DHS respectfully requests clarification on the issuance of the certificate of approval to qualified on-site early childhood facilities. DHS is the regulatory authority for all licensed and registered child care facilities and homes statewide and issues license certificates and certificates of registration which allow child care facilities and homes to operate, maintain, or conduct a child care facility or home.

The proposed subsection (d)(2), (3), and (4) on page 5, lines 1-11, describes considerations for certification that are not criteria gathered or measured as a condition of the child care registration process, and DHS does not have the current expertise or capacity to access these items. Additionally, items (2) and (3) would most likely require assessing the employer's operation beyond the scope of child care licensing functions, purpose, and duties.

As referenced above, DHS is the regulatory agency of the state's child care system codified in Chapter 346, Part VIII HRS. DHS points out that the term "early childhood facility" proposed in this measure does not fall under any of the child care definitions established under section 346-151, HRS.

Suppose the intent of the Legislature is for the tax credit only to be applicable when an employer establishes an on-site group child care center, which includes both infant and toddler child care centers and group child care centers (i.e., preschools). In that case, DHS requests the bill be amended to reference "group child care centers," as defined under section 346-151, HRS, rather than using the term "early childhood facilities," which is currently not defined in law.

Further, DHS requests clarification regarding which "taxpayer" is being referred to, at page 6, lines 1-10, the child care facility or the individual claiming the credit.

The proposed subsection (h)(1), on page 6, lines 20-21, and on page 7, lines 1-6, respectively, indicates that "provided that the credit shall not be subject to recapture if the department of human services certifies that the employer ceased operating the facility for reasonable cause, including but not limited to going out of business, being forced to close the facility due to a natural disaster or other unforeseeable circumstances, and closing the facility temporarily with the intention of reopening it for a reason such as facility refurbishment or improvement with the intention of reopening it."

The measure requires clarification as to what other kinds of "unforeseeable circumstances" would be acceptable to force the facility to close and still allow the tax credit to be claimed. There are also foreseeable circumstances, such as the revocation of the child care facility's license by DHS due to serious violations of health and safety standards, that would result in the temporary or permanent closure of the facility. DHS respectfully suggests that the Legislature include or consider the impact of revocation on whether the credit should apply.

If the proposed measure passes as drafted, it will require an appropriation to modify DHS IT systems and other administrative costs. DHS requests additional time to operationalize these new procedures. The department's current program demands and efforts are focused on complying with provisions of the federal Child Care Development Block Grant, which provides approximately $30 million annually in federal Child Care and Development Fund grants. As the session progresses, DHS will update the resources needed to implement such a program. However, we ask that any appropriation not replace or supplant fiscal priorities identified in the Executive Budget.

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

DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAI'I EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAI'I
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

<u>WRITTEN ONLY</u>
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON EDUCATION
ON
HOUSE BILL NO. 2215

February 8, 2022
2:00 p.m.
Room 309 and Videoconference

RELATING TO TAX CREDIT FOR ON-SITE EARLY CHILDHOOD FACILITIES

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2215 adds a new section to Chapter 235, HRS, to establish a tax credit for employers who acquire, construct, or establish a qualified on-site early childhood facility. This bill also appropriates an unspecified amount of general funds in FY 23 for the Office on Early Learning to establish an on-site childhood facility coordinator position.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawaiʻi complies with these ESSER MOE requirements.

B&F also notes that the ARP Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;
- By cutting spending; or
- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawaiʻi complies with this ARP restriction.

Thank you for your consideration of our comments.

TO: Representative Justin H. Woodson, Chair
Representative Jeanne Kapela, Vice Chair
Members of the House Committee On Education

Representative Sean Quinlan, Chair
Representative Daniel Holt, Vice Chair
House Committee on Economic Development

FROM: Robert G. Peters, Chair
Early Learning Board

SUBJECT: **Measure:** HB 2215, Relating to Tax Credit For On-Site Early Childhood Facilities
Hearing Date: February 8, 2022
Time: 2:00 p.m.
Location: **Via Video Conference,** Conference Room 309

Description: Establishes an income tax credit for employers who create on-site early childhood facilities. Establishes and appropriates funds for 1.0 FTE on-site early childhood facility coordinator position. Applies to taxable years beginning after 12/31/2022. Takes effect on 7/1/2023.

EARLY LEARNING BOARD'S POSITION: Comment

Good afternoon. I am Robert G. Peters, Chair of the Early Learning Board (ELB). Thank you for this opportunity to offer comments about HB 2215.

Through Act 202, Session Laws of Hawaii 2017, ELB transitioned from an advisory to a governing board for the Executive Office on Early Learning (EOEL) and is charged with formulating statewide policy relating to early learning. We are composed of members from across the early childhood field, in both the public and private sectors.

ELB's mission is to support children's academic and lifelong well-being by directing and supporting the EOEL for an effective, coordinated, high-quality early learning system from prenatal to kindergarten entry. EOEL is statutorily responsible for the development of the State's early childhood system that shall ensure a spectrum of high-quality development and learning opportunities for children throughout the state, from prenatal care until the time they enter kindergarten, with priority given to underserved or at-risk children

The ELB appreciates the Legislature's recognition that families of young children in Hawaii, now more than ever, need more affordable, high-quality childcare options. The number of seats available to families has decreased statewide in light of the impact of COVID-19. The increased health and safety requirements that have forced some childcare providers to remain closed have for those which opened required reducing the number of available childcare placements. This has made it especially challenging for families with young children who need to find settings for their children as they seek to remain in the workforce. Incentivizing employers to address their employees' childcare needs through tax credits such as the one proposed in this bill would help provide our families with support they need.

The ELB has not been able to discuss this bill to date, given the timing of its January meeting. It has in the past supported the intent of similar bills as well as the efforts of the EOEL as it continues to work toward increasing access to high-quality early learning programs for our keiki *together* with public and private partners.

Legislation affecting early learning, EOEL and ELB is scheduled for discussion on the February 10th Board meeting agenda, following which we will have a more defined position on the bill. I anticipate that the ELB will once again respectfully request that any appropriation not supplant budget priorities identified in the executive budget. Thank you for the opportunity to offer comments on HB 2215.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

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

SUBJECT: INCOME, On-Site Early Childhood Facility Tax Credit.

BILL NUMBER: HB 2215

INTRODUCED BY: MATSUMOTO, BRANCO, CLARK, ELI, GATES, HAR, ICHIYAMA, ILAGAN, JOHANSON, KITAGAWA, LOPRESTI, LOWEN, MARTEN, MCKELVEY, MORIKAWA, NAKASHIMA, NISHIMOTO, PERRUSO, TAM, TARNAS, WILDBERGER

EXECUTIVE SUMMARY: Establishes an income tax credit for employers who create on-site early childhood facilities. Establishes and appropriates funds for 1.0 FTE on-site early childhood facility coordinator position. Applies to taxable years beginning after 12/31/2022. Takes effect on 7/1/2023.

SYNOPSIS: Adds a new section to chapter 235, HRS, to establish an on-site early childhood facility tax credit. The amount of the credit is 25% of the qualified costs, up to $____ per employer. The credit is refundable.

Defines "qualified costs" as the expenses incurred in acquiring, constructing, and establishing a qualified on-site early childhood facility and the associated operating costs; except for insurance.

Defines "qualified on-site early childhood facility" means an on-site early childhood facility, offered by an employer to all employees, that is: (1) Licensed and approved by the department of human services; and (2) Accredited by a recognized national early childhood accrediting agency within two years of initial operation.

Limitations of the credit include: (1) the total credit allowed for an employer in any taxable year shall not exceed $_____; (2) the total amount of tax credits allowed under this section shall not exceed $_____ all taxpayers in any fiscal year; if the total amount of credits claimed is greater, the credit shall be allowed to taxpayers based on the date of certification by DHS on a first come, first served basis, where any taxpayer who is certified by the department of human services in a fiscal year and who is not eligible to claim the credit due to the $_____ having been exceeded for that fiscal year shall be eligible to claim the credit in the subsequent year and shall receive priority for the credit over taxpayers who receive certification in the subsequent fiscal year.

The on-site early childhood facility shall operate for a minimum of ten years or all of the credit taken in the preceding ten taxable years may be recaptured, except if the department of human services certifies that the employer ceased operating the facility for reasonable cause, including but not limited to going out of business, being forced to close the facility due to a natural disaster or other unforeseeable circumstances, and closing the facility temporarily with the intention of reopening it for a reason such as facility refurbishment or improvement.

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

No other income tax credit may be claimed for the same qualified costs.

EFFECTIVE DATE: July 1, 2023; Section 2 applicable to taxable years beginning after December 31, 2022.

STAFF COMMENTS: The tax system is there to raise revenue to keep the government moving. 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.

Furthermore, 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, overtaxed by the pandemic?

If lawmakers want to subsidize this activity, then a direct appropriation would be more accountable and transparent. That way lawmakers will be very clear on (1) how much we taxpayers are paying, and (2) what we are getting in return. For example, lawmakers could authorize a grant program for the construction or refurbishment of early childhood facilities much like how Hawaii Energy offers rebates for energy-saving appliances and components.

Digested: 2/7/2022