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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 increase 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.



1 SECTION 2. Section 235-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 ""Cost-of-living adjustment factor" means a factor  
5 calculated by adding 1.0 to the percentage change in the  
6 Consumer Price Index for All Urban Consumers for all items, as  
7 published by the United States Department of Labor, from July of  
8 the preceding calendar year to July of the current calendar  
9 year; provided that, if the Consumer Price Index is  
10 discontinued, the Chained Consumer Price Index for All Urban  
11 Consumers, as published by the United States Department of  
12 Labor, shall be used to calculate the cost-of-living adjustment  
13 factor."

14 SECTION 3. Section 235-55.6, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§235-55.6 Expenses for household and dependent care**  
17 **services necessary for gainful employment.** (a) Allowance of  
18 credit.

19 (1) In general. For each resident taxpayer, who files an  
20 individual income tax return for a taxable year, and  
21 who is not claimed or is not otherwise eligible to be



1           claimed as a dependent by another taxpayer for federal  
2           or Hawaii state individual income tax purposes, who  
3           maintains a household which includes as a member one  
4           or more qualifying individuals (as defined in  
5           subsection (b) (1)), there shall be allowed as a credit  
6           against the tax imposed by this chapter for the  
7           taxable year an amount equal to the applicable  
8           percentage of the employment-related expenses (as  
9           defined in subsection (b) (2)) paid by the individual  
10          during the taxable year. If the tax credit claimed by  
11          a resident taxpayer exceeds the amount of income tax  
12          payment due from the resident taxpayer, the excess of  
13          the credit over payments due shall be refunded to the  
14          resident taxpayer; provided that tax credit properly  
15          claimed by a resident individual who has no income tax  
16          liability shall be paid to the resident individual;  
17          and provided further that no refunds or payment on  
18          account of the tax credit allowed by this section  
19          shall be made for amounts less than \$1.



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

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

17  
 18           equal to fifty per cent reduced by one percentage  
 19           point for each \$3,000, or fraction thereof, by which  
 20           the taxpayer's adjusted gross income exceeds the  
 21           threshold amount; provided that the applicable



1           percentage shall not be reduced below twenty-five per  
2           cent.

3           (3) Threshold amount. For purposes of paragraph (2):

4           (A) For taxable years beginning after December 31,  
5           2023, the threshold amount shall be \$150,000; and

6           (B) For each taxable year beginning after  
7           December 31, 2024, the director of taxation, no  
8           later than December 15 of the preceding calendar  
9           year, shall recompute the threshold amount by  
10           multiplying the dollar amount for the preceding  
11           taxable year by the cost-of-living adjustment  
12           factor, if the cost-of-living adjustment factor  
13           is greater than zero, and rounding off the  
14           resulting product to the nearest \$1; provided  
15           that if the cost-of-living adjustment factor is  
16           less than or equal to zero in a given year, then  
17           no adjustment shall occur in the following year.

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

20           (1) Qualifying individual. The term "qualifying  
21 individual" means:



1 (A) A dependent of the taxpayer who is under the age  
2 of thirteen and with respect to whom the taxpayer  
3 is entitled to a deduction under section 235-  
4 54(a),

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

7 (C) The spouse of the taxpayer, if the spouse is  
8 physically or mentally incapable of caring for  
9 oneself.

10 (2) Employment-related expenses.

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

18 (i) Expenses for household services<sup>[7]</sup>; and

19 (ii) Expenses for the care of a qualifying  
20 individual.



1           Such term shall not include any amount paid for  
2           services outside the taxpayer's household at a  
3           camp where the qualifying individual stays  
4           overnight.

5           (B) Exception. Employment-related expenses described  
6           in subparagraph (A) which are incurred for  
7           services outside the taxpayer's household shall  
8           be taken into account only if incurred for the  
9           care of:

- 10           (i) A qualifying individual described in
- 11                 paragraph (1) (A), or
- 12           (ii) A qualifying individual (not described in
- 13                 paragraph (1) (A)) who regularly spends at
- 14                 least eight hours each day in the taxpayer's
- 15                 household.

16           (C) Dependent care centers. Employment-related  
17           expenses described in subparagraph (A) which are  
18           incurred for services provided outside the  
19           taxpayer's household by a dependent care center  
20           (as defined in subparagraph (D)) shall be taken  
21           into account only if:



- 1           (i) Such center complies with all applicable  
2           laws, rules, and regulations of this State,  
3           if the center is located within the  
4           jurisdiction of this State; or  
5           (ii) Such center complies with all applicable  
6           laws, rules, and regulations of the  
7           jurisdiction in which the center is located,  
8           if the center is located outside the State;  
9           and  
10          (iii) The requirements of subparagraph (B) are  
11          met.
- 12          (D) Dependent care center defined. For purposes of  
13          this paragraph, the term "dependent care center"  
14          means any facility which:  
15          (i) Provides care for more than six individuals  
16          (other than individuals who reside at the  
17          facility), and  
18          (ii) Receives a fee, payment, or grant for  
19          providing services for any of the  
20          individuals (regardless of whether such  
21          facility is operated for profit).



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

- 5 (1) \$10,000 if there is one qualifying individual with  
6 respect to the taxpayer for such taxable year<sup>[7]</sup>; or
- 7 (2) \$20,000 if there are two or more qualifying  
8 individuals with respect to the taxpayer for such  
9 taxable year.

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

15 (d) Earned income limitation.

- 16 (1) In general. Except as otherwise provided in this  
17 subsection, the amount of the employment-related  
18 expenses incurred during any taxable year which may be  
19 taken into account under subsection (a) shall not  
20 exceed:



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

4 (B) In the case of an individual who is married at  
5 the close of such year, the lesser of such  
6 individual's earned income or the earned income  
7 of the individual's spouse for such year.

8 (2) Special rule for spouse who is a student or incapable  
9 of caring for oneself. In the case of a spouse who is  
10 a student or a qualified individual described in  
11 subsection (b) (1) (C), for purposes of paragraph (1),  
12 such spouse shall be deemed for each month during  
13 which such spouse is a full-time student at an  
14 educational institution, or is such a qualifying  
15 individual, to be gainfully employed and to have  
16 earned income of not less than:

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

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



1           In the case of any husband and wife, this paragraph  
2           shall apply with respect to only one spouse for any  
3           one month.

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

5           (1) Maintaining household. An individual shall be treated  
6           as maintaining a household for any period only if over  
7           half the cost of maintaining the household for the  
8           period is furnished by the individual (or, if the  
9           individual is married during the period, is furnished  
10          by the individual and the individual's spouse).

11          (2) Married couples must file joint return. If the  
12          taxpayer is married at the close of the taxable year,  
13          the credit shall be allowed under subsection (a) only  
14          if the taxpayer and the taxpayer's spouse file a joint  
15          return for the taxable year.

16          (3) Marital status. An individual legally separated from  
17          the individual's spouse under a decree of divorce or  
18          of separate maintenance shall not be considered as  
19          married.

20          (4) Certain married individuals living apart. If:



- 1 (A) An individual who is married and who files a
- 2 separate return:
- 3 (i) Maintains as the individual's home a
- 4 household that constitutes for more than
- 5 one-half of the taxable year the principal
- 6 place of abode of a qualifying individual,
- 7 and
- 8 (ii) Furnishes over half of the cost of
- 9 maintaining the household during the taxable
- 10 year, and
- 11 (B) During the last six months of the taxable year
- 12 the individual's spouse is not a member of the
- 13 household,
- 14 the individual shall not be considered as married.
- 15 (5) Special dependency test in case of divorced parents,
- 16 etc. If:
- 17 (A) Paragraph (2) or (4) of section 152(e) of the
- 18 Internal Revenue Code of 1986, as amended,
- 19 applies to any child with respect to any calendar
- 20 year, and



1 (B) The child is under age thirteen or is physically  
2 or mentally incompetent of caring for the child's  
3 self,

4 in the case of any taxable year beginning in the  
5 calendar year, the child shall be treated as a  
6 qualifying individual described in subsection  
7 (b) (1) (A) or (B) (whichever is appropriate) with  
8 respect to the custodial parent (within the meaning of  
9 section 152(e) (1) of the Internal Revenue Code of  
10 1986, as amended), and shall not be treated as a  
11 qualifying individual with respect to the noncustodial  
12 parent.

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

16 (A) With respect to whom, for the taxable year, a  
17 deduction under section 151(c) of the Internal  
18 Revenue Code of 1986, as amended (relating to  
19 deduction for personal exemptions for dependents)  
20 is allowable either to the taxpayer or the  
21 taxpayer's spouse, or



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

6 For purposes of this paragraph, the term "taxable  
7 year" means the taxable year of the taxpayer in which  
8 the service is performed.

9 (7) Student. The term "student" means an individual who,  
10 during each of five calendar months during the taxable  
11 year, is a full-time student at an educational  
12 organization.

13 (8) Educational organization. The term "educational  
14 organization" means a school operated by the  
15 department of education under chapter 302A, an  
16 educational organization described in section  
17 170(b) (1) (A) (ii) of the Internal Revenue Code of 1986,  
18 as amended, or a university, college, or community  
19 college.

20 (9) Identifying information required with respect to  
21 service provider. No credit shall be allowed under



1 subsection (a) for any amount paid to any person

2 unless:

3 (A) The name, address, taxpayer identification  
4 number, and general excise tax license number of  
5 the person are included on the return claiming  
6 the credit,

7 (B) If the person is located outside the State, the  
8 name, address, and taxpayer identification  
9 number, if any, of the person and a statement  
10 indicating that the service provider is located  
11 outside the State and that the general excise tax  
12 license and, if applicable, the taxpayer  
13 identification numbers are not required, or

14 (C) If the person is an organization described in  
15 section 501(c)(3) of the Internal Revenue Code  
16 and exempt from tax under section 501(a) of the  
17 Internal Revenue Code, the name and address of  
18 the person are included on the return claiming  
19 the credit.

20 In the case of a failure to provide the information  
21 required under the preceding sentence, the preceding



1 sentence shall not apply if it is shown that the  
2 taxpayer exercised due diligence in attempting to  
3 provide the information so required.

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

7 (1) The period of ten taxable years after the most recent  
8 taxable year for which there was a final  
9 administrative or judicial decision that the  
10 taxpayer's claim for credit under this section was due  
11 to fraud; and

12 (2) The period of two taxable years after the most recent  
13 taxable year for which there was a final  
14 administrative or judicial decision disallowing the  
15 taxpayer's claim for credit.

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

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 5. This Act, upon its approval, shall apply to  
2 taxable years beginning after December 31, 2023; provided that  
3 on June 30, 2029, this Act shall be repealed and section 235-  
4 55.6, Hawaii Revised Statutes, shall be reenacted in the form in  
5 which it read on the day prior to the effective date of this  
6 Act.

7

INTRODUCED BY: *Sen. Sam*  
JAN 18 2024



# H.B. NO. 1776

**Report Title:**

Taxation; Household and Dependent Care Services; Tax Credit

**Description:**

Increases 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.

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

