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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. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "~~§235-~~     Employer child care tax credit.     (a) There  
5 shall be allowed to each taxpayer subject to the taxes imposed  
6 by this chapter, an employer child care tax credit that shall be  
7 deductible from the taxpayer's net income tax liability, if any,  
8 imposed by this chapter for the taxable year in which the credit  
9 is properly claimed.

10           The amount of the tax credit shall be equal to:

11           (1) Thirty per cent of the cost of operation to an  
12           employer less any amounts paid for by employees during  
13           a taxable year; or

14           (2) Twenty per cent of the costs incurred by an employer  
15           as a result of providing employer-sponsored child care  
16           at a child care facility within a reasonable distance  
17           from the employer's workplace premises.



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1       In the case of a partnership, S corporation, estate, or  
2 trust, the tax credit allowable is for the cost of operation  
3 incurred by the entity for the taxable year.

4       (b) The tax credit allow under this section shall be  
5 subject to the following conditions and limitations:

6       (1) The credit shall not exceed fifty per cent of the  
7 amount of the taxpayer's income tax liability for the  
8 taxable year as computed without regard to any other  
9 credits;

10       (2) Any credit claimed but not used in any taxable year  
11 may be carried forward for five years from the close  
12 of the taxable year in which the cost of operation was  
13 incurred; and

14       (3) The employer shall certify to the department the names  
15 of the employees, name of the child care provider, and  
16 such other information as may be required by the  
17 department to ensure that credits are granted only to  
18 employers who provide or sponsor approved child care  
19 pursuant to this section.

20       (c) In addition to the tax credit provided under this  
21 section, a taxpayer shall be allowed a credit against the tax



1 imposed under this chapter for the taxable year in which the  
2 taxpayer first places in service qualified child care property  
3 and for each of the ensuing nine taxable years following such  
4 taxable year. The aggregate amount of the credit shall equal  
5 one hundred per cent of the cost of all qualified child care  
6 property purchased or acquired by the taxpayer and first placed  
7 in service during a taxable year, and such credit may be claimed  
8 at a rate of ten per cent per year over a period of ten taxable  
9 years.

10 (d) The tax credit allowable under subsection (c) shall be  
11 subject to the following conditions and limitations:

12 (1) Any such credit claimed in any taxable year but not  
13 used in such taxable year may be carried forward for  
14 three years from the close of such taxable year;  
15 provided that the sale, merger, acquisition, or  
16 bankruptcy of any taxpayer shall not create new  
17 eligibility for the credit in any succeeding taxpayer;

18 (2) In no event shall the amount of any such tax credit,  
19 including any carryover of such credit from a prior  
20 taxable year, exceed fifty per cent of the taxpayer's



- 1           income tax liability as determined without regard to  
2           any other credits; and
- 3       (3) For every year in which a taxpayer claims such credit,  
4           the taxpayer shall attach a schedule to the taxpayer's  
5           Hawaii income tax return setting forth the following  
6           information with respect to such tax credit:
- 7           (A) A description of the child care facility;  
8           (B) The amount of qualified child care property  
9           acquired during the taxable year and the cost of  
10           such property;
- 11           (C) The amount of tax credit claimed for the taxable  
12           year;
- 13           (D) The amount of qualified child care property  
14           acquired in prior taxable years and the cost of  
15           such property;
- 16           (E) Any tax credit utilized by the taxpayer in prior  
17           taxable years;
- 18           (F) The amount of tax credit carried over from prior  
19           years;
- 20           (G) The amount of tax credit used by the taxpayer in  
21           the current taxable year;



1           (H) The amount of tax credit to be carried forward to  
2           subsequent tax years; and

3           (I) A description of any recapture event occurring  
4           during the taxable year, a calculation of the  
5           resulting reduction in tax credits allowable for  
6           the recapture year and future taxable years, and  
7           a calculation of the resulting increase in tax  
8           for the recapture year.

9           (e) If a recapture event occurs with respect to qualified  
10 child care property:

11           (1) The credit otherwise allowable under subsection (c)  
12           with respect to such property for the recapture year  
13           and all subsequent taxable years shall be reduced by  
14           the applicable recapture percentage; and

15           (2) All credits previously claimed with respect to such  
16           property under subsection (c) shall be recaptured as  
17           follows:

18           (A) Any carryover attributable to such credits under  
19           subsection (d)(1) shall be reduced, but not below  
20           zero, by the recapture amount;



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1           (B) The tax credit otherwise allowable under  
2           subsection (c) for the recapture year, if any, as  
3           reduced under paragraph (1), shall be further  
4           reduced, but not below zero, by the excess of the  
5           recapture amount over the amount taken into  
6           account under subparagraph (A); and

7           (C) The tax imposed under this section for the  
8           recapture year shall be increased by the excess  
9           of the recapture amount over the amounts taken  
10           into account under subparagraphs (A) and (B), as  
11           applicable.

12           (f) If the tax credit under this section exceeds the  
13           taxpayer's net income tax liability, the excess of credits over  
14           payments due shall be refunded to the taxpayer; provided that no  
15           refunds or payments on account of the tax credits allowed by  
16           this section shall be made for amounts less than \$1.

17           (g) The director of taxation shall:

18           (1) Prepare any forms that may be necessary to claim a tax  
19           credit under this section; and

20           (2) Adopt rules pursuant to chapter 91 to effectuate the  
21           purposes of this section.



1        (h) For the purposes of this section:

2        "Cost of operation" means reasonable direct operational  
3 costs incurred by an employer as a result of providing employer-  
4 provided child care facilities; provided that the term "cost of  
5 operation" excludes the cost of any property that is qualified  
6 child care property.

7        "Employer" means any employer upon whom an income tax is  
8 imposed by this chapter.

9        "Employer-provided" means child care offered on the  
10 premises of the employer.

11        "Employer-sponsored" means a contractual arrangement with a  
12 child care facility that is paid for by the employer.

13        "Premises of the employer" means any location within the  
14 State and located on the workplace premises of the employer  
15 providing the child care or one of the employers providing the  
16 child care in the event that the child care property is owned  
17 jointly or severally by the taxpayer and one or more employers;  
18 provided that if such workplace premises are impracticable or  
19 otherwise unsuitable for the on-site location of such child care  
20 facility, as determined by the director of human services, such



1 facility may be located within a reasonable distance of the  
2 employer's workplace premises.

3 "Qualified child care property" means all real property and  
4 tangible personal property purchased or acquired on or after  
5 December 31, 1999, or which property is first placed in service  
6 on or after December 31, 1999, for use exclusively in the  
7 construction, expansion, improvement, or operation of an  
8 employer-provided child care facility; provided that:

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

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

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

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

20 (C) The taxpayer has not previously claimed any tax  
21 credit for the cost of operation for such





1           qualified child care property placed in service  
2           prior to taxable years beginning on or after  
3           January 1, 2000.

4           "Qualified child care property" includes but is not limited  
5 to amounts expended on land acquisition, improvements,  
6 buildings, and building improvements and furniture, fixtures,  
7 and equipment.

8           "Recapture amount" means, with respect to property as to  
9 which a recapture event has occurred, an amount equal to the  
10 applicable recapture percentage of the aggregate credits claimed  
11 under subsection (c) for all taxable years preceding the  
12 recapture year, whether or not such credits were used.

13           "Recapture event" means any disposition of qualified child  
14 care property by the taxpayer, or any other event or  
15 circumstance under which property ceases to be qualified child  
16 care property with respect to the taxpayer, except for:

- 17           (1) Any transfer by reason of death;  
18           (2) Any transfer between spouses or incident to divorce;  
19           (3) Any change in the form of conducting the taxpayer's  
20 trade or business so long as the property is retained  
21 in such trade or business as qualified child care



1           property and the taxpayer retains a substantial  
2           interest in such trade or business; or

3           (4) Any accident or casualty.

4           "Recapture percentage" means the applicable percentage set  
5 forth as follows:

6           (1) If the recapture event occurs within five years after  
7           the qualified child care property is placed in  
8           service, the percentage shall be one hundred per cent;

9           (2) If the recapture event occurs within six years after  
10           the qualified child care property is placed in  
11           service, the percentage shall be ninety per cent;

12           (3) If the recapture event occurs within seven years after  
13           the qualified child care property is placed in  
14           service, the percentage shall be eighty per cent;

15           (4) If the recapture event occurs within eight years after  
16           the qualified child care property is placed in  
17           service, the percentage shall be seventy per cent;

18           (5) If the recapture event occurs within nine years after  
19           the qualified child care property is placed in  
20           service, the percentage shall be sixty per cent;



- 1       (6) If the recapture event occurs within ten years after  
2       the qualified child care property is placed in  
3       service, the percentage shall be fifty per cent;
- 4       (7) If the recapture event occurs within eleven years  
5       after the qualified child care property is placed in  
6       service, the percentage shall be forty per cent;
- 7       (8) If the recapture event occurs within twelve years  
8       after the qualified child care property is placed in  
9       service, the percentage shall be thirty per cent;
- 10       (9) If the recapture event occurs within thirteen years  
11       after the qualified child care property is placed in  
12       service, the percentage shall be twenty per cent;
- 13       (10) If the recapture event occurs within fourteen years  
14       after the qualified child care property is placed in  
15       service, the percentage shall be ten per cent; and
- 16       (11) Any period after the close of fourteen years after the  
17       qualified child care property is placed in service,  
18       the percentage shall be zero.

19       "Recapture year" means the taxable year in which a  
20       recapture event occurs with respect to qualified child care  
21       property."

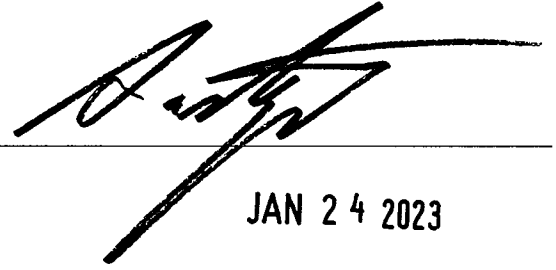


1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act, upon its approval, shall apply to  
3 taxable years beginning after December 31, 2022.

4

INTRODUCED BY:



A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be 'A. ...'.

JAN 24 2023



# H.B. NO. 1203

**Report Title:**

Taxation; Tax Credit; Child Care; Employer

**Description:**

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

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

