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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 before the COVID-19  
2 pandemic, one of the chief concerns for businesses was a  
3 shortage of workers. Since the pandemic and the economic  
4 downturn, many workers have left the State, which has  
5 exacerbated the pre-existing labor crisis. Businesses  
6 throughout the State are wanting to bring back the workers they  
7 had to lay off during the COVID-19 pandemic but are still  
8 struggling to make ends meet and do not have the extra resources  
9 to rehire workers.

10           The legislature further finds that the unemployment rate in  
11 Hawaii as of November 2022 is 3.3 per cent, which is still  
12 higher than pre-pandemic levels. The economy has still not  
13 recovered, and businesses need assistance to rehire laid off  
14 workers and get the economy back on track.

15           Hawaii is also only one of nine states that do not have a  
16 job creation tax credit and do not incentivize businesses to  
17 hire workers and grow the economy.



1           One of the biggest issues in Hawaii's economy during the  
2 COVID-19 pandemic was the lack of diversification for the State,  
3 which led to the high unemployment rates and people being laid  
4 off from the tourism industry. The State needs tools to help  
5 recruit new industries to keep advancing and diversifying the  
6 economy.

7           The purpose of this Act is to establish a job creation  
8 income tax credit for employers who increase the number of  
9 full-time employees in the State and make certain capital  
10 investment expenditures.

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

14           "§235-           Job creation income tax credit. (a)  
15 Notwithstanding any law to the contrary, there shall be allowed  
16 to each taxpayer subject to the taxes imposed by this chapter, a  
17 job creation income tax credit that shall be deductible from the  
18 taxpayer's net income tax liability, if any, imposed by this  
19 chapter for the taxable year in which the credit is properly  
20 claimed. The amount of the credit shall be equal to:



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1       (1) \$3,000 for each new full-time employee hired in a  
2       qualified employment position in the first year or  
3       partial year of employment; provided that an employee  
4       hired in the last ninety days of a taxable year shall  
5       be excluded for that taxable year and shall be  
6       considered new full-time employees in the following  
7       taxable year;

8       (2) \$3,000 for each new full-time employee in a qualified  
9       employment position for the full taxable year in the  
10       second year of continuous employment; and

11       (3) \$3,000 for each new full-time employee in a qualified  
12       employment position for the full taxable year in the  
13       third year of continuous employment;

14       (b) In the case of a partnership, S corporation, estate,  
15       or trust, the tax credit allowable is for net increases in full-  
16       time employees hired in qualified employment positions in the  
17       State as computed and certified by the department of taxation  
18       for the taxable year. The cost upon which the tax credit is  
19       computed shall be determined at the entity level. Distribution  
20       and share of credit shall be determined by rule.



1       (c) The credit allowed under this section shall be claimed  
2 against the net income tax liability for the taxable year. If  
3 the tax credit claimed by the taxpayer under this section  
4 exceeds the amount of the income tax payments due from the  
5 taxpayer, the excess of credits over payments due shall be  
6 refunded to the taxpayer. All claims, including amended claims,  
7 for a tax credit under this section shall be filed on or before  
8 the end of the twelfth month following the close of the taxable  
9 year for which the credit may be claimed. Failure to comply  
10 with the foregoing provision shall constitute a waiver of the  
11 right to claim the credit.

12       (d) To qualify for this tax credit, and subject to  
13 certification by the department pursuant to subsection (e), the  
14 taxpayer shall:

- 15       (1) Have capital investments of at least \$50,000; and  
16       (2) Hire at least one new full-time employee in a  
17       qualified employment position for each location of its  
18       business before it claims a first year tax credit for  
19       the location.

20       (e) Every taxpayer, before March 31 of each year in which  
21 a capital investment in a qualified employment position was made



1 in the previous taxable year, shall submit a written, certified  
2 statement to the director of taxation identifying:

3 (1) Capital investments, if any, expended in the previous  
4 taxable year;

5 (2) The number of new full-time employees of the taxpayer  
6 hired in qualified employment positions in the  
7 previous taxable year; and

8 (3) The amount of tax credits claimed pursuant to this  
9 section, if any, in the previous taxable year.

10 (f) The department shall:

11 (1) Maintain records of the names and addresses of the  
12 taxpayers claiming the credits under this section and  
13 the total amount of the qualified employment positions  
14 upon which the tax credit is based;

15 (2) Verify the nature and amount of the capital  
16 investments and qualified employment positions;

17 (3) Total all capital investments and qualified employment  
18 positions that the department certifies; and

19 (4) Certify the amount of the tax credit for each taxable  
20 year and cumulative amount of the tax credit.



1 Upon each determination made under this subsection, the  
2 department shall issue a certificate to the taxpayer verifying  
3 information submitted to the department, including capital  
4 investment amounts, number of new full-time employees, and  
5 number of qualified employment positions, the credit amount  
6 certified for each taxable year, and the cumulative amount of  
7 the tax credit during the credit period. The taxpayer shall  
8 file the certificate with the taxpayer's tax return with the  
9 department.

10 (g) The director of taxation:

11 (1) Shall prepare forms as may be necessary to claim a  
12 credit under this section;

13 (2) May audit and adjust the tax credit amount to conform  
14 to the facts; and

15 (3) May adopt rules necessary to effectuate the purposes  
16 of this section pursuant to chapter 91.

17 (h) For the purposes of this section,

18 "Capital investment" means an expenditure to acquire,  
19 lease, or improve property that is used in operating a business,  
20 including land, buildings, machinery, fixtures, and equipment.



1       "Net income tax liability" means net income tax liability  
2 reduced by all other credits allowed under this chapter.

3       "New full-time employee" means a full-time employee who:

4       (1) First became employed by the taxpayer within the  
5 fiscal year whose hire results in a net increase in  
6 the taxpayer's full-time employees in the State; and

7       (2) Is receiving compensation at least equal to or above  
8 the fiscal year's self-sufficiency income standard  
9 established by the department of business, economic  
10 development, and tourism pursuant to section 201-3(5).

11       "New full-time employee" does not include a person who was  
12 previously employed in the State by the taxpayer, whose position  
13 was subsequently terminated or eliminated, and who was later  
14 rehired by the taxpayer.

15       "Qualified employment position" means employment that meets  
16 the following requirements:

17       (1) The position consists of at least 1,750 hours per year  
18 of full-time permanent employment; and

19       (2) The job duties are performed primarily at the location  
20 or locations of the taxpayer's business in the State.

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1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act, upon its approval, shall apply to  
3 taxable years beginning after June 30, 2023.

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INTRODUCED BY: DL Het  
JAN 20 2023





# H.B. NO. 398

**Report Title:**

Job Creation Income Tax Credit; Qualified Employment Positions;  
Capital Expenditures

**Description:**

Establishes a refundable job creation income tax credit for employers who increase the number of full-time employees in the State and make certain capital investment expenditures.

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