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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 purpose of this Act, to be known as the  
2 "Ohana Tax Reduction Act," is to provide an additional personal  
3 exemption for any dependent age eighteen or younger for families  
4 with a federal adjusted gross income of \$200,000 or less and to  
5 increase the tax relief provided by the child and dependent care  
6 credit provided by section 235-55.6, Hawaii Revised Statutes.

7           Taxpayers with children in Hawaii face a daunting challenge  
8 due to Hawaii's high cost of living. From birth, children  
9 require items necessary to ensure their safety and growth, both  
10 physically and mentally. From playpens and safety rails for  
11 young children to backpacks, pencils, and paper for school-aged  
12 children, parents are faced with providing these necessities to  
13 their children. Providing an additional exemption per child  
14 would help Hawaii's struggling families to cope with these  
15 expenses.

16           In addition, Hawaii's high cost of living has forced a  
17 growing number of families and dependent providers to enter the  
18 workforce in order to make ends meet. The cost of childcare and

1 elder-dependent care has skyrocketed because of the high demand  
2 and absolute need for such services in Hawaii.

3 The legislature finds that families are faced with little  
4 alternative with regard to caring for dependents -- either work  
5 and pay for care; or not work, care for dependents, and verge on  
6 succumbing to poverty. The legislature further finds that the  
7 foregoing alternatives are unacceptable for Hawaii taxpayers.

8 The purpose of this Act is to provide meaningful financial  
9 relief to the ohana that care for children and dependents in  
10 Hawaii.

11 SECTION 2. Section 235-54, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§235-54 Exemptions.** (a) In computing the taxable income  
14 of any individual, there shall be deducted, in lieu of the  
15 personal exemptions allowed by the Internal Revenue Code,  
16 personal exemptions computed as follows: Ascertain the number of  
17 exemptions which the individual can lawfully claim under the  
18 Internal Revenue Code, add an additional exemption for the  
19 taxpayer or the taxpayer's spouse who is sixty-five years of age  
20 or older within the taxable year, and multiply that number by  
21 \$1,040, for taxable years beginning after December 31, 1984. A  
22 nonresident shall prorate the personal exemptions on account of

1 income from sources outside the State as provided in section 235-  
2 5. In the case of an individual with respect to whom an  
3 exemption under this section is allowable to another taxpayer for  
4 a taxable year beginning in the calendar year in which the  
5 individual's taxable year begins, the personal exemption amount  
6 applicable to such individual under this subsection for such  
7 individual's taxable year shall be zero.

8 (b) In computing the taxable income of an estate or trust  
9 there shall be allowed, in lieu of the deductions allowed under  
10 subsection (a), the following:

11 (1) An estate shall be allowed a deduction of \$400.

12 (2) A trust which, under its governing instrument, is  
13 required to distribute all of its income currently  
14 shall be allowed a deduction of \$200.

15 (3) All other trusts shall be allowed a deduction of \$80.

16 (c) A blind person, a deaf person, and any person totally  
17 disabled, in lieu of the personal exemptions allowed by the  
18 Internal Revenue Code, shall be allowed, and there shall be  
19 deducted in computing the taxable income of a blind person, a  
20 deaf person, or a totally disabled person, instead of the  
21 exemptions provided by subsection (a), the amount of \$7,000.

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1        (d) For taxable years beginning after December 31, 2008,  
 2 an individual taxpayer may claim an additional exemption, in  
 3 addition to the other exemptions in this section, known as the  
 4 "Ohana exemption." The additional exemption may be claimed for  
 5 each qualified dependent, age eighteen and under, which the  
 6 taxpayer may lawfully claim under the Internal Revenue Code.  
 7 The taxpayer may ascertain the additional exemption by  
 8 multiplying the number of qualified dependents age eighteen and  
 9 under that may be lawfully claimed under the Internal Revenue  
 10 Code by the exemption amount for the respective federal adjusted  
 11 gross income below:

<u>Federal adjusted gross income</u>	<u>Ohana exemption amount</u>
<u>\$100,000 and under</u>	<u>\$1,000</u>
<u>\$100,001 up to \$200,000</u>	<u>\$500</u>
<u>Over \$200,000</u>	<u>\$0</u>

16        For purposes of this subsection, including determination of  
 17 the adjusted gross income limitation, a married couple filing a  
 18 joint return will be treated as one taxpayer. A husband and  
 19 wife filing separate returns for a taxable year for which a  
 20 joint return could have been filed by them shall claim only the  
 21 additional exemptions to which they would have been entitled had  
 22 a joint return been filed."

1 SECTION 3. Section 235-55.6, Hawaii Revised Statutes, is  
2 amended by amending subsections (a), (b), and (c) to read as  
3 follows:

4 "(a) Allowance of credit.

5 (1) In general. For each resident taxpayer, who files an  
6 individual income tax return for a taxable year, and  
7 who is not claimed or is not otherwise eligible to be  
8 claimed as a dependent by another taxpayer for federal  
9 or Hawaii state individual income tax purposes, [~~who~~  
10 ~~maintains a household which includes as a member one or~~  
11 ~~more qualifying individuals (as defined in subsection~~  
12 ~~(b) (1)),]~~ for which there are one or more qualifying  
13 individuals (as defined in subsection (b) (1) with  
14 respect to such individual), there shall be allowed as  
15 a credit against the tax imposed by this chapter for  
16 the taxable year an amount equal to the applicable  
17 percentage of the employment-related expenses (as  
18 defined in subsection (b) (2)) paid by such individual  
19 during the taxable year. If the tax credit claimed by  
20 a resident taxpayer exceeds the amount of income tax  
21 payment due from the resident taxpayer, the excess of  
22 the credit over payments due shall be refunded to the

1 resident taxpayer; provided that tax credit properly  
2 claimed by a resident individual who has no income tax  
3 liability shall be paid to the resident individual; and  
4 provided further that no refunds or payment on account  
5 of the tax credit allowed by this section shall be made  
6 for amounts less than \$1.

7 (2) Applicable percentage defined. For purposes of  
8 paragraph (1), the term "applicable percentage" means  
9 twenty-five per cent reduced (but not below fifteen per  
10 cent) by one percentage point of each \$2,000 (or  
11 fraction thereof) by which the taxpayer's adjusted  
12 gross income for the taxable year exceeds \$22,000.

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

15 (1) Qualifying individual. The term "qualifying  
16 individual" means:

17 (A) A dependent of the taxpayer who is under the age  
18 of thirteen and with respect to whom the taxpayer  
19 is entitled to a deduction under section 235-  
20 54(a),

21 (B) A dependent of the taxpayer who is physically or  
22 mentally incapable of caring for oneself [~~or~~] and

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1           who has the same principal place of abode as the  
2           taxpayer for more than one-half of such taxable  
3           year, or

4           (C) The spouse of the taxpayer, if the spouse is  
5           physically or mentally incapable of caring for  
6           oneself[-] and who has the same principal place of  
7           abode as the taxpayer for more than one-half of  
8           such taxable year.

9           (2) Employment-related expenses.

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

- 17           (i) Expenses for household services, and
- 18           (ii) Expenses for the care of a qualifying  
19           individual.

20           Such term shall not include any amount paid for  
21           services outside the taxpayer's household at a

1 camp where the qualifying individual stays  
2 overnight.

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

8 (i) A qualifying individual described in paragraph  
9 (1) (A), or

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

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

20 (i) Such center complies with all applicable laws,  
21 rules, and regulations of this State, if the



1 center is located within the jurisdiction of  
2 this State; or  
3 (ii) Such center complies with all applicable laws,  
4 rules, and regulations of the jurisdiction in  
5 which the center is located, if the center is  
6 located outside the State; and  
7 (iii) The requirements of subparagraph (B) are met.  
8 (D) Dependent care center defined. For purposes of  
9 this paragraph, the term "dependent care center"  
10 means any facility which:  
11 (i) Provides care for more than six individuals  
12 (other than individuals who reside at the  
13 facility), and  
14 (ii) Receives a fee, payment, or grant for  
15 providing services for any of the individuals  
16 (regardless of whether such facility is  
17 operated for profit).  
18 (c) Dollar limit on amount creditable. The amount of the  
19 employment-related expenses incurred during any taxable year  
20 which may be taken into account under subsection (a) shall not  
21 exceed[+]

1       ~~(1) \$2,400 if there is one qualifying individual with~~  
2           ~~respect to the taxpayer for such taxable year, or~~  
3       ~~(2) \$4,800 if there are two or more qualifying individuals~~  
4           ~~with respect to the taxpayer for such taxable year.]~~  
5       \$5,000 for each qualifying individual with respect to the  
6       taxpayer for such taxable year.

7       The amount [~~determined under paragraph (1) or (2)~~  
8       ~~(whichever is applicable)] of the employment-related expenses  
9       shall be reduced by the aggregate amount excludable from gross  
10      income under section 129 (with respect to dependent care  
11      assistance programs) of the Internal Revenue Code for the  
12      taxable year."~~

13      SECTION 4. Section 235-55.6, Hawaii Revised Statutes, is  
14      amended by amending subsection (e) to read as follows:

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

16      (1) [~~Maintaining household. An individual shall be treated~~  
17           ~~as maintaining a household for any period only if over~~  
18           ~~half the cost of maintaining the household for the~~  
19           ~~period is furnished by the individual (or, if the~~  
20           ~~individual is married during the period, is furnished~~  
21           ~~by the individual and the individual's spouse).] Place  
22           of abode. An individual shall not be treated as having~~

1        the same principal place of abode of the taxpayer if at  
2        any time during the taxable year of the taxpayer the  
3        relationship between the individual and the taxpayer is  
4        in violation of local law.

5        (2) Married couples must file joint return. If the  
6        taxpayer is married at the close of the taxable year,  
7        the credit shall be allowed under subsection (a) only  
8        if the taxpayer and the taxpayer's spouse file a joint  
9        return for the taxable year.

10       (3) Marital status. An individual legally separated from  
11       the individual's spouse under a decree of divorce or of  
12       separate maintenance shall not be considered as  
13       married.

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

15       (A) An individual who is married and who files a  
16       separate return:

17       (i) Maintains as the individual's home a household  
18       that constitutes for more than one-half of  
19       the taxable year the principal place of abode  
20       of a qualifying individual, and

21       (ii) Furnishes over half of the cost of maintaining  
22       the household during the taxable year, and

1 (B) During the last six months of the taxable year the  
2 individual's spouse is not a member of the  
3 household,  
4 the individual shall not be considered as married.

5 (5) Special dependency test in case of divorced parents,  
6 etc. If:

7 (A) Paragraph (2) or (4) of section 152(e) of the  
8 Internal Revenue Code of 1986, as amended, applies  
9 to any child with respect to any calendar year,  
10 and

11 (B) The child is under age thirteen or is physically  
12 or mentally incompetent of caring for the child's  
13 self,

14 in the case of any taxable year beginning in the  
15 calendar year, the child shall be treated as a  
16 qualifying individual described in subsection (b) (1) (A)  
17 or (B) (whichever is appropriate) with respect to the  
18 custodial parent (within the meaning of section  
19 152(e) (1) of the Internal Revenue Code of 1986, as  
20 amended), and shall not be treated as a qualifying  
21 individual with respect to the noncustodial parent.

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

4            (A) With respect to whom, for the taxable year, a  
5                deduction under section 151(c) of the Internal  
6                Revenue Code of 1986, as amended (relating to  
7                deduction for personal exemptions for dependents)  
8                is allowable either to the taxpayer or the  
9                taxpayer's spouse, or

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

14           For purposes of this paragraph, the term "taxable year"  
15                means the taxable year of the taxpayer in which the  
16                service is performed.

17       (7) Student. The term "student" means an individual who,  
18            during each of five calendar months during the taxable  
19            year, is a full-time student at an educational  
20            organization.

21       (8) Educational organization. The term "educational  
22            organization" means a school operated by the department

1 of education under chapter 302A, an educational  
2 organization described in section 170(b)(1)(A)(ii) of  
3 the Internal Revenue Code of 1986, as amended, or a  
4 university, college, or community college.

5 (9) Identifying information required with respect to  
6 service provider. No credit shall be allowed under  
7 subsection (a) for any amount paid to any person  
8 unless:

9 (A) The name, address, taxpayer identification number,  
10 and general excise tax license number of the  
11 person are included on the return claiming the  
12 credit,

13 (B) If the person is located outside the State, the  
14 name, address, and taxpayer identification number,  
15 if any, of the person and a statement indicating  
16 that the service provider is located outside the  
17 State and that the general excise tax license and,  
18 if applicable, the taxpayer identification numbers  
19 are not required, or

20 (C) If the person is an organization described in  
21 section 501(c)(3) of the Internal Revenue Code and  
22 exempt from tax under section 501(a) of the

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1 Internal Revenue Code, the name and address of the  
2 person are included on the return claiming the  
3 credit.

4 In the case of a failure to provide the information  
5 required under the preceding sentence, the preceding  
6 sentence shall not apply if it is shown that the  
7 taxpayer exercised due diligence in attempting to  
8 provide the information so required."

9 SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval  
12 and shall apply to taxable years beginning after December 31,  
13 2007; provided that section 2 relating to amendments made to  
14 section 235-54, Hawaii Revised Statutes, shall apply to taxable  
15 years beginning after December 31, 2008.

16  
17 INTRODUCED BY: Calvin K. Jay  
18 BY REQUEST  
JAN 22 2008

**Report Title:**

Income Tax Relief; Ohana Tax Reduction Act

**Description:**

Provides an additional exemption for those with a dependent aged 18 and under with adjusted gross incomes of \$200,000 or less. Modifies and increases the child and dependent care credit.



JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TAXATION.

PURPOSE: To provide an additional personal exemption for any dependent age eighteen and younger for households with \$200,000 or less in federal adjusted gross income. In addition, to increase the amount of qualifying expenses eligible for the credit provided in section 235-55.6, Hawaii Revised Statutes (HRS), and to make other housekeeping amendments to conform to section 21 of the Internal Revenue Code (IRC).

MEANS: Amend sections 235-54 and 235-55.6(a), (b), (c), and (e), HRS.

JUSTIFICATION: Taxpayers with children, dependent elderly parents, and disabled dependents, face a significant additional financial burden in caring for these dependents. In addition to expenses incurred for the basic care of dependents, taxpayers with school-aged dependents often incur costs associated with the purchase of school supplies, after school programs, and other necessities not funded by the school systems. In light of the increased expenses attributable to caring for children, an additional income tax exemption is warranted to provide economic relief to taxpayers with such dependents. The additional exemption provided by this legislation is known as the "Ohana Exemption." Specifically, this legislation allows taxpayers with dependents age eighteen and younger to claim an additional exemption of \$1,000 for households with income of \$100,000 or less. In addition, this legislation allows taxpayers to claim an additional exemption of \$500 for each dependent age eighteen and under for households with income of more than \$100,000 and up to \$200,000.

The cost of caring for children, disabled dependents, and dependent elderly parents is significant in Hawaii. To ease this burden, this Act increases the amount of qualifying expenses eligible for the credit provided in section 235-55.6, HRS, to \$5,000 per dependent. This legislation also makes other housekeeping amendments to section 235-55.6, HRS, to maintain consistent conformity to section 21, IRC.

Impact on the public: All families with school-aged children, disabled dependents, and dependent elderly parents will benefit from these tax provisions and receive much needed economic relief from the rising costs of education-related and care-related expenses.

Impact on the department and other agencies: The department will be responsible for administering the tax exemptions.

GENERAL FUND: \$9,000,000 for FY 2009; \$25,900,000 for FY 2010 and thereafter.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TAX 100.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval, and shall apply to taxable years beginning after December 31, 2007; provided that the amendments to section 235-54, HRS, providing an additional exemption for dependents aged 18 and under, shall apply to taxable years beginning after December 31, 2008.