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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. Over the years, the legislature and the private  
2 sector have created programs to stimulate the economy through  
3 the use of tax incentives, usually in the form of tax credits.  
4 However, many of the tax credits proposed over the years have  
5 failed to be enacted into law and some of the tax credits that  
6 have been enacted have not operated in the exact manner, or had  
7 the fiscal impact, that was originally intended by the  
8 legislature. Furthermore, the challenge of getting tax credits  
9 passed and approved by the legislature and executive office is a  
10 task made more difficult during times of economic recession.

11           To help speed the recovery of the economy in this State,  
12 the legislature finds that there is a need for legislation that  
13 would help the State gain its financial strength through  
14 providing employers with financial incentives that would help to  
15 build their employee infrastructure through improved skills,  
16 training, and knowledge and also to temporarily limit their  
17 financial obligations from employment security laws.



1 An agenda that could potentially achieve that financial  
2 strength during an economic recession would include the  
3 following objectives:

4 (1) Providing employers with a tax credit for amounts they  
5 expend on the development and training to improve the  
6 current skills and abilities of their existing  
7 long-term employees; and

8 (2) Limiting the amount of employment security law  
9 obligations that employers are required to pay for  
10 calendar years 2010 and 2011 to those amounts levied  
11 in calendar year 2009.

12 The purpose of this Act is to provide financial mechanisms  
13 to employers that encourage the development of their current  
14 employees and to hire more employees.

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

18 "§235- Employer continuing education tax credit. (a)  
19 There shall be allowed to each qualified taxpayer subject to the  
20 tax imposed by this chapter an employer continuing education tax  
21 credit, which shall be deductible from the taxpayer's net income  
22 tax liability, if any, that is imposed by this chapter in the



1 qualified taxpayer's taxable year following the taxable year in  
2 which the credit under this section is earned.

3 (b) For purposes of this section:

4 "Continuing education" means costs associated with  
5 improving the skills, training, and knowledge that are directly  
6 associated with an employee's job title or position and that are  
7 directly associated with the employee's current field or  
8 occupation.

9 "Qualified costs" means expenditures by a qualified  
10 taxpayer that improves the existing skills or knowledge of an  
11 employee that would be sufficient to enable the employee to  
12 obtain a higher paying position with the employer or increase  
13 the employee's level of productivity. Qualified costs include,  
14 but are not limited to, college courses, vocational programs,  
15 and certification programs.

16 "Qualified taxpayer" means an employer that has at  
17 least \_\_\_\_\_ full-time employees and expends moneys on the  
18 continuing education of a full-time employee that has been  
19 employed by the employer for at least twelve consecutive months.

20 (c) The amount of the tax credit shall be equal  
21 to \_\_\_\_\_ per cent of the qualified costs incurred by the  
22 qualified taxpayer during the taxable year up to a maximum of



1     \$            in qualified costs in any taxable year; provided  
2     that the qualified taxpayer shall not be eligible to claim the  
3     qualified costs toward the tax credit under this section until  
4     the taxable year following the taxable year in which the  
5     qualified costs were incurred.

6            (d) If the tax credit under this section exceeds the  
7     taxpayer's net income tax liability, the excess of credit over  
8     liability may be used as a tax credit against the taxpayer's net  
9     income tax liability in subsequent years until exhausted. All  
10    claims for a tax credit under this section, including amended  
11    claims, shall be filed on or before the end of the twelfth month  
12    following the close of the taxable year for which the tax credit  
13    may be claimed. Failure to comply with the foregoing provision  
14    shall constitute a waiver of the right to claim the tax credit.

15           (e) No other tax credit may be claimed under this chapter  
16    for the qualified costs used to properly claim a tax credit  
17    under this section.

18           (f) In the case of a partnership, S corporation, estate,  
19    or trust, the tax credit allowable is for the qualified costs  
20    incurred by the entity for the taxable year. The cost upon  
21    which the tax credit is computed shall be determined at the  
22    entity level. Distribution and share of the tax credit shall be



1 determined pursuant to section 704(b) (with respect to partner's  
2 distributive share) of the Internal Revenue Code.

3 (g) The director of taxation shall prepare any forms that  
4 may be necessary to claim a credit under this section. The  
5 director may also require the taxpayer to furnish information to  
6 ascertain the validity of the claim for the tax credit made  
7 under this section and may adopt rules necessary to effectuate  
8 the purposes of this section pursuant to chapter 91."

9 SECTION 3. Chapter 383, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12 "§383- Limit on employer contributions. (a) Not  
13 withstanding any law to the contrary outside of this chapter,  
14 every employer's contribution rate for the 2010 and 2011  
15 calendar years shall not exceed their contribution rate for the  
16 2009 calendar year and the contributions levied, assessed, and  
17 collected from every employer for the 2010 and 2011 calendar  
18 years shall not exceed the contributions levied upon each  
19 employer for the 2009 calendar year.

20 (b) The limitations of this section shall apply to every  
21 employer in this State even if the employer's number of  
22 employees in calendar years 2010 and 2011 exceeds the employer's



1 number of employees in calendar year 2009; provided that if an  
2 employer's number of employees in calendar year 2010 or 2011  
3 exceeds the employer's number of employees in calendar year 2009  
4 by \_\_\_\_\_ per cent or more, then the limitations in this  
5 section shall not apply in calendar year 2010 or 2011, as  
6 applicable.

7 (c) The requirements of this section shall not impair or  
8 limit the rights, powers, or authority granted to the  
9 department, or the director of labor and industrial relations,  
10 under this chapter to levy, assess, or collect any delinquent  
11 contributions, penalties, interest, costs, fines, or expenses,  
12 or to commence the placement of a lien or foreclosure  
13 proceedings against an employer or an employer's property."

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon approval;  
16 provided that section 2 of this Act shall apply to taxable years  
17 beginning after December 31, 2009; provided further that  
18 section 3 of this Act shall take effect on July 1, 2010.

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INTRODUCED BY: \_\_\_\_\_

*Calvin K. Y. Ang*

By Request

JAN 27 2010



**Report Title:**

Tax Credit; Continuing Education; Employer Contributions

**Description:**

Creates a tax credit for employers who fund continuing education for certain employees to improve their existing skills; limits the amount of employer contributions paid under the employment security laws for the 2010 and 2011 calendar years even if the employer hires a certain number of additional employees.

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

