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## A BILL FOR AN ACT

RELATING TO JOB CREATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Hawaii has felt the adverse impacts of national  
2 and global economies that have seen rising unemployment,  
3 business closures, personal and business bankruptcies, and  
4 contraction of economic activity worldwide. Hawaii's  
5 unemployment rate has risen from 3.0 per cent in January 2008 to  
6 6.5 per cent in November 2011. While the November 2011  
7 unemployment rates for the islands of Oahu and Lana'i were below  
8 the national average, the rates for the remaining islands ranged  
9 between 7.4 per cent and 15.5 per cent. It is unacceptable to  
10 have this many people without work.

11           The State recognizes that encouraging job creation is one  
12 of the most significant steps that can be taken to help the  
13 State regain its economic footing and help families regain their  
14 ability to support themselves. The State also recognizes that  
15 our economy is built upon thousands of small businesses that are  
16 the backbone of our economic well-being and provide the vast  
17 majority of employment in our state.



1           However, these businesses are facing uncertainty and thus  
2 are hesitant to create additional employment until such time as  
3 the current economic trends improve. Job creation incentives  
4 have been successfully used in other states including Ohio,  
5 Alabama, Kentucky, Tennessee, Indiana, and Kansas.

6           The purpose of this Act is to help encourage businesses to  
7 employ Hawaii residents and spur economic growth by providing a  
8 tax credit for creating and maintaining new full-time positions  
9 in the workforce.

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

13           "§235-     Job creation tax credit. (a) There shall be  
14 allowed to each taxpayer that qualifies as a business firm  
15 subject to taxes imposed by this chapter a job creation tax  
16 credit that shall be deductible from the business firm's net  
17 income tax liability, if any, for the taxable year in which the  
18 credit is properly claimed.

19           (b) The amount of the job creation tax credit a business  
20 may claim for a taxable year shall be equal to the amount of  
21 unemployment insurance taxes paid to the State during that  
22 taxable year on each eligible employee hired after April 30,



1 2012, and before May 1, 2013, into a new permanent full-time  
2 employment position created above the base employment level.

3 (c) A business firm's eligibility to claim the credit  
4 shall be suspended until after the eligible employee has been  
5 continuously employed by the firm for at least nine months,  
6 including the eligible employee's date of hire, unless that  
7 employee dies or is terminated for cause.

8 (d) If the eligible employee is employed for the time  
9 period required in the foregoing provision, but the suspension  
10 of eligibility prevents the firm from claiming the credit earned  
11 in a taxable year, the credit earned during that taxable year  
12 may be used as a credit against the business firm's income tax  
13 liability in subsequent years until exhausted.

14 (e) Upon hiring the eligible employee, the business firm  
15 must continue to employ at least the number of full-time  
16 employees on an annualized basis that the business firm had as a  
17 result of hiring the additional full-time employee. If the firm  
18 fails to comply with the foregoing provision during the  
19 suspension period described in subsection (c), the firm will be  
20 ineligible to claim any amount of tax credit.

21 (f) If the business firm complies with the requirements of  
22 subsections (c) and (d), the firm may continue to earn



1 additional tax credits on unemployment insurance taxes paid to  
2 the State on the eligible employee, up to the end of that  
3 employee's second year of employment with the firm, so long as  
4 the eligible employee has been continuously employed by the  
5 business firm since the date of hire, and the business firm  
6 continues to employ at least same number of full-time employees  
7 on an annualized basis.

8 (g) The job creation tax credit shall be taken against the  
9 net income tax liability of the business firm after all other  
10 tax credits have been taken. Any tax credit that exceeds the  
11 business firm's income tax liability may be used as a credit  
12 against the business firm's income tax liability in subsequent  
13 years until exhausted.

14 (h) Claims for tax credits under this section, including  
15 amended claims, shall be filed on or before the end of the  
16 twelfth month following the taxable year for which the tax  
17 credit may be claimed. Failure to file within the twelve-month  
18 period shall constitute a waiver of the right to claim the  
19 credit.

20 (i) The director of taxation may prepare any forms and  
21 procedures that may be necessary to claim a credit under this  
22 section. The director may also require the business firm to



1 furnish information to ascertain the validity of the claims for  
2 credit made under this section and may adopt, pursuant to  
3 chapter 91, rules necessary to effectuate the purposes of this  
4 section.

5 (j) A business firm applying for a tax credit under this  
6 section shall be ineligible to claim a tax credit or use an  
7 exemption under sections 209E-10, 209E-11, or 235-55.91.

8 (k) Any business firm receiving credit under this section  
9 must maintain substantial operations in the State for at least  
10 two years beyond the term of its last receipt of income tax  
11 credits. Failure to comply with the foregoing provision shall  
12 result in recapture of fifty per cent of the credit claim under  
13 this section in all prior taxable years. In determining whether  
14 a business firm is maintaining substantial business operation in  
15 the State, the department of taxation may consider:

16 (1) The number and wages of employees in the firm;

17 (2) The revenues of the firm; and

18 (3) Other factors as determined by rule.

19 (1) Notwithstanding any other law to the contrary limiting  
20 the disclosure of tax returns or return information, the  
21 department of business, economic development, and tourism, and  
22 the department of labor and industrial relations shall be



1 entitled to inspect and receive tax returns and return  
2 information in the administration of this credit.

3 (m) As used in this section:

4 "Base employment level" means the number of persons  
5 employed by an eligible business on the effective date of  
6 enactment of this Act as evidenced by payroll records submitted  
7 as part of the firm's monthly remittance of unemployment tax  
8 payments to the State.

9 "Business firm" means any corporation, partnership,  
10 subchapter S corporation, limited liability company, or sole  
11 proprietorship registered to do business in the State with the  
12 department of commerce and consumer affairs and the department  
13 of taxation, subject to the taxes imposed under this chapter.

14 "Eligible employee" means an individual who resides in the  
15 State and who is receiving unemployment insurance benefits, or  
16 is eligible to receive such benefits.

17 "New permanent full-time position" means a position newly  
18 created in the State, and, prior to the ninetieth day preceding  
19 the business firm's filling of that position, did not exist in  
20 the State as a job position of the business firm or of another  
21 related business entity; and the job position was filled during



1 the first year of credit eligibility and continued to exist at  
2 the end of that year.

3 "Permanent full-time employment" means a job of indefinite  
4 duration at a business firm located within the State and  
5 requiring either:

- 6 (1) A minimum of thirty-five hours of an employee's time a  
7 week for the entire taxable year of the business firm  
8 where the taxable year consists of not less than  
9 forty-eight weeks or a portion thereof when the  
10 employee was initially hired by the business firm; or  
11 (2) A minimum of one thousand six hundred eighty hours a  
12 year of employment, or the pro-rata share from the  
13 initial hire date within the year, when two thousand  
14 eighty hours is considered a full work year."

15 SECTION 3. New statutory material is underscored.

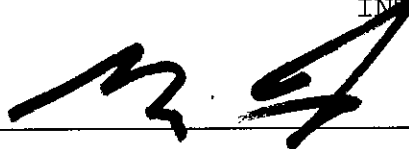
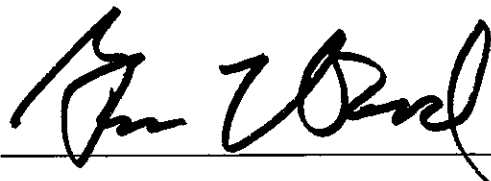
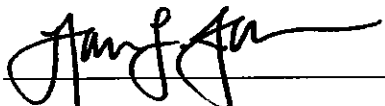
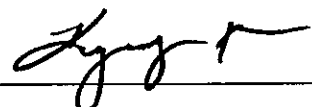
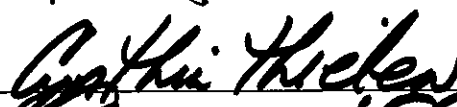

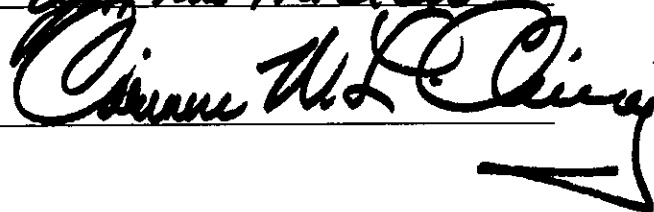

16 SECTION 4. This Act shall take effect July 1, 2012;  
17 provided that this Act shall be repealed on December 31, 2015;  
18 provided further that even though this Act is repealed all  
19 unexhausted tax credits allowed under this Act shall be valid  
20 until exhausted; and provided further that applications for tax  
21 credits and tax credits claimed under this Act for taxable years



1 ending before January 1, 2016 shall be valid even though claimed  
2 after December 31, 2015.

3

INTRODUCED BY:

JAN 20 2012





# H.B. NO. 2203

**Report Title:**

Job Creation Tax Credit

**Description:**

Provides for a job creation income tax credit for each new full time employee hired after April 30, 2012 and before May 1, 2013.

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

