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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-       Income tax credit for hiring an individual with  
5 a disability. (a) There shall be allowed to each taxpayer  
6 subject to the tax imposed by this chapter, a credit for the  
7 hiring of an individual with a disability that shall be  
8 deductible from the taxpayer's net income tax liability, if any,  
9 imposed by this chapter for the taxable year in which the credit  
10 is properly claimed.  
11           (b) The amount of the credit shall be equal to fifty per  
12 cent of the qualified wages for the first six months after an  
13 individual with a disability is hired. A tax credit that  
14 exceeds the taxpayer's income tax liability may be used as a  
15 credit against the taxpayer's income tax liability in subsequent  
16 years until exhausted; provided that in no taxable year shall  
17 the total amount of the tax credit claimed under this section  
18 exceed \$                   per taxpayer.



1       (c) Certification of an individual with a disability for  
2 the purpose of claiming a credit under this section shall be  
3 submitted to the department of taxation on forms prescribed by  
4 the department of taxation.

5       (d) An individual shall not be deemed an individual with a  
6 disability for the purpose of claiming a credit under this  
7 section unless, on or before the day on which the individual  
8 begins work for the employer, the employer has received  
9 certification from a qualified physician. If an individual has  
10 been certified as an individual with a disability and the  
11 certification is incorrect because it was based on false  
12 information provided by the individual, the certification shall  
13 be revoked and wages paid by the employer after the date on  
14 which notice of revocation is received by the employer shall not  
15 be treated as qualified wages.

16       In any request for a certification of an individual as an  
17 individual with a disability, the employer shall certify that a  
18 good faith effort was made to determine that such individual is  
19 an individual with a disability.

20       (e) The following wages paid to an individual with a  
21 disability are ineligible to be claimed by the employer for this  
22 credit:



- 1        (1) No wages shall be taken into account under this
- 2        section with respect to an individual with a
- 3        disability who:
- 4        (A) Bears any of the relationships described in
- 5        Section 152(d)(2)(A) to (G) of the Internal
- 6        Revenue Code to the taxpayer, or, if the taxpayer
- 7        is a corporation, to an individual who owns,
- 8        directly or indirectly, more than fifty per cent
- 9        in value of the outstanding stock of the
- 10       corporation (determined with the application of
- 11       Section 267(c) of the Internal Revenue Code);
- 12       (B) If the taxpayer is an estate or trust, is a
- 13       grantor, beneficiary, or fiduciary of the estate
- 14       or trust, or is an individual who bears any of
- 15       the relationships described in Section
- 16       152(d)(2)(A) to (G) of the Internal Revenue Code
- 17       to a grantor, beneficiary, or fiduciary of the
- 18       estate or trust; or
- 19       (C) Is a dependent (as described in Section
- 20       152(d)(2)(H) of the Internal Revenue Code) of the
- 21       taxpayer, or, if the taxpayer is a corporation,
- 22       of an individual described in subparagraph (A),



1           or, if the taxpayer is an estate or trust, of a  
2           grantor, beneficiary, or fiduciary of the estate  
3           or trust; and

4       (2) No wages shall be taken into account under this  
5           section with respect to any individual with a  
6           disability if, prior to the day the individual is  
7           hired by the employer, the individual had been  
8           employed by the employer at any time.

9       (f) In the case of a successor employer referred to in  
10       Section 3306(b)(1) of the Internal Revenue Code, the  
11       determination of the amount of the tax credit allowable under  
12       this section with respect to wages paid by the successor  
13       employer shall be made in the same manner as if the wages were  
14       paid by the predecessor employer referred to in the section.

15       (g) Claims for the tax credit under this section,  
16       including any amended claims, shall be filed on or before the  
17       end of the twelfth month following the taxable year for which  
18       the credit may be claimed. Failure to comply with the foregoing  
19       provision shall constitute a waiver of the right to claim the  
20       tax credit.



1        (h) No deduction shall be allowed for any amount of wages  
2 paid by a taxpayer that in the same taxable year qualifies the  
3 taxpayer for a credit claimed pursuant to this section.

4        (i) The director of taxation:

5        (1) Shall prepare any forms necessary to claim a credit  
6 under this section;

7        (2) May require a taxpayer to furnish reasonable  
8 information to ascertain the validity of a claim for  
9 credit; and

10       (3) May adopt rules pursuant to chapter 91 to effectuate  
11 the purposes of this section.

12       (j) For purposes of this section:

13       "Individual with a disability" means an individual having a  
14 physical or intellectual impairment that substantially limits  
15 one or more major life activities, having a record of that  
16 impairment, or being regarded as having that impairment;  
17 provided that the disabling impairment is certified by a  
18 qualified physician.

19       "Qualified physician" means:

20       (1) A physician or osteopathic physician licensed under  
21 chapter 453;



1        (2) A qualified out-of-state physician who is currently  
2        licensed to practice in the state in which the  
3        physician resides; or

4        (3) A commissioned medical officer in the United States  
5        Army, Navy, Marine Corps, or Public Health Service,  
6        engaged in the discharge of one's official duty.

7        "Qualified wages" means wages attributable to work rendered  
8        by an individual with a disability for the six-month period  
9        after the individual is initially hired.

10        "Wages" means wages, commissions, fees, salaries, bonuses,  
11        and every and all other kinds of remuneration for, or  
12        compensation attributable to, services performed by an employee  
13        for the employee's employer, including the cash value of all  
14        remuneration paid in any medium other than cash and the cost-of-  
15        living allowances and other payments included in gross income by  
16        section 235-7(b), but excluding income excluded from gross  
17        income by section 235-7 or other provisions of this chapter."

18        SECTION 2. Section 235-55.91, Hawaii Revised Statutes, is  
19        repealed.

20        ~~["§235-55.91 Credit for employment of vocational~~  
21        ~~rehabilitation referrals. (a) There shall be allowed to each~~  
22        ~~taxpayer subject to the tax imposed by this chapter, a credit~~



1 ~~for employment of vocational rehabilitation referrals which~~  
2 ~~shall be deductible from the taxpayer's net income tax~~  
3 ~~liability, if any, imposed by this chapter for the taxable year~~  
4 ~~in which the credit is properly claimed.~~

5 ~~(b) The amount of the credit determined under this section~~  
6 ~~for the taxable year shall be equal to twenty per cent of the~~  
7 ~~qualified first year wages for that year. The amount of the~~  
8 ~~qualified first year wages which may be taken into account with~~  
9 ~~respect to any individual shall not exceed \$6,000.~~

10 ~~(c) For purposes of this section:~~

11 ~~"Hiring date" means the day the vocational rehabilitation~~  
12 ~~referral is hired by the employer.~~

13 ~~"Qualified first year wages" means, with respect to any~~  
14 ~~vocational rehabilitation referral, qualified wages attributable~~  
15 ~~to service rendered during the one year period beginning with~~  
16 ~~the day the individual begins work for the employer.~~

17 ~~"Qualified wages" means the wages paid or incurred by the~~  
18 ~~employer during the taxable year to an individual who is a~~  
19 ~~vocational rehabilitation referral and more than one half of the~~  
20 ~~wages paid or incurred for such an individual is for services~~  
21 ~~performed in a trade or business of the employer.~~



1       ~~"Vocational rehabilitation referral" means any individual~~  
2 ~~who is certified by the department of human services vocational~~  
3 ~~rehabilitation and services for the blind division in~~  
4 ~~consultation with the Hawaii state employment service of the~~  
5 ~~department of labor and industrial relations as:~~

6       ~~(1) Having a physical or mental disability which, for such~~  
7       ~~individual, constitutes or results in a substantial~~  
8       ~~handicap to employment; and~~

9       ~~(2) Having been referred to the employer upon completion~~  
10       ~~of (or while receiving) rehabilitative services~~  
11       ~~pursuant to:~~

12       ~~(A) An individualized written rehabilitation plan~~  
13       ~~under the State's plan for vocational~~  
14       ~~rehabilitation services approved under the~~  
15       ~~Rehabilitation Act of 1973, as amended;~~

16       ~~(B) A program of vocational rehabilitation carried~~  
17       ~~out under chapter 31 of title 38, United States~~  
18       ~~Code; or~~

19       ~~(C) An individual work plan developed and implemented~~  
20       ~~by an employment network pursuant to subsection~~  
21       ~~(g) of section 1148 of the Social Security Act;~~





1                   ~~as amended, with respect to which the~~  
2                   ~~requirements of such subsection are met.~~

3           ~~"Wages" has the meaning given to such term by section~~  
4 ~~3306(b) of the Internal Revenue Code (determined without regard~~  
5 ~~to any dollar limitation contained in the Internal Revenue Code~~  
6 ~~section). "Wages" shall not include:~~

7           ~~(1) Amounts paid or incurred by an employer for any period~~  
8           ~~to any vocational rehabilitation referral for whom the~~  
9           ~~employer receives state or federally funded payments~~  
10           ~~for on the job training of the individual for the~~  
11           ~~period;~~

12           ~~(2) Amounts paid to an employer (however utilized by the~~  
13           ~~employer) for any vocational rehabilitation referral~~  
14           ~~under a program established under section 414 of the~~  
15           ~~Social Security Act; and~~

16           ~~(3) If the principal place of employment is at a plant or~~  
17           ~~facility, and there is a strike or lockout involving~~  
18           ~~vocational rehabilitation referrals at the plant or~~  
19           ~~facility, amounts paid or incurred by the employer to~~  
20           ~~the vocational rehabilitation referral for services~~  
21           ~~which are the same as, or substantially similar to,~~  
22           ~~those services performed by employees participating~~



1 ~~in, or affected by, the strike or lockout during the~~  
2 ~~period of strike or lockout.~~

3 ~~(d) The following shall apply to certifications of~~  
4 ~~vocational rehabilitation referrals.~~

5 ~~(1) An individual shall not be treated as a vocational~~  
6 ~~rehabilitation referral unless, on or before the day~~  
7 ~~on which the individual begins work for the employer,~~  
8 ~~the employer:~~

9 ~~(A) Has received a certification from the department~~  
10 ~~of human services vocational rehabilitation and~~  
11 ~~services for the blind division that the~~  
12 ~~individual is a qualified vocational~~  
13 ~~rehabilitation referral; or~~

14 ~~(B) Has requested in writing the certification from~~  
15 ~~the department of human services vocational~~  
16 ~~rehabilitation and services for the blind~~  
17 ~~division that the individual is a qualified~~  
18 ~~vocational rehabilitation referral.~~

19 ~~For purposes of the preceding sentence, if on or~~  
20 ~~before the day on which the individual begins work for~~  
21 ~~the employer, the individual has received from the~~  
22 ~~department of human services vocational rehabilitation~~



1 ~~and services for the blind division a written~~  
2 ~~preliminary determination that the individual is a~~  
3 ~~vocational rehabilitation referral, then "the fifth~~  
4 ~~day" shall be substituted for "the day" in the~~  
5 ~~preceding sentence.~~

6 ~~(2) If an individual has been certified as a vocational~~  
7 ~~rehabilitation referral and the certification is~~  
8 ~~incorrect because it was based on false information~~  
9 ~~provided by the individual, the certification shall be~~  
10 ~~revoked and wages paid by the employer after the date~~  
11 ~~on which notice of revocation is received by the~~  
12 ~~employer shall not be treated as qualified wages.~~

13 ~~(3) In any request for a certification of an individual as~~  
14 ~~vocational rehabilitation referral, the employer shall~~  
15 ~~certify that a good faith effort was made to determine~~  
16 ~~that such individual is a vocational rehabilitation~~  
17 ~~referral.~~

18 ~~(e) The following wages paid to vocational rehabilitation~~  
19 ~~referrals are ineligible to be claimed by the employer for this~~  
20 ~~credit.~~



1       ~~(1) No wages shall be taken into account under this~~  
2       ~~section with respect to a vocational rehabilitation~~  
3       ~~referral who:~~

4       ~~(A) Bears any of the relationships described in~~  
5       ~~section 152(a)(1) to (8) of the Internal Revenue~~  
6       ~~Code to the taxpayer, or, if the taxpayer is a~~  
7       ~~corporation, to an individual who owns, directly~~  
8       ~~or indirectly, more than fifty per cent in value~~  
9       ~~of the outstanding stock of the corporation~~  
10       ~~(determined with the application of section~~  
11       ~~267(c) of the Internal Revenue Code);~~

12       ~~(B) If the taxpayer is an estate or trust, is a~~  
13       ~~grantor, beneficiary, or fiduciary of the estate~~  
14       ~~or trust, or is an individual who bears any of~~  
15       ~~the relationships described in section 152(a)(1)~~  
16       ~~to (8) of the Internal Revenue Code to a grantor,~~  
17       ~~beneficiary, or fiduciary of the estate or trust;~~  
18       ~~or~~

19       ~~(C) Is a dependent (described in section 152(a)(9) of~~  
20       ~~the Internal Revenue Code) of the taxpayer, or,~~  
21       ~~if the taxpayer is a corporation, of an~~  
22       ~~individual described in subparagraph (A), or, if~~



1           ~~the taxpayer is an estate or trust, of a grantor,~~  
2           ~~beneficiary, or fiduciary of the estate or trust.~~

3       ~~(2) No wages shall be taken into account under this~~  
4       ~~section with respect to any vocational rehabilitation~~  
5       ~~referral if, prior to the hiring date of the~~  
6       ~~individual, the individual had been employed by the~~  
7       ~~employer at any time during which the individual was~~  
8       ~~not a vocational rehabilitation referral.~~

9       ~~(3) No wages shall be taken into account under this~~  
10       ~~section with respect to any vocational rehabilitation~~  
11       ~~referral unless such individual either:~~

12       ~~(A) Is employed by the employer at least ninety days,~~  
13       ~~or~~

14       ~~(B) Has completed at least one hundred twenty hours~~  
15       ~~of services performed for the employer.~~

16       ~~(f) In the case of a successor employer referred to in~~  
17       ~~section 3306(b)(1) of the Internal Revenue Code, the~~  
18       ~~determination of the amount of the tax credit allowable under~~  
19       ~~this section with respect to wages paid by the successor~~  
20       ~~employer shall be made in the same manner as if the wages were~~  
21       ~~paid by the predecessor employer referred to in the section.~~



1       ~~(g) No credit shall be determined under this section with~~  
2 ~~respect to wages paid by an employer to a vocational~~  
3 ~~rehabilitation referral for services performed by the individual~~  
4 ~~for another person unless the amount reasonably expected to be~~  
5 ~~received by the employer for the services from the other person~~  
6 ~~exceeds the wages paid by the employer to the individual for~~  
7 ~~such services.~~

8       ~~(h) The credit allowed under this section shall be claimed~~  
9 ~~against net income tax liability for the taxable year. A tax~~  
10 ~~credit under this section which exceeds the taxpayer's income~~  
11 ~~tax liability may be used as a credit against the taxpayer's~~  
12 ~~income tax liability in subsequent years until exhausted.~~

13       ~~(i) All claims for tax credits under this section,~~  
14 ~~including any amended claims, shall be filed on or before the~~  
15 ~~end of the twelfth month following the close of the taxable year~~  
16 ~~for which the credits may be claimed. Failure to comply with~~  
17 ~~the foregoing provision shall constitute a waiver of the right~~  
18 ~~to claim the credit.~~

19       ~~(j) No deduction shall be allowed for that portion of the~~  
20 ~~wages or salaries paid or incurred for the taxable year that is~~  
21 ~~equal to the amount of the credit determined under this section.~~



1       ~~(k) The director of taxation may adopt any rules under~~  
2 ~~chapter 91 and forms necessary to carry out this section." ]~~

3           SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 4. This Act, upon its approval, shall apply to  
6 taxable years beginning after December 31, 2050.



**Report Title:**

Individual with a Disability; Employment; Income Tax Credit

**Description:**

Provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer. Repeals existing tax credit for taxpayers who hire vocational rehabilitation referrals. Applies to taxable years beginning after December 31, 2050. (SD1)

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

