

JAN 23 2015

A BILL FOR AN ACT

RELATING TO INCOME TAX CREDITS.

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

1 SECTION 1. Traffic-related congestion on Hawaii's roadways
2 continues to increase every year. The morning and evening
3 commutes are marked by long delays and increased time spent on
4 the road as thousands of cars traverse Hawaii's highways and
5 streets. With longer commute times, the working people of
6 Hawaii are spending more time in their cars as opposed to using
7 that time productively, either at work or with their families.
8 Currently, Hawaii has one of the highest prices for gas and
9 one of the highest dependencies on foreign fossil fuel sources
10 in the nation. Thus, in comparison to their mainland peers, the
11 workers of Hawaii are using a larger percentage of their
12 disposable income to pay for transportation to work. Moreover,
13 increasingly massive commutes to work by car will solidify
14 Hawaii's reliance on foreign fossil fuel sources, thus ensuring
15 the generation of carbon emissions that deteriorate Hawaii's
16 fragile environment.



1 The legislature finds that the concept of telecommuting to
2 work has emerged as a viable workplace alternative. According
3 to a federal Office of Personnel Management survey in 2004, more
4 than twenty-three million workers in the United States
5 telecommuted to work. In 2002, a private research firm reported
6 that 35 per cent of all employees in the United States used a
7 home computer for work-related purposes. As of 2005, roughly 5
8 per cent of the federal workforce telecommuted to work and nine
9 states have enacted state telecommuting policies. In 2007, the
10 State of Georgia was the first to enact an income tax credit for
11 employers who permit their employees telecommute to work.
12 Today, the number of telecommuters has likely increased, because
13 of advancements in technology, escalating traffic congestion,
14 rising transportation costs, health concerns, or environmental
15 reasons.

16 Furthermore, the legislature finds that numerous studies
17 across the nation have demonstrated that telecommuting provides
18 an opportunity for employers to increase employee productivity,
19 decrease employee sick leave, increase the labor pool, and even
20 improve employee retention. The growth of telecommuting is
21 partly attributable to the greater availability of broadband



1 technology, employees placing a greater emphasis on work-life
2 balance, rising office rents, and improvements in internet
3 security.

4 The purpose of this Act is to implement a statewide
5 telecommuting income tax credit to help alleviate Hawaii's high
6 costs for transportation-related expenses to work, to reduce
7 Hawaii's dependence on fossil fuel, to reduce traffic congestion
8 on Hawaii's roadways, and to provide the workers of Hawaii with
9 an opportunity to spend more time either working from home or
10 with their families, rather than in traffic.

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- Telecommuting income tax credit.** (a) The income
15 tax credit allowed under this section shall be available for
16 taxable years beginning after December 31, 2014, and shall not
17 be available for taxable years beginning after December 31,
18 2016. Any income tax credit allowed under this section shall be
19 claimed against the taxpayer's net income tax liability, if any,
20 for the taxable year. A properly claimed income tax credit
21 under this section shall allow an employer a state income tax



1 credit for a percentage of eligible telecommute expenses
2 incurred in the calendar years 2015 and 2016. The amount of the
3 credit shall be calculated as follows:

4 (1) For employers in nonattainment areas, the credit shall
5 be equal to 100 per cent of the eligible telecommute
6 expenses incurred pursuant to a telecommute agreement
7 requiring the participating employee to telecommute at
8 least twelve days per month if the employer's
9 principal place of business is located in an area
10 designated by the United States Environmental
11 Protection Agency as a nonattainment area under the
12 federal Clean Air Act, title 42 United States Code
13 section 7401 et seq.;

14 (2) For employers in attainment areas, the credit shall be
15 equal to 75 per cent of the eligible telecommute
16 expenses incurred pursuant to a telecommute agreement
17 requiring the participating employee to telecommute at
18 least twelve days per month; or

19 (3) For employers who have employees telecommute at least
20 five days, but less than twelve days, per month, the
21 credit shall be equal to 25 per cent of the eligible



1 telecommute expenses incurred pursuant to a
2 telecommute agreement requiring the participating
3 employee to telecommute at least five days per month.

4 (b) For purposes of the income tax credit under this
5 section, the determination of the employer's taxable year and
6 the employer's eligible telecommute assessment expenses requires
7 that:

8 (1) In addition to the tax credit provided by subsection
9 (a), an employer conducting a telecommute assessment
10 on or after July 1, 2014, shall be allowed a tax
11 credit for the taxable year that is equal to 100 per
12 cent of the costs for preparing the telecommute
13 assessment, up to a maximum credit of \$20,000 per
14 employer, if the employer implements its formal
15 telecommute program in a taxable year identified in
16 subsection (a). The telecommute assessment costs
17 shall not be eligible for the tax credit if those
18 costs are the subject of another credit claimed by the
19 employer in any tax year. Costs incurred on or after
20 July 1, 2014, and before January 1, 2015, shall be
21 treated as being incurred on January 1, 2015, for



1 purposes of this section. The calculation of the
2 costs incurred under this subsection are intended to
3 include program planning expenses, including direct
4 program development and training costs, raw labor
5 costs, and professional consulting fees; the credit
6 shall not include expenses for which a credit is
7 claimed under any other provision of this chapter.
8 This credit shall be allowed only once per employer;
9 and

10 (2) All telecommute assessments shall meet any standards
11 for eligibility that are adopted by the director of
12 taxation.

13 (c) In no event shall the total amount of any tax credit
14 under this section for a taxable year exceed the employer's net
15 income tax liability. No unused tax credit shall be allowed to
16 be carried forward to apply to the employer's succeeding years'
17 tax liability. No unused tax credit shall be allowed by the
18 employer against prior years' tax liability.

19 (d) The certification of telecommute expenses by the
20 employer, application for tentative approval by the director of



1 taxation, and the annual limits to the income tax credit under
2 this section shall be imposed as follows:

3 (1) An employer seeking to claim a tax credit provided for
4 under subsections (a) and (b) shall submit an
5 application to the director of taxation for tentative
6 approval of the tax credit provided for in subsections
7 (a) and (b) between September 1 and October 31 of the
8 year preceding the taxable year for which the tax
9 credit is to be claimed. The director of taxation
10 shall adopt the rules and forms on which the
11 application is to be submitted. Amounts specified on
12 the application shall not be amended by the employer
13 after the application is approved by the director of
14 taxation. The application shall certify that the
15 employer would not have incurred the eligible
16 telecommute expenses stated therein but for the
17 availability of the tax credit. The director of
18 taxation shall review the application and shall
19 tentatively approve the application upon determining
20 that it meets the requirements of this section;



1 (2) The director of taxation shall provide tentative
2 approval of the applications by the date provided in
3 paragraph (3). In no event shall the aggregate amount
4 of tax credits approved by the director of taxation
5 for all qualified employers under this section in a
6 calendar year exceed:

7 (A) \$2,000,000 for credits earned in calendar year
8 2015; and

9 (B) \$2,000,000 for credits earned in calendar year
10 2016; and

11 (3) The department of taxation shall notify each employer
12 of the tax credits tentatively approved and allocated
13 to the employer by December 31st of the year in which
14 the application was submitted. If the tax credit
15 amounts on the tax credit applications filed with the
16 director of taxation exceed the maximum aggregate
17 limit of tax credits under this subsection, then the
18 tax credits shall be allocated among the employers who
19 filed a timely application on a pro rata basis based
20 upon the amounts otherwise allowed by this section.
21 Once the tax credit application has been approved and



1 the amount approved has been communicated to the
2 applicant, the employer may make purchases approved
3 for the tax credit at any time during the calendar
4 year following the approval of the application. The
5 employer may then apply the amount of the approved tax
6 credit to its tax liability for the tax year or years
7 for which the approved application applies. If the
8 employer has a tax year other than a calendar year and
9 the calendar year expenses are incurred in more than
10 one taxable year, the credit shall be applied to each
11 taxable year based upon when the expenses were
12 incurred.

13 (e) An employer may claim up to a limit of \$1,200 for each
14 participating employee in a given calendar year to enable a
15 participating employee to begin to telecommute, which expenses
16 are not otherwise the subject of a credit claimed by the
17 employer in any tax year. Eligible telecommute expenses shall
18 include but not be limited to expenses paid or incurred to
19 purchase computers, computer-related hardware and software,
20 modems, data processing equipment, telecommunications equipment,
21 high-speed internet connectivity equipment, computer security



1 software and devices, and all related delivery, installation,
2 and maintenance fees. Eligible telecommute expenses shall not
3 include replacement costs for computers, computer-related
4 hardware and software, modems, data processing equipment,
5 telecommunications equipment, or computer security software and
6 devices at the principal place of business when that equipment
7 is relocated to the telecommute site. These expenses shall not
8 include expenses for which a credit is claimed under any other
9 provision of this chapter. Telecommute expenses may be incurred
10 only once per employee. These expenses may be incurred directly
11 by the employer on behalf of the participating employee or
12 directly by the participating employee and subsequently
13 reimbursed by the employer.

14 (f) The director of taxation shall adopt rules in
15 accordance with chapter 91 that are necessary to implement and
16 administer this section.

17 (g) For purposes of this section, the following terms
18 shall have the following meanings:

19 "Employer" means any employer upon whom an income tax is
20 imposed by this chapter.



1 "Participating employee" means an employee who has entered
2 into a telecommute agreement with the employee's employer on or
3 after July 1, 2014. This term shall not include an individual
4 who is self-employed or an individual who ordinarily spends a
5 majority of the workday at a location other than the employer's
6 principal place of business.

7 "Telecommute" means an alternative work arrangement whereby
8 employees perform the normal duties and responsibilities of
9 their positions through the use of telecommunication devices,
10 either at home or another place apart from the employees' usual
11 place of work.

12 "Telecommute agreement" means an agreement signed by the
13 employer and the participating employee, on or after July 1,
14 2014, that defines the terms of a telecommute arrangement,
15 including the number of days per year the participating employee
16 will telecommute, as provided in subsection (a), in order to
17 qualify for the credit, and any restrictions on the place from
18 which the participating employee will telecommute.

19 "Telecommute assessment" means an optional assessment
20 leading to the development of policies and procedures necessary
21 to implement a formal telecommute program that would qualify the



1 employer for the credit provided in subsection (a), including
 2 but not limited to a workforce profile, a telecommute program
 3 business case and plan, a detailed accounting of the purpose,
 4 goals, and operating procedures of the telecommute program,
 5 methodologies for measuring telecommute program activities and
 6 success, and a deployment schedule for increasing telecommute
 7 activity."

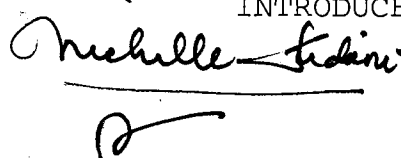
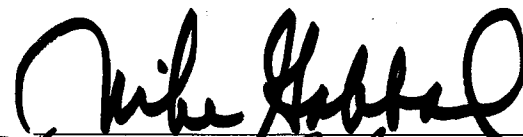
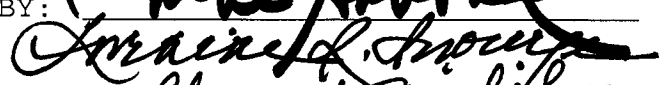
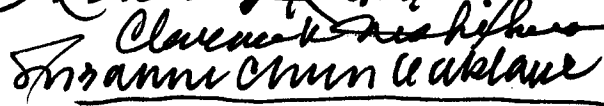
8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval;
10 provided that:

11 (1) The telecommuting income tax credit established in
 12 section 2 of this Act, section 235- (a), Hawaii
 13 Revised Statutes, shall apply to taxable years
 14 beginning after December 31, 2014; and

15 (2) The tax credit allowed for employers conducting a
 16 telecommute assessment in section 2 of this Act,
 17 section 235- (b), Hawaii Revised Statutes, shall
 18 take effect on July 1, 2015.

19

INTRODUCED BY: 






Report Title:

Telecommute; Telework; Income Tax Credit

Description:

Provides an income tax credit for employers when their employees telecommute for work.

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

