

DAVID Y. IGE  
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STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
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February 9, 2018

TO: The Honorable Senator Michelle N. Kidani, Chair  
Senate Committee on Education

The Honorable Senator Jill Tokuda, Chair  
Senate Committee on Labor

The Honorable Senator Josh Green, Chair  
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2905 – RELATING TO ON-SITE EARLY CHILDHOOD FACILITIES**

Hearing: Wednesday, February 14, 2018, 2:45 p.m.  
Conference Room 229, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of the bill to expand capacity and access for Hawaii's families to early childhood facilities. DHS requests that DHS not be named the entity to determine whether the employer, which may not be the operator of the early childhood facility, qualifies for an income tax credit. DHS is the regulatory authority for all licensed and registered child care facilities and homes statewide, and currently does not have staffing resources to devote to this proposed program.

**PURPOSE:** The purposes of this bill are to establish an income tax credit for employers who create on-site early childhood facilities and to establish and appropriate funds for one on-site early childhood facility coordinator.

The primary focus of DHS child care licensing program is on the health and safety of all children in care. DHS has regulatory authority under Part VIII of chapter 346, Hawaii

Revised Statutes (HRS), for the minimum health and safety standards for approximately 1,000 licensed and registered child care facilities and homes statewide.

The department's child care licensing staff also conduct comprehensive background checks, including state and federal fingerprint checks, state and national sex offender registry checks, child abuse and neglect registry check, and adult abuse perpetrator checks, for individual working at or living in child care facilities and homes, including providers who are legally exempt from regulation and are caring for a child whose family receives a child care subsidy from DHS.

As required by the federal Child Care and Development Fund (CCDF) block grant, by the end of calendar year 2018, DHS expects to start monitoring possibly 1,000 non-relative providers, who are legally exempt from regulation and are caring for a child whose family receives a child care subsidy from DHS, for minimum health and safety standards that are being established by DHS. The child care licensing staff also investigate complaints regarding possible illegal child care operations or regulated providers who are in violation of the statute or administrative requirements.

DHS respectfully requests that the Committees consider designating another entity to establish the criteria and administrative rules to determine whether the employer, which may not be the operator of the early childhood facility, qualifies for the proposed income tax credit. DHS would certainly be able to provide another entity with the information as to the status of the child care facility's license upon request from another entity in order for the entity to determine if the licensure requirement is met to be eligible for the tax credit. However, please consider this would add an administrative process.

If the proposed bill were to pass as drafted, DHS requests that the effective date for any sections of this measure related to DHS be July 1, 2019 or later, as the department's current program demands and efforts are focused on compliance for continued receipt of approximately \$22 million in federal CCDF grants.

The proposed bill would require DHS to develop new administrative rules, operational processes, require additional staffing for DHS, and additional funds for operations to implement the bill.

DHS respectfully requests that any appropriations and positions provided under this bill does not adversely impact the priorities identified under the Governor's supplemental budget request.

Thank you for the opportunity to provide comments on this measure.

DAVID Y. IGE  
GOVERNOR

DOUGLAS S. CHIN  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF TAXATION**  
830 PUNCHBOWL STREET, ROOM 221  
HONOLULU, HAWAII 96813  
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To: The Honorable Michelle N. Kidani, Chair  
And Members of the Senate Committee on Education

The Honorable Jill N. Tokuda, Chair  
And Members of the Senate Committee on Labor

The Honorable Josh Green, Chair  
And Members of the Senate Committee on Human Services

Date: Wednesday, February 14, 2018  
Time: 2:45 P.M.  
Place: Conference Room 229, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: S.B. 2905, Relating to On-Site Early Childhood Facilities

The Department of Taxation (Department) offers the following comments on S.B. 2905 for your consideration.

S.B. 2905 creates a refundable income tax credit for employers that operate an on-site early childhood facility. The credit is equal to 25% of qualified costs incurred operating the facility, including acquiring, constructing, and establishing the facility. The bill requires certification of facilities by the Department of Human Services. The credit is to be claimed against the taxpayer's net income tax liability, and any excess over payments due shall be refunded to the taxpayer. The credit is effective for taxable years beginning, and for qualified costs incurred, after December 31, 2018.

First, the Department notes that the bill has a definition for "qualified costs," but in some sections provides additional or different language related to costs. If the Committee wish to provide clarity about which costs are qualified costs, they can do so by making the following amendments:

- In subsection (c), delete all the words after the term "qualified costs," on page 4, lines 4-6.
- In subsection (f), delete "paid or incurred by the employer in connection with a qualified early childhood facility" on page 5, lines 5 and 6.

Second, the Department supports the intent of including the recapture provision under subsection (f)(2), but notes that as currently drafted, it would apply to a taxpayer who ceased operating a facility for any reason, including going out of business or being forced to shutter the facility in the wake of a natural disaster. If the Committee wishes to make the recapture provision less strict, it can do so by amending subsection (f)(2) to read as follows:

(2) The on-site early childhood facility shall operate for a minimum of ten years or the credit may be recaptured; provided that the credit shall not be subject to recapture if the department of human services certifies that the employer ceased operating the facility for reasonable cause, including but not limited to, going out of business, being forced to close the facility due to natural disaster or other unforeseeable circumstances, and closing the facility temporarily with the intention of reopening it for a reason such as facility refurbishment or improvement.

Third, the Department notes subsection (f)(5) grants the Department authority to unilaterally determine the credit cap amount on a yearly basis. The Department has concerns about the effect of such a determination on the State Budget. The Department suggests specifying the aggregate credit cap in the law instead.

Finally, the Department notes that it is able to implement this new tax credit for taxable years beginning after December 31, 2018 as currently written in this measure.

Thank you for the opportunity to provide comments.



**STATE OF HAWAII**  
**Executive Office on Early Learning**  
1390 Miller Street, Room 303  
HONOLULU, HAWAII 96813

February 14, 2018

**TO:** Senator Michelle N. Kidani, Chair  
Senator Kaiali'i Kahele, Vice-Chair  
Senate Committee on Education

Senator Jill N. Tokuda, Chair  
Senator J. Kalani English, Vice-Chair  
Senate Committee on Labor

Senator Josh Green, Chair  
Senator Stanley Chang, Vice-Chair  
Senate Committee on Human Services

**FROM:** Lauren Moriguchi, Director  
Executive Office on Early Learning

**SUBJECT:** **Measure:** S.B. No. 2905 – Relating to On-site Early Childhood Facilities  
**Hearing Date:** February 14, 2018  
**Time:** 2:45 p.m.  
**Location:** Room 229

**Purpose of Bill:** Establishes an income tax credit for employers who create on-site early childhood facilities. Establishes and appropriates funds for one on-site early childhood facility coordinator position.

**EXECUTIVE OFFICE ON EARLY LEARNING'S POSITION:** The Executive Office on Early Learning (EOEL) supports the intent of S.B. No. 2905.

EOEL is statutorily responsible for the development of the State's early childhood system, which shall a spectrum of high-quality development and learning opportunities for children throughout the state, from prenatal care until the time they enter kindergarten, with priority given to underserved or at-risk children.

We support the intent of the bill to increase capacity for, and access to, high-quality early learning programs by incentivizing employers to develop on-site facilities. We believe that partnering with the private sector is the most cost-effective, time-efficient means for the State to increase access to early learning opportunities.

Thank you for the opportunity to testify on this bill. I am happy to answer any questions you may have.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax Credit for On-Site Early Childhood Facilities

BILL NUMBER: SB 2905

INTRODUCED BY: TOKUDA, BAKER, ENGLISH, KEITH-AGARAN

EXECUTIVE SUMMARY: Establishes an income tax credit for employers who create on-site early childhood facilities.

SYNOPSIS: Adds a new section to chapter 235, HRS, to establish an on-site early childhood facility tax credit. The amount of the credit is 25% of the qualified costs for acquiring, constructing, and establishing the facility. The credit is refundable.

Defines "qualified on-site early childhood facility" as an on-site early childhood facility offered by an employer to all employees that is licensed and approved by the department of human services and receives an accreditation from a recognized national early childhood accredited agency within two years of initial operation.

The Department of Human Services is tasked with providing a certificate of approval to the facility. The criteria for approving such a facility is to consider: (1) whether the on-site early childhood facility provides early childhood programs from child care to preschool and junior kindergarten; (2) participation rate by employees; (3) quality of the early childhood programs being provided; and (4) whether the presence of an on-site early childhood facility promotes a healthy workplace environment.

Limitations of the credit include: (1) the total credit allowed for an employer in any taxable year shall not exceed \$\_\_\_\_; (2) the on-site early childhood facility shall operate for a minimum of ten years or the credit may be recaptured; (3) costs paid or incurred by an employer for insurance shall not be taken into account when calculating the costs included in the on-site early childhood facility credit computation; (4) the total amount of credit claimed on returns filed by all employers in the State's fiscal year shall not exceed the annual on-site early childhood facility credit cap, which the Department of Taxation determines on an annual basis.

Every claim, including amended claims, for the tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the tax credit may be claimed. Failure to do so shall constitute a waiver of the right to claim the tax credit.

No other income tax credit may be claimed for the same qualified costs.

EFFECTIVE DATE: July 1, 2018; the tax credit applies to taxable years beginning after December 31, 2018.

STAFF COMMENTS: This measure is problematic and may be unworkable for several reasons.

- The credit is for facility construction costs, but the criteria for approving the facility (before it is constructed?) must consider the employee participation rate and the programs offered, neither of which will be known before the facility is constructed.
- Similar to the above point, the statute requires that the facility receive an accreditation from a recognized national early childhood accredited agency within two years of initial operation in order to be qualified. The accreditation necessarily will not be in place before the facility is constructed.
- The statute requires the credit to be claimed within twelve months following the close of the taxable year for which the tax credit may be claimed, or the tax credit is waived. What is the event that triggers eligibility for the credit? Incurring the construction costs? Obtaining the accreditation from a national accrediting body within two years of first operation? Getting Department of Human Services certification, which must consider the employee participation rate and the programs offered? These events can be expected to occur at widely different times.
- The Department of Taxation is supposed to impose an aggregate cap on the credit, but the bill provides no criteria for the Department to determine the cap. Aggregate credit caps are budgetary issues that are determined by the legislature, not by an agency.
- There is a recapture provision stating that the facility must be in place for ten years upon pain of full credit recapture. The Committee may consider allowing the taxpayer to earn the credit ratably over the recapture period. See, for example, section 235-110.7(d), HRS, which by reference to section 47 of an earlier Internal Revenue Code provides for a three-year recapture period for the Capital Goods Excise Tax Credit and provides for a taxpayer earning one-third of the credit each year.

Digested 2/8/2018



**SB-2905**

Submitted on: 2/9/2018 4:42:03 AM

Testimony for EDU on 2/14/2018 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Ho`omana Pono, LLC	Support	Yes

Comments:

**SB-2905**

Submitted on: 2/13/2018 2:04:58 PM

Testimony for EDU on 2/14/2018 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	Testifying on behalf of OCC Legislative Priorities Committee of the Democratic Party of Hawaii	Support	No

Comments:

**SB-2905**

Submitted on: 2/9/2018 1:13:19 PM

Testimony for EDU on 2/14/2018 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louise Storm		Oppose	No

Comments:

Talk about "nanny state"! Given low unemployment numbers, wouldn't market forces encourage this development without depleting state funds?. Wouldn't it be better to have suggestions from DBEDT on how companies and organizations could set up their own programs and where they could find funding sources for starting up and maintaining them? Also, if the state grants tax credits to these companies and organizations, does it involve them in any liabilities because there is a presumption that the programs have met proof of safe environment, background checks of personnel, non-discrimination and other standards?

Sometimes the private sector should be provided with pertinent information and referred to available resources (through conferences, workshops, brochures, websites?) and encouraged to come up with its own solutions. It makes for a more self-reliant and innovative community.

## EDU Testimony

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**From:** Jordana Ferreira <whzcgjutegcfmgm@ujoin.co>  
**Sent:** Saturday, February 10, 2018 7:58 PM  
**To:** EDU Testimony  
**Subject:** Testimony in Support of SB 2905, Relating to On-Site Early Childhood Facilities

**From:** anadroj422@gmail.com <Jordana Ferreira>

### Message:

Parents have a difficult time finding childcare in Hawaii as licensed providers statewide are at nearly 90% capacity. We need to explore other ways that families can access child care and support all families, including working families. More businesses are exploring the option of on-site childcare as a benefit to their employees, which may help meet parents' needs. providing a tax incentive for businesses may encourage more solutions for working families.

Aloha,

I am writing to support SB2905, establishing an income tax credit for employers who provide on-site child care facilities. Early child care is both limited and expensive throughout Hawaii, particularly in rural areas. It is also critical to physical, mental, and social development. Providing incentive to employers to establish on-site child care will ease the financial burden on Hawaii's families both directly and indirectly by limiting time needed to transport children to off-site locations. I urge you to pass this important legislation.

Jordana Ferreira

Waianae

Hawaii

**SB-2905**

Submitted on: 2/13/2018 12:39:12 PM

Testimony for EDU on 2/14/2018 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
daniel goya	Individual	Support	No

Comments:

I stand in support of SB2905 as it relates to creating more early educational and daycare spaces by providing tax credits for businesses that provide operational space for private providers. There is a critical need for more early childhood access and/or daycare spaces, for example, in East Hawai'i Island, 74 three-year olds compete for ONE preschool seat. In Honolulu, 19 three-year olds compete for one seat. If larger businesses and developers have an incentive to create and maintain early education and care spaces, it would add tremendous support to the early childhood education field. National research also supports that employers that provide in-house early education spaces also see an increase in employee productivity.

Please support this measure.

**To:** Senator Michelle N. Kidani, Chair Senator Kaiali'i Kahele, Vice-Chair Senate  
Committee on Education

Senator Jill N. Tokuda, Chair Senator J. Kalani English, Vice-Chair Senate Committee on  
Labor

Senator Josh Green, Chair Senator Stanley Chang, Vice-Chair Senate Committee on  
Human Services

**Re:** S.B. No. 2905 – Relating to On-site Early Childhood Facilities February 14, 2018,  
2:45 pm., Room 229

**Purpose:** Establishes an income tax credit for employers who create on-site early childhood  
facilities. Establishes and appropriates funds for one on-site early childhood  
facility coordinator position.

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My name is Robert G. Peters and I am the retired Head of an independent school in Honolulu which has a pre-K program. Over the past 10 years, I have served as a member of the Early Learning Task Force, the Early Learning Council and the Early Learning Advisory Board, which is now the Early Learning Board. Although not serving as a spokesperson for the ELB, which has yet to have an opportunity to discuss it, I am personally testifying in support of SB 2950.

The Early Learning Board is statutorily responsible for directing the Executive Office on Early Learning as it develops the State's early childhood system, which will include a range of high-quality development and learning opportunities for children throughout the state, from prenatal care until the time they enter kindergarten, with priority given to underserved or at-risk children.

Recognizing the critical need for the expansion of access to quality early learning opportunities, I support the intent of the bill to increase capacity for, and access to, high-quality early learning programs by incentivizing employers to develop on-site facilities. We believe that partnering with the private sector is the most cost-effective, time-efficient means for the State to increase access to early learning opportunities.

Thank you again for the opportunity to testify in support of SB 2905.

Sincerely,

Robert G. Peters, EdD

