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LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR

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DEPUTY DIRECTOR

STATE OF HAWAIʻI
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TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:
S.B. No. 2547, Relating to Taxation.

BEFORE THE:
Senate Committees on Labor and Technology and Health and Human Services

DATE:	Monday, February 12, 2024
TIME:	3:00 p.m.
LOCATION:	State Capitol, Room 224

Chairs Aquino and San Buenaventura, Vice-Chairs Moriwaki and Aquino, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding S.B. 2547 for your consideration.

S.B. 2547 adds a new section to chapter 235, Hawaii Revised Statutes (HRS), to create a new nonrefundable income tax credit for employers who offer employer-provided or employer-sponsored childcare for their employees. The new credit is actually comprised of three credits with different criteria and amounts, set forth in subsection (b) of the proposed new section as follows:

1) The first credit is equal to 75% of the employer's "qualified costs of operation" of an employer-provided childcare facility on the employer's premises, minus any amounts paid as compensation to the employer by an employee for the child care services. This credit is nonrefundable and may be carried forward for five years. The total amount of the credit claimed in each taxable year shall not exceed 50 percent of the employer's net tax liability, computed without regard to any other credits.

2) The second credit is equal to 75% of costs incurred by an employer to sponsor or pay for childcare services for its employees at a location that is not on the

employer's premises. This credit is nonrefundable and may be carried forward for five years. The total amount of the credit claimed in each taxable year shall not exceed 50 percent of the employer's net tax liability, computed without regard to any other credits.

3) The third credit is equal to 100% of the costs of "qualified child care property" purchased and acquired by an employer to provide childcare facilities for its employees on its premises, with "qualified child care property" meaning "any property purchased or acquired by the taxpayer and placed in service during a taxable year for the provision of childcare to the taxpayer's employees." This credit must be prorated equally over a period of ten years, beginning in the taxable year that the qualified child care property is placed in service.

Additionally, S.B. 2547 would require every employer taxpayer claiming one of these new credits to submit a written, sworn statement to the Department identifying the names of all employees utilizing childcare services on the employer's premises, the name of any childcare provider rendering employer-provided childcare services on the employer's premises, and any information as may be required by the Department of Human Services (DHS) to ensure that credits are granted only to eligible taxpayers. The bill also provides that any credit claimed in any taxable year, but not used in that taxable year, may be carried forward for three years from the close of that taxable year; it also states that the sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit in any succeeding taxpayer. The bill applies to taxable years beginning after December 31, 2023.

The Department notes that there appears to be a conflict in this bill between the proposed carryforward provisions in subsections (b)(1) and (b)(2), the ten-year proration requirement in subsection (b)(3), and the three-year carryforward period established by subsection (d). The Department recommends deleting the first sentence of subsection (d), to eliminate any ambiguity around carryforward timelines and limitations. The Department also recommends amending subsection (b)(3) to clarify how any of the ten year equally-prorated credit amounts may or may not be carried forward if they exceed a taxpayer's tax liability in a given tax year.

The Department also notes that the proposed credit for the purchase of childcare property in subsection (b)(3) is extremely broad. The credit amount is equal to 100% of the costs of "qualified child care property," but the definition of "qualified child care property" only specifies that it means "any property…for the provision of child care to the taxpayer's employees." The Department recommends that additional guidance be provided as to the types of property that will qualify.

Additionally, subsection (c) would require taxpayers to submit a sworn affidavit to the Department and include any information that DHS "may" require to ensure the taxpayer is rightly eligible for their credit(s). The Department defers to DHS on what specific information it might require in making such a validation, but notes that because the Department lacks subject-matter expertise in childcare or childcare eligibility determinations, it may be preferable to codify DHS' informational requirements directly into the sworn statement's proposed criteria, or to designate a third party with appropriate subject matter expertise to be responsible for certifying the new credits. This will help provide administrative clarity and decrease the risk of taxpayer confusion.

Finally, the Department requests that the effective date of this measure be postponed so that the new tax credits would apply to taxable years beginning after December 31, 2024. This would provide the Department with sufficient time to make the necessary form, instruction, and computer system changes while educating taxpayers about these new credits.

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

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX, Employer-Provided Child Care Credit

BILL NUMBER: SB 2547

INTRODUCED BY: DECOITE, CHANG, KIDANI, MCKELVEY, RICHARDS, SAN BUENAVENTURA, Fukunaga, Wakai

EXECUTIVE SUMMARY: Establishes income tax credits for employers who offer employer-provided or employer-sponsored child care services for their employees.

SYNOPSIS: Adds a new section to Chapter 235, HRS, that would provide an income tax credit for employers providing child care. The amount of the credit is:

- 75% of qualified costs of operation incurred by an employer that provides childcare services on the employer's premises less any amounts paid by employees during a taxable year and
- 75% of the costs incurred by an employer that sponsors or pays for childcare services provided at a location other than at the employer's premises for the taxpayer's employees.

This credit is subject to conditions and limitations:

- The credit shall not exceed 50% of the amount of the taxpayer's income tax liability for the taxable year as computed without regard to any other credits and
- Any credit claimed but not used in any taxable year may be carried forward for five years.

In addition to the above credits, a taxpayer is allowed a credit for 100% of the cost of qualified childcare property acquired to provide childcare facilities on the employer's premises. Ten per cent can be claimed in the year the property is placed in service, and the same amount can be claimed each year thereafter for nine more years.

The credit amount is determined at the entity level, with distribution and share of the credit determined pursuant to IRC section 704(b).

All credits require a written, sworn statement submitted to the Department identifying the names of the employees utilizing the childcare services, name of the childcare provider, and such other information as may be required by the department to ensure that credits are granted only to employers who provide or sponsor approved childcare services.

Subsection (d) provides that any credit not used in the taxable year may be carried forward for three years from the close of such taxable year. Additionally, the sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the credit in any succeeding taxpayer.

Defines “employer-provided” as services offered on the premises of the employer.

Defines “employer-sponsored” as childcare provided through a contractual arrangement with a childcare provider that is paid for by the employer.

Defines “premises of the employer” as any location in the State that is used by an employer as a place of business at which the employer provides childcare; provided that if the place of business is impracticable or otherwise unsuitable for on-site provision of childcare services, the childcare services may be provided at another location that is within a reasonable distance of the employer's place of business.

Defines “qualified child care property” as any property purchased or acquired by the taxpayer and placed in service in the taxable year for the provision of childcare to the taxpayer’s employees.

Defines “qualified cost of operation” as reasonable, direct operational costs incurred by a taxpayer as a result of operating an employer-provided childcare facility for an employee or employer sponsored childcare services at a childcare facility licensed and approved by the department of human services.

Defines “qualifying taxpayer” as an employer that provides childcare services on the employer’s premises or subsidizes the cost of childcare for the employer’s employee.

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

EFFECTIVE DATE: Upon approval, applicable to taxable years beginning after December 31, 2023.

STAFF COMMENTS: The bill supports the challenge of childcare for Hawaii’s working families; however, we note some technical concerns.

Conflicting Carryforward Periods:

Conflicting provisions purport to define the carryforward period for the 75% tax credit for costs of operating on-site childcare and sponsoring off-site childcare services are conflicting. Subsection (d) provides a 3 year carryforward, while subsection (b) provides a 5 year carryforward period for credits that exceed the annual 50% net income tax liability limitation.

Questionable Refundability

Additionally, the subsection (b)(3) 100% tax credit for childcare property is prorated over ten years beginning in the taxable year the qualified property is placed in service. It is debatable whether the individual pieces are refundable or not because there is no net income tax liability limitation on its usage.

Duplicating Benefits

Hawaii already offers a credit to families for dependent care expenses necessary for gainful employment (HRS section 235-55.6). This measure gives additional tax credit incentives to employers who provide onsite or offsite childcare services for their employees. Although the credits appear complementary, they are not. The existing credit is only given to families at or below specified income levels, while the proposed employer credits are not. The existing credit has strict limits on the amount of credit given, while the proposed employer credit does not. If the idea is to provide a complementary credit when an employer provides childcare, lawmakers should consider integrating the two credits so that no windfalls are created (such as the State subsidizing childcare of families with income levels well north of the limits contained in the existing credit).

Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. Indeed, tax credits are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when money is needed to support victims of the Maui wildfires, social service programs for the houseless, or our state hospitals that are on the verge of collapse?

Furthermore, the additional credits would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation or subsidy, or adding on to an existing program, may be a far less costly method to accomplish the same thing. At least with a direct appropriation or subsidy, the taxpayers know what they are buying and what they are paying for it. With a tax credit you know neither and must simply total up the damage later.

Digested: 2/9/2024

TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
FEBRUARY 12, 2024
SB 2547 RELATING TO TAXATION

Good afternoon, Chair Aquino and Chair San Buenaventura and members of the Senate Committee Labor & Technology and the Senate Committee on Health & Human Services. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

We SUPPORT SB 2547 This measure establishes income tax credits for employers who offer employer-provided or employer-sponsored childcare services for their employees.

Sine the pandemic, we have seen companies, especially those that are customer service oriented, having a difficult time finding employees to hire. One of the reasons people are not going back to work is due to lack of childcare or unable to afford childcare.

Unfortunately, childcare responsibilities often fall disproportionately on women, impacting their career advancement opportunities. Providing employer-sponsored childcare can help level the playing field and promote gender equality in the workplace as well as enables employees to better balance their work and family responsibilities. This can lead to higher job satisfaction, increased productivity, and reduced stress levels among employees.

By providing tax credits to employers, governments incentivize companies to invest in childcare support programs. This can stimulate business investment in employee benefits and contribute to overall social welfare goals.

We hope that you will pass this measure.

Mahalo for this opportunity to testify.

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February 9, 2024

TO: Senator Henry J.C. Aquino, Chair
Senator Sharon Y. Moriwaki, Vice Chair
Members of the Committee on Labor
and Technology

Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair
Members of the Committee on Health
and Human Services

FR: Michael Iosua, State Director
NFIB, Hawaii Chapter

RE: **SUPPORT** OF SB 2547 – RELATING TO TAXATION
Hearing date – February 12, 2024, at 3:00 PM

Aloha Chair Aquino, Chair San Buenaventura and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NFIB's Hawaii Chapter in **SUPPORT** of SB 2547 – RELATING TO TAXATION. NFIB is a nonprofit, nonpartisan, and member-driven organization exclusively dedicated to small and independent businesses. With members in all four counties, NFIB's Hawaii chapter advocates on issues that affect Hawaii's small and independent business owners.

SB 2547 proposes the establishment of income tax credits for employers providing child care services for their employees. This crucial initiative will not only foster a more family-friendly workplace but will also contribute significantly to the overall well-being and productivity of our workforce.

Working parents in Hawaii have a difficult time balancing their professional responsibilities with the care and nurturing of their children. Incentivizing employers to provide a safe child care environment at work or subsidizing the cost parents bear for child care during work hours would play a pivotal role in addressing the difficulty in balancing professional responsibilities while caring for young children, providing tangible benefits to both employers and employees alike. This is especially true in Hawaii where so many families must rely on both parents working to make ends meet.

SB 2547 is also beneficial for small and medium-sized businesses, which may face unique challenges in providing child care services. This incentive levels the playing field, allowing businesses of all sizes to contribute to the well-being of their employees.

Simply put, SB 2547 aligns with the evolving needs of the modern workforce. By incentivizing employers to provide child care services, the bill promotes a healthier work-life balance, contributes to a stronger economy, and positions our state as a leader in supporting the diverse needs of its workforce.

For these reasons, I urge the committee to pass this measure. Mahalo for your consideration.

Testimony to the Senate Committees on Labor and Technology and Health and Human Services
Monday, February 12, 2024 at 3:00PM
Conference Room 224 & Videoconference

RE: SB2547 Relating to Taxation

Aloha Chair Aquino, Chair Buenaventura, Vice Chairs, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports SB2547**, which establishes an employer-provided or -sponsored childcare income tax credit for employers that make available childcare services to their employees. It establishes an employer childcare property income tax credit for the cost of childcare property purchased or acquired by an employer and put into service for employer-provided childcare.

The average cost of childcare in Hawaii is $640 a month per child. This is typically the second largest expense in a family budget after rent or mortgage. Meanwhile, one of the biggest challenges for the local business community is the workforce shortage.

Hawaii's resident population continues to decline due to the high cost of living and many employees did not return to the workforce after COVID. The most recent data released in October 2022 by the Bureau of Labor Statistics shows that only 60.8% of Hawaii's population over 16 years of age is working or actively looking for work.

Our Chamber members, especially our Hawaii Chamber Young Professional members, cite the lack of childcare resources and the extremely high cost of childcare as significant barriers to reentering the workforce. Families with young children must choose between spending a significant portion of their income on childcare or leaving the workforce altogether to become a full-time caregiver.

The Chamber believes that Hawaii would benefit from supporting businesses that support the childcare needs of our workforce. Our keiki also deserve quality care to prepare them to enter our future workforce.

When companies offer childcare benefits, they see increased employee retention and loyalty, improved productivity, and a better workplace environment. Despite the clear advantages, 2020 data from the Bureau of Labor Statistics indicates just 11% of all workers have access to employer-provided childcare, and those with lower incomes were less likely to receive a benefit.

The Employer-Provided Child Care Credit, under the Internal Revenue Code Section 45F, offers employers a tax credit of up to 25% of qualified childcare expenditures and 10% of qualified child care resource and referral expenditures. Currently, 18 U.S. states have passed employer provided childcare incentives, including New York, Oregon, Colorado, and Georgia. Other states plan to follow this year, and we hope Hawaii is one of them.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Thank you for the opportunity to testify.

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SB-2547
Submitted on: 2/8/2024 1:11:25 PM
Testimony for LBT on 2/12/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Betsy Scolnik	Individual	Support	Written Testimony Only

Comments:

support

LATE

COMMITTEE ON LABOR AND TECHNOLOGY
Senator Henry J.C. Aquino, Chair
Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair

February 12, 2024
3:00 p.m. Room 224

RE: SB 2547 Relating to Taxation

Aloha Chair Henry J.C. Aquino, Chair Joy A. San Buenaventura, Vice Chair Sharon Y. Moriwaki, and members of the Committee on Labor & Technology and the Committee on Health and Human Services:

The Society of Human Resource Management – Hawaii ("SHRM") supports SB 2547, which establishes income tax credits for employers who offer employer-provided or employer-sponsored childcare services for their employees.

As the leading human resources organization in Hawaii, we are concerned about the severe workforce shortages exacerbated by the lack of affordable childcare options for employees. We support the program proposed by this bill that would create quality education and childcare for our next generation while supporting the productivity of working parents. Creating childcare facilities is an expensive endeavor in Hawaii but these tax incentives would make it more feasible for employers to create and sponsor much needed early learning centers. This contributes to the overall economic resiliency of our workforce and our business community.

SHRM Hawaii serves and represents nearly 600 members and employers' statewide and human resource management is a critical component to the success and survival of the many businesses that make up our local economy. HR professionals are responsible for evaluating and balancing the needs of both the employers and employees and caring for businesses' most valuable asset: the working people of our state.

Thank you for this opportunity to provide testimony.

Erin Kogen and Rosanne M. Nolan
Co-chairs, SHRM Legislative Affairs Committee