

ACT 114

H.B. NO. 2510

A Bill for an Act Relating to Income.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the coronavirus disease 2019 (COVID-19) pandemic presented the world with unprecedented issues, forcing people out of employment or even their own homes. The COVID-19 pandemic further exacerbated the economic hardship for many Hawaii families who are above the federal poverty line but still struggle to make ends meet. According to Aloha United Way, the COVID-19 pandemic significantly increased the percentage of households that are considered to be asset limited, income constrained, and employed (ALICE) to fifty-nine per cent, which is up from forty-two per cent prior to the pandemic. Aloha United Way further reported a six hundred per cent increase in calls received from people seeking assistance during the pandemic.

The legislature further finds that increases to the cost of living in the State, combined with stagnant wages, have contributed to the increase in the number of ALICE households. The legislature also finds that while the cost of living continues to increase, minimum wage has not increased to an appropriate amount necessary to offset the higher increase in cost of living. Increasing the minimum wage to support the working class is necessary to ensure that living in Hawaii is affordable. The legislature acknowledges the economic hardships experienced not only by ALICE households, but also by businesses that employ many of these families. While increasing the minimum wage will support employees, it will also have an impact on certain businesses, especially during a time of significant economic hardships brought on by government mandates to mitigate the spread of COVID-19. However, the legislature believes that helping working families by increasing the minimum wage is a necessary step to foster economic stability in Hawaii.

Accordingly, the purpose of this Act is to help working families by:

- (1) Making the earned income tax credit refundable and permanent and provide a carryforward of nonrefundable credits previously claimed; and
- (2) Incrementally increasing the minimum wage beginning on October 1, 2022.

SECTION 2. Section 235-55.75, Hawaii Revised Statutes, is amended to read as follows:

~~“§235-55.75—Earned~~ **Refundable earned income tax credit.** (a) Each qualifying individual taxpayer may claim a ~~[nonrefundable]~~ **refundable** earned income tax credit. The tax credit, for the appropriate taxable year, shall be twenty per cent of the federal earned income tax credit allowed and properly claimed under section 32 of the Internal Revenue Code and reported as such on the individual's federal income tax return.

(b) For a part-year resident, the tax credit shall equal the amount of the tax credit calculated in subsection (a) multiplied by the ratio of Hawaii adjusted gross income to federal adjusted gross income.

(c) For purposes of this section, “qualifying individual taxpayer” means a taxpayer that:

- (1) Files a federal income tax return for the taxable year claiming the earned income tax credit under section 32 of the Internal Revenue Code; and

- (2) Files a Hawaii income tax return using the filing status used on the federal income tax return for the taxable year and claiming the same dependents claimed on the federal income tax return for the taxable year.

(d) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. ~~[If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the tax credit over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted.]~~ If the tax credit claimed by the taxpayer under this section exceeds the amount of the income tax payments due from the taxpayer, the excess of credit over payments due shall be refunded to the taxpayer; provided that the tax credit properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; provided further that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than \$1. All claims, including amended claims, for a 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 credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(e) No credit shall be allowed under this section for any taxable year in the disallowance period. For purposes of this subsection, the disallowance period is:

- (1) The period of ten taxable years after the most recent taxable year for which there was a final administrative or judicial decision that the taxpayer's claim for credit under this section was due to fraud; and
- (2) The period of two taxable years after the most recent taxable year for which there was a final administrative or judicial decision disallowing the taxpayer's claim for credit.

(f) The director of taxation:

- (1) Shall prepare any forms necessary to claim a tax credit under this section;
- (2) May require proof of the claim for the tax credit;
- (3) Shall alert eligible taxpayers of the tax credit using appropriate and available means;
- (4) Shall prepare an annual public report to the legislature and the governor containing the:
 - (A) Number of credits granted for the prior calendar year;
 - (B) Total amount of the credits granted; and
 - (C) Average value of the credits granted to taxpayers whose earned income falls within various income ranges; and
- (5) May adopt rules pursuant to chapter 91 to effectuate this section.

~~[(g) This section shall apply to taxable years beginning after December 31, 2017, but shall not apply to taxable years beginning after December 31, 2022.]~~

(g) If nonrefundable credits claimed under this section for any of the four consecutive taxable years beginning after December 31, 2017, exceed the taxpayer's income tax liability for the original claim year, the excess of the tax credits over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted; provided that no credit carried forward under this subsection shall be used as a credit for a taxable year beginning after December 31, 2024."

SECTION 3. Section 387-2, Hawaii Revised Statutes, is amended to read as follows:

“§387-2 Minimum wages. (a) Except as provided in section 387-9 and this section, every employer shall pay to each employee employed by the employer, wages at the rate of not less than:

- (1) \$6.25 per hour beginning January 1, 2003;
- (2) \$6.75 per hour beginning January 1, 2006;
- (3) \$7.25 per hour beginning January 1, 2007;
- (4) \$7.75 per hour beginning January 1, 2015;
- (5) \$8.50 per hour beginning January 1, 2016;
- (6) \$9.25 per hour beginning January 1, 2017; [~~and~~]
- (7) \$10.10 per hour beginning January 1, 2018~~;~~];
- (8) \$12.00 per hour beginning October 1, 2022;
- (9) \$14.00 per hour beginning January 1, 2024;
- (10) \$16.00 per hour beginning January 1, 2026; and
- (11) \$18.00 per hour beginning January 1, 2028.

(b) The hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid [~~not~~] no less than:

- (1) 25 cents;
- (2) 50 cents per hour beginning January 1, 2015; [~~and~~]
- (3) 75 cents per hour beginning January 1, 2016~~;~~];
- (4) \$1.00 per hour beginning October 1, 2022;
- (5) \$1.25 per hour beginning January 1, 2024; and
- (6) \$1.50 per hour beginning January 1, 2028.

below the applicable minimum wage by the employee’s employer and the combined amount the employee receives from the employee’s employer and in tips is at least 50 cents more than the applicable minimum wage; provided that beginning January 1, 2015, the combined amount the employee receives from the employee’s employer and in tips is at least \$7.00 more than the applicable minimum wage.”

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

SECTION 5. This Act shall take effect upon its approval; provided that section 2 shall apply to taxable years beginning after December 31, 2022.

(Approved June 22, 2022.)