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HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES AND HOUSING
TESTIMONY REGARDING HB 2113
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 8, 2008
TIME: 8:00AM
ROOM: 329

This bill proposes a refundable tax credit to eligible taxpayers caring for qualified care recipients. The amount of the credit will vary depending on the taxpayer's adjusted gross income.

The Department of Taxation (Department) **provides comments** on this legislation; **however prefers the fiscal priority of the Administration measure HB 3195, which provides substantial targeted tax relief to those persons who modify their homes for the safety and mobility of the elderly or disabled.**

I. THE DEPARTMENT ACKNOWLEDGES THE IMPORTANCE OF CARE INCENTIVES FOR HAWAII TAXPAYERS.

The Department acknowledges that as Hawaii's residents age, more and more responsibility is falling upon the family to care and provide for the elderly. By 2020, the elderly and disabled population of Hawaii will constitute over one-fourth of the State's adult population. It is critical that policies are enacted to ease the burden on the aging and their families that must cope with the caregiving issue. It is the position of the Department that the policy of this bill is laudable.

However, given the fiscal picture within which the government must operate, the Department prefers the tax incentive provided by the Administration measure to provide a more generous refundable credit to assist both the elderly and disabled to modify their homes in order to enjoy their independence. HB 3195 provides for such relief and has been factored into the executive budget.

II. THE DEPARTMENT RAISES THE FOLLOWING ISSUES.

DEFINITION OF "QUALIFIED CARE RECIPIENT" - The Department notes that the credit is only available if the care recipient is sixty years of age or older. No credit would be given for caring for a disabled child or disabled adult.

CALCULATION OF CREDIT AMOUNT—The language regarding calculation of the credit amount is awkward. The use of the word "exceed" in subsection (b) indicates a taxpayer with a gross income under $30,000 could get something less than 100% of the blank amount. However, the intent of the statute seems to be that a taxpayer gets a flat dollar amount based on income level. The Department suggests that these flat amounts be substituted for percentages.

UNNECESARY SUBSECTION - Subsection (g) is unnecessary. The Department currently has broad authority to adopt rules and require substantiation.

III. REVENUE IMPACT.

Annual revenue loss is estimated at $10 million for FY 2009 and after.

The Twenty-Fourth Legislature
Regular Session of 2008

HOUSE OF REPRESENTATIVES
Committee on Health
Rep. Josh Green, M.D., Chair
Rep. John Mizuno, Vice Chair
Committee on Human Services & Housing
Rep. Maile S.L. Shimabukuro, Chair
Rep. Karl Rhoads, Vice Chair

State Capitol, Conference Room 329
Friday, February 8, 2008; 8:00 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2113
RELATING TO TAXATION

The ILWU Local 142 supports H.B. 2113, which provides a tax credit to taxpayer caregivers who care for qualified care recipients.

Home and community-based care is becoming increasingly the preferred method of providing long-term care to the frail elderly and disabled who are unable to take care of themselves, partly because institutional care is so costly but mostly because the elderly and disabled prefer to remain in their own homes. Such care, however, requires willing and able family caregivers who sacrifice much to provide care to their loved ones. Not only must they often forgo their own family's needs to care for another, some even experience financial sacrifice as they are forced to take paid or unpaid leaves of absence and even early retirement.

By providing a tax credit, H.B. 2113 offers a small gesture to recognize the invaluable service provided by these caregivers. If not for their sacrifices, many more frail elderly and disabled persons would require nursing home care that eventually would cost taxpayers dearly in increased Medicaid and pass-through costs.

We also suggest that the Committee consider increasing the tax credit if the taxpayer provides care to more than one care recipient. The tax credit for a second care recipients can be less than the initial tax credit and tax credits can be limited to care provided to no more than two recipients. This amendment would recognize that many family caregivers provide care to more than one parent or parent-in-law.

The ILWU urges passage of H.B. 2113 with or without the suggested amendment. Thank you for the opportunity to share our views and concerns.

TO: HOUSE COMMIITTEE ON HEALTH
Rep. Josh Green, M.D., Chair
Rep. John Mizuno, Vice Chair

HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING
Rep. Maile S. L. Shimabukuro, Chair
Rep. Karl Rhoads, Vice Chair

FROM: Eldon L. Wegner, Ph.D.,
PABEA (Policy Advisory Board for Elder Affairs)

SUBJECT: HB 2113 Relating to Taxation

HEARING: 8 am Friday, February 8, 2008
Conference Room 329, Hawaii State Capitol

PURPOSE: This bill provides a tax credit to taxpayer caregivers who care for qualified recipients.

POSITION: PABEA supports this bill to provide a refundable tax credit to eligible family caregivers as specified in the provisions of the bill. We would like to see provision added to evaluate the policy after a period of 3 years.

RATIONALE:

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board. I am also a professor of medical sociology at UH-Manoa who has worked with elderly services in Hawaii for more than 20 years.

- We support legislation which would provide financial assistance to family caregivers. The statewide caregiver survey confirmed that a majority of family caregivers have low incomes and suffer from financial strain. In addition, they have difficulty affording needed services. A tax credit was one of the most frequent requested forms of assistance by the caregivers responding to the survey.

- The provisions of this bill reflect the consideration of issues raised by similar bills during the past several years . We support the general parameters of the tax credit contained in this bill, including:

- The tax credit is refundable. Many low-income tax payers do not pay state taxes or pay very low state taxes, but they should not be excluded from receiving the level of financial they qualify for based on the income criterion;

- Offering a sliding scale, so that the limited funds in the program can provide greater assistance to the lowest income categories of caregivers but that all family caregivers receive some support for their financial sacrifices in caregiving;

- Using the adjusted gross federal household income rather than the individual state tax return in determining the amount of the tax credit. The state tax return excludes important sources of income, especially pensions for the elderly. Also, caregivers often have little income, but some of them may have spouses who earn a great deal. Thus, the caregiver's return is not a good index of the economic resources of the caregiver.

- We are requesting that the Tax Department assist the EOA by providing information to caregivers who apply for the tax credit regarding the caregiver support program in EOA. The EOA will work with the Tax Department in preparing a mailing for this purpose.

  We believe that financial assistance should be coupled with the comprehensive program for family caregivers being developed by the Executive Office on Aging which offers help to caregivers and addresses the quality of family caregiving.. This program includes support groups, information and referral to services, caregiver training, a caregiver newsletter, conferences, and education about the risks of elder abuse.

- Finally, we believe this bill should be written with a provision that the program be evaluated after 3 years so that the legislature will have an opportunity revisit it.

Thank you for the opportunity to testify.

From: John Tomoso [John.Tomoso@co.maui.hi.us]
Sent: Thursday, February 07, 2008 8:39 AM
To: HLTtestimony
Subject: Testimony on H.B. 2113 Relating To Taxation

To The Honorable Members of the House Commmittee on Health and the House Committee on Human Services and Housing, who are holding a public hearing on Friday, Feb. 8, 2006, @ 8:00 a.m., in Room 329.

Aloha mai kakou,
I am in support of H.B. 2113, which provides a tax credit to caregivers who care for qualified care recipients. Through our Title III-E National Family Caregivers Support Program, we are in daily contact with family caregivers who are struggling because of a loss of income, due to their devotion and commitment to caregiving. We know that this citizen sector of our community will grow, as more "baby boomers" become disabled, frail and otherwise vulnerable, while choosing to live at home. This choice is not only understandable, but a cost-effective one too, in the face of expensive institutional care. Family Caregivers deserve our admiration and support. I know that the issue of tax credits is controversial. However, I believe the time has come for new public policy to be forged in the face of ever increasing aging and longevity.
Me ka mahalo pono,

John A. H. Tomoso, MSW, ACSW, LSW
Maui County Executive on Aging
Maui County Office on Aging (An Area Agency on Aging) 808-270-7350
john.tomoso@mauicounty.gov

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L E G I S L A T I V E

5-7

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Caregiver tax credit

BILL NUMBER: SB 2049; HB 2197 (Identical), HB 2113 (Similar)
1/24 HS

INTRODUCED BY: SB by Ihara, Baker, Chun Oakland, Tokuda, and 5 Democrats; HB 2197 by Lee, Belatti, Ching, Har, Marumoto, Meyer, Mizuno, Rhoads, Sonson, Thielen, Ward, Waters; HB 2113 by Mizuno, Belatti, Marumoto, Meyer, Rhoads, Sonson, Thielen, Ward

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow eligible taxpayers to claim a caregiver tax credit that shall be deductible from a taxpayer's income tax liability. The credit shall be a based on the adjusted gross income of the caregiver according to the following:

Adjusted gross income	Tax credit percentage
Under $30,000	100%
$30,000 to under $50,000	70
$50,000 to under $75,000	40
$75,000 and over	10

HB 2113 provides that the tax credit shall not exceed $________.

A husband and wife filing separate returns for which a joint return could have been filed shall be entitled only to the credit to which they would have been entitled if they filed jointly. An eligible taxpayer may claim the credit for every year the taxpayer provides care to a care recipient; only one caregiver per household may claim a credit for any one care recipient cared for in a taxable year. Prohibits an eligible taxpayer from claiming multiple tax credits under this section regardless of the number of care recipients receiving care from the eligible taxpayer.

Defines "eligible taxpayer" for purposes of the measure. Defines "qualified care recipient" as a person who is 60 years of age or older, a citizen or resident alien of the United States, who: (1) has co-resided with the caregiver for at least six months of the tax year for which the credit is claimed; (2) has received more than 50% of the qualified care recipient's financial support during the tax year from a caregiver; and (3) is certified by a licensed physician or advanced practice registered nurse as requiring the specified care delineated. HB 2113 allows a "qualified care recipient" to be a relative.

Credits in excess of a taxpayer's income tax liability may be refunded to the taxpayer provided such amount is over $1. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit.

Requires the department of taxation to report annually to the legislature on the number of taxpayers claiming the tax credit and the total cost of the credit to the state during the past year. Requires the department to assist the executive office on aging in providing information on caregiver services to each taxpayer who claims the credit. HB 2113 requires the executive office on aging to maintain records of the names of eligible taxpayers and the total amount of credit that the taxpayer is allowed to use for a taxable year, and verify no more than $10 million in credits in the aggregate for all taxpayers for each taxable year.

EFFECTIVE DATE: SB 2409/HB 2197 - Tax years beginning after December 31, 2007; HB 2113 - July 1, 2008; applicable to tax years beginning after December 31, 2007

STAFF COMMENTS: These measures propose to grant an income tax credit to caregivers for a person cared for during the taxable year that has lived in the caregiver's home for at least six months during the taxable year. The needs of the care recipient must meet criteria of disability outlined in the bill. While the measures propose that the credit is a percentage, depending on the caregiver's adjusted gross income, there is no credit amount that the percentage is to be applied to, i.e., for taxpayers with adjusted gross incomes of under $30,000 and eligible for a tax credit of 100%, what is the dollar amount of the credit? As drafted, the credit may not exceed $1,000 in the two identical bills and it may not exceed a blank amount in HB 2113, but in neither version of the bills does the language specify the credit shall be a specific dollar amount.

It should be noted that while the enactment of these measures would utilize the tax system to hand out a subsidy to encourage persons to provide such care for relatives, the use of the tax system as an in-lieu welfare agency is not efficient nor is it productive. The proposed tax credit amounts to nothing more than an appropriation of taxpayer dollars through the back door by way of the tax credit. It represents an uncontrolled cost to state government for a program over which lawmakers will have no opportunity to review and approve the level of these "back door" expenditures.

Since neither the department of human services nor the department of health would be responsible for providing intermediate care or skilled nursing services, such subsidies, if deemed appropriate, would be better administered through those departments as a state program with funds appropriated to it. As the program comes up for review, lawmakers can assess the effectiveness of the program and decide whether or not more money is needed to make the program work.

The credit, on the other hand, would be afforded without regard as to how effective it is in keeping the elderly out of intermediate care facilities. More importantly, from a dollars and sense point of view, lawmakers would have no control over the cost of the credit as the revenue losses will be dictated by the amount of response the credit elicits. From the human services and health department perspective, there would be no assurance of the quality of care being provided. How would taxpayers view this program if it were discovered that credit claimants were abusive and neglectful of their relatives yet still received the credit? These measures assume that because the care is being provided by a relative that the care should be rewarded with a tax subsidy of taxpayer dollars. More often than not, many of the cases of elder abuse are perpetrated by relatives. As recently as last year, the media covered the issue of elder abuse where it was revealed that more often than not, the perpetrators of that abuse are relatives of the elders. Obviously the sponsors have given little thought to the down side of this incentive.

Finally, it should be remembered that once enacted, a tax benefit is difficult to reduce or eliminate. Thus, while the credit proposed in these measures may be reviewed and statistically analyzed, it will more than likely become a permanent fixture of the tax system, if approved. Instead of spending hard-earned tax dollars on such "quick-fix" solutions, more thought should be devoted to this growing and complex issue of elder and assisted care. Efforts should be directed toward growing the supply of available care and the reform of the delivery system for such care.

Instead of handing out tax credits, the revenues foregone might be used to provide respite care so that caregivers can get some relief and therefore lessen the stress that comes with providing care to an elderly relative. Or could the funds foregone be put into a program that provides education on how to provide better care for the disabled person be it lifting the person from a seated position to standing or how to bathe the disabled relative. The support system for such care providers would provide far more assistance to the care giver in the skills needed to provide quality care while providing alternatives to alleviate the stress that is placed on the caregiver.

Note well that in order to qualify for the credit, the "qualified care recipient" must be 60 years of age or older. Thus, the credit would not be available to a person who is providing care to a disabled child or for that matter an injured veteran of Iraq or Afghanistan. Regardless, rewarding persons who are providing care over which there is no public oversight invites abuse and fraud and certainly brings into question the quality of care being paid for by all other taxpayers.

Digested 1/22/08

In Support

TESIMONY

To the Committee on Health, Representative Josh Green, M.D., Chair, Representative John Mizuno, Chair, and Committee for Hearing Friday, February 8, 2008, at 8:00 AM, in Conference Room 329, at the State Capitol.

HB 2113 Relating to Taxation. Providing a Tax Credit to caregivers who care for qualified care recipients.

From Patricia Urieff, MSW, ACSW, LSW, employed with twenty-four years of experience providing social work services to children and families, including grandparents raising grandchildren.

In my family that has European roots, I am the oldest child of my parents` three children and I am their only daughter. My parents were strong independent people for most of their lives. Then when my father in his 80s was diagnosed with cancer, for nine (9) years I used my sick leave to take him to medical appointments, be there for hospice home visits, to be with him at St. Francis Hospice until he died. During those nine years, I became more involved with care of my mother in her 80s. When my father died June 2001, I inherited full care of my mother, managed to get her to cooperate with me for assessment from Kaiser Gerontology and received her diagnosis of Alzheimer's Disease and a brain tumor. Between 2001 and when she died August 2006, I had to give up my apartment, live in with my mom, take her to day care, maintain full time employment and a side job that is about paperwork My two brothers told me that I was doing a good job caring for our mother. My brothers telephoned Mom on special days. Her disease progressed; I used Respite Care, near the end an Adult Residential Care Home, and St. Francis Hospice when she had a brain hemorrhage. I felt (and still do) that my involvement with my parents was a big comfort to each of them in their declining years. During that time I didn't want to leave full time employment and loose my retirement benefits. It was a very tough living through those years.

Our situation would have qualified for a tax credit.

My generation of senior citizens is facing problems related to elders becoming frail and needing care. In the process we struggle to take good care of ourselves. In the future when we become frail and need to ask for help from our adult children, they will experience challenges related to handling their responsibilities and providing supportive care to frail and disabled elderly Hawaii Residents.

I think the next generation would be more interested in making the sacrifices related to giving supportive care if they knew their efforts may result in **a helpful tax credit.**

Please support this bill.