testimony

From: Lyn Moku [lmoku2006@hawaii.rr.com]
Sent: Monday, February 25, 2008 7:20 AM
To: testimony
Subject: Senate Committee on Ways and Means - February 25, 2008 Hearing at 10:30 a.m. SB2047, SD2 Written Testimony

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To: Senator Rosalyn H. Baker, Chair
Senator Shan S. Tsutsui, Vice Chair
COMMITTEE ON WAYS AND MEANS

From: Lyn Moku, Division Manager
National Multiple Sclerosis Society
Phone: 808-532-0806

Date: February 25, 2008
10:30 a.m. – Conference Room 211

Subject: **Written Testimony in Support of SB 2047, SD 2 Related to Tax Credits; Caregiving; Home Modifications; Disable; Exemptions**

The National Multiple Sclerosis Society supports SB 2047, SD 2 Related to Tax Credits; Caregiving; Home Modifications; Disabled; and Exemptions which provide tax credits for modifications to accommodate persons with disabilities, to facilitate aging-in-place, for caregivers, and provides an additional exemption to low-income families for dependents under the age of 18.

Multiple sclerosis is a chronic, often disabling disease of the central nervous system. Nearly a quarter of individuals living with MS will require long-term care support and services at some point during the course of the disease and because MS can limit their mobility, many require the use of mobility devices and accessible housing. Like many other people – those with chronic diseases, the disabled, and the elderly – having access to adaptations of their homes will enable them to live in the community as long as possible.

Even people with a significant level of disability can live at home successfully. Someone who cannot transfer from wheelchair to bed or bath can be moved using the proper kind of lift. People with disabilities can be more independent when a home has wide doorways and grab bars. Ramps and renovations in the kitchen and bath can often solve accessibility problems. Adaptations can increase safety, accessibility, and comfort for everyone.

Not all changes involve major expense, but all care options cost money—a situation that often coincides with a drop in the income earned by the person with MS, the disabled and the elderly. Providing a tax credit for modifications to accommodate people with disabilities will help them age-in-place and make it easier for caregivers to provide care for their loved ones.

MS is not a fatal disease and most people with MS have a normal life-expectancy. MS affects people in the prime of their lives and most are diagnosed between the ages of 20 and 50. Two thirds of those with MS are women, and many have children. Some have children with MS who are already disabled.

The MS Society is dedicated to helping people with MS and others secure the critical services. We support legislation

- to establish tax credits, deductions or additional personal exemptions to help offset long-term care costs;
- to expand public and private long-term care options, especially those that keep the individual at home or in the community as long as possible and functioning at the highest possible level.
- To support an additional exemption to low-income families for dependents under the age of 18.

Please support SB2047, SD2. Thank you for the opportunity to testify in support of this Bill.

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SUBJECT: INCOME, Home accessibility features for disabled tax credit; caregiver tax credit; additional personal exemption; dependent care credit

BILL NUMBER: SB 2047, SD-2

INTRODUCED BY: Senate Committee on Economic Development and Taxation

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a home accessibility features for the disabled tax credit of 50% of the qualified costs to renovate a residence with one or more accessibility features. Establishes the maximum amount of credit of $5,000 for taxpayers filing as single or married filing separately; $7,500 for head of household or surviving spouse; and, $10,000 for a joint return. Specifies that all qualified costs must be incurred in Hawaii and subject to HRS chapter 237 and at least one elderly person with a disability must reside in the renovated residence for which the credit is claimed.

Defines "accessibility features" as the installation of: (1) a no-step entrance; (2) lift or lift mechanisms; (3) interior passage doors with a thirty-two-inch wide opening; (4) reinforcements in bathroom walls and installation of grab bars; (4) wheelchair accessible light switches and outlets; and (5) universal design features or accessibility or adaptability features prescribed in the building codes of any county in the state. Also defines "disability," "elderly person" and "residence" for purposes of the measure.

Married taxpayers filing separately shall be entitled to only the amount of credit they would have been entitled to had they filed jointly. Taxpayers with no income tax liability and not claimed or not eligible to be claimed may also claim the credit. In order to claim the credit, the taxpayer must be in compliance with all applicable federal, state, and county statutes, rules and regulations. Credits in excess of a taxpayer's income tax liability may be refunded to the taxpayer. 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.

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 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

The tax credit shall not exceed $________ and shall not exceed $____ for any taxable year.

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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 18 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 or has received more than 50% of the qualified care recipient's financial support during the tax year from a caregiver; and (2) is certified by a licensed physician or advanced practice registered nurse as requiring the specified care delineated.

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.

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, provided the executive office on aging shall provide to the department the proper informational material to be disseminated regarding its caregiver services.

Requires the executive office on aging, with the assistance of the department of taxation, to submit a report to the 2011 legislative session evaluating the caregiver tax credit over a three-year period.

Appropriates $________ in general funds to enable the department of taxation to process and mail executive office on aging caregiver program materials to taxpayers effective July 1, 2008.

Amends HRS section 235-54 to allow taxpayers to claim an additional "ohana" exemption in addition to any other exemption in this section. The additional exemption may be claimed for each qualified dependent, age 18 and under, which the taxpayer may claim for federal income tax purposes based on the taxpayer's federal adjusted gross income:

Federal adjusted gross income	Ohana exemption amount
$100,000 and under	$1,000
$100,001 up to $200,000	$500
Over $200,000	$0

For purposes of this section, including the determination of the adjusted gross income limitation, a married couple filing jointly will be treated as one taxpayer. A husband and wife filing separately for which they could have filed jointly shall only be entitled to the additional exemption they would have been entitled to if they filed jointly. This section shall apply to tax years beginning after December 31, 2008.

Amends HRS section 235-55.6 to increase the dollar amount of expenses that may be eligible for the

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dependent care credit to $5,000 for each qualifying individual. This section shall apply to tax years beginning after December 31, 2007.

EFFECTIVE DATE: Tax years beginning after December 2050

STAFF COMMENTS: This measure proposes to allow taxpayers to claim an income tax credit to offset the cost of renovations made to a residence to make it handicapped accessible or to accommodate an elderly or disabled person. It should be noted that the tax credit proposed in this measure does not have any bearing on the claimant's ability to pay state income taxes that might be due. In fact, the credit would be made available to those who may have no income tax liability. Thus, this measure would merely use the tax system to hand out a subsidy for the renovations made to a residence.

Since this measure would amount to nothing more than an appropriation of taxpayer dollars through the back door by way of the tax credit, its enactment cannot be justified. It should be remembered that revenues foregone because of this credit means that those not so favored will have to pick up the cost of the lost revenues. If it is the intent to help those taxpayers who because of their advancing age or disabilities need to make these improvements to their home, a program of low-interest, no interest loans would be more effective. It should be remembered that the taxpayer has to underwrite the cost of the project before being able to claim the credit. If the taxpayer does not have the financial wherewithal to make the improvements, then the credit cannot be claimed.

This measure proposes 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. It should be noted that while the enactment of this measure 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 that 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? This measure assumes 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 this measure 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 the funds foregone could 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 caregiver in the skills needed to provide quality care while providing alternatives to alleviate the stress that is placed on the caregiver.

The proposed measure also permits taxpayers with federal adjusted gross incomes of under $200,000 with qualified dependent children age 18 and under to claim an additional "ohana" exemption of $1,000 or $500 per qualified exemption.

While section 7 of the measure states that "taxpayers with children in Hawaii face a daunting challenge due to Hawaii's high cost of living" it should be remembered that not only do taxpayers with dependent children have to contend with Hawaii's high cost of living, but so do all taxpayers at all income levels.

While the measure provides welcome tax relief to a select group of taxpayers, it is reminiscent of Act 210, SLH 2007, which complied with the constitutional mandate to return excess funds back to taxpayers but only to those with adjusted gross incomes of under $60,000/$30,000 for joint/single taxpayers.

Taxpayers with adjusted gross incomes over the threshold amount did not receive any tax relief similar to those taxpayers without dependent children as proposed by this measure.

The measure also proposes to increase the qualifying expenses eligible to claim the dependent care credit from $2,400 for one qualifying individual or $4,800 for two or more qualifying individuals to $5,000 per qualifying individual. Currently, on the federal level, the qualifying expenses are $3,000 for one qualifying individual or $6,000 for two or more.

It should be noted that presently state statutes reflect lower income tax rates at the state level as compared to those imposed at the federal level. Thus, while the intent of this measure is commendable in view of the rising cost of dependent care and the increasing number of two wage-earner families, raising the amount of the qualifying expenses to a level higher than those granted under the federal income tax law, where the tax rates are substantially higher, cannot be justified.

While this proposal will probably appeal to parents with young children, it is just that, politically driven. Although there has been little success in the recent past, an increase in the standard deduction would be

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far more equitable than an increase in the personal exemption or in this case, an additional personal exemption. Politically driven given the fact that the additional personal exemption applies to dependents under the age of 18. What is so magical about that age especially when one realizes that those children going on to higher education are probably a more costly burden to their parents as they try to meet the challenges of tuition. Instead of resorting to these gimmicks, which are not reflected in the federal law, lawmakers should undertake the tried and true and increase the standard deduction and make an adjustment to the income tax rates and brackets.

Digested 2/25/08