SB 2049
RELATING TO TAXATION

S
B

2
0
4
9

LINDA LINGLE
GOVERNOR OF HAWAII

CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

NOEMI PENDLETON
DIRECTOR

Telephone
(808) 586-0100

Fax
(808) 586-0185

LATE TESTIMONY

STATE OF HAWAII
EXECUTIVE OFFICE ON AGING
NO. 1 CAPITOL DISTRICT
250 SOUTH HOTEL STREET, SUITE 406
HONOLULU, HAWAII 96813-2831

Committee on Human Services and Public Housing

SB 2049, RELATING TO TAXATION

Testimony of Noemi Pendleton
Director of Executive Office on Aging
Attached Agency to Department of Health

Thursday, January 24, 2008

1:30 p.m.

Department's Position: The Executive Office on Aging defers to the Department of Taxation as this is a tax matter.

Fiscal Implication: EOA prefers the Administration's proposals to establish a home modification tax credit and increase the dependent care tax credit as alternative methods of providing family caregivers with financial assistance.

Purpose and Justification: The Executive Office on Aging (EOA)'s Family Caregivers Needs Assessment completed in 2007 revealed that caregivers need more affordable services and financial assistance. Family caregivers indicated an interest in some type of caregiver tax credit. The purpose of this measure is to provide a tax credit to caregivers who care for qualified care recipients.

Pursuant to Act 204, SLH 2007, the Executive Office on Aging had contracted with the University of Hawaii Public Policy Center to conduct a cost-benefit analysis of a caregiver tax credit as was proposed in S.B. No. 1199, S.D. 2 (2007). Dr. Dave Nixon, the author of this analysis, concluded that the likely cost of a caregiver tax credit is estimated at $37.4 million, and the likely consumer benefit is estimated at $38.2 million.

The revisions to Chapter 235, Hawaii Revised Statutes, states the requirements and process for family caregivers seeking a tax credit not to exceed $1,000. EOA cannot speak to the adequacy of Chapter 235 in anticipation of implementation questions or problems. The EOA defers this function to the Tax Department, which is more knowledgeable in this area.

EOA is not clear about the intent of Section 2, (h) on Page 4, lines 16 to 18: "The Department shall assist the executive office on aging in providing information on caregiver services to each taxpayer who claims the tax credit." EOA is asking for clarification on what it means to "provide information on caregiver services to each taxpayer who claims the tax credit" Does it mean information on caregiver services like community resources or does it mean information on how a family caregiver can qualify and claim a caregiver tax credit?

Also, EOA respectfully requests that on page 5, line 1 which describes "Qualified care recipient" should also include those with disabilities and special needs.

Providing some form of financial assistance will help families who are often burdened with out-of-pocket expenses of caring for a recipient who is disabled or elderly at home. While a caregiver tax credit is laudable, EOA recommends that the Legislature consider establishing a home modification tax credit and increasing the dependent care tax credit that the Administration is proposing.

Thank you for the opportunity to testify.

DISABILITY AND COMMUNICATION ACCESS BOARD
919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

LATE TESTIMONY

January 24, 2008

TESTIMONY TO THE SENATE COMMITTEE ON HUMAN SERVICES
AND PUBLIC HOUSING

Senate Bill 2049 - Relating to Taxation

The Disability and Communication Access Board (DCAB) supports the intent of Senate Bill 2049 relating to a tax credit to taxpayer caregivers who care for qualified care recipients with a recommended change.

DCAB supports the efforts of the Joint Legislative Committee on Family Caregiving and its efforts to provide policy support to families who provide very much needed care for elders who require long term care. Within our community we do not have the resources to either provide or pay for more expensive care in nursing homes or long term care facilities. We simply do not have the beds or the financial resources to pay for all the beds, even if they were available. We also know that most individuals prefer to stay in their home or familiar family-like environments for their long term care needs.

While we recognize that this bill arose from the Committee researching the long term caregiver needs of elderly persons over the age of 60, we believe that the long term caregiver needs of individuals with disabilities under the age of 60 deserve equal attention. Individuals over the age of 18 with physical or mental disabilities require intensive family support, particularly if the individual has 'aged out' of the school system. Families must often choose between work and caregiving in order to avoid more costly institutionalization or out of home placement in adult residential care homes or other similar facilities, all of which costs money to the State. We view this measure, although a tax credit, as a cost saving measure to the State in the long run.

We support its passage with an amendment relating to the age eligibility. However, we defer to the Department of Taxation regarding cost implications to the State.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

Patricia M. Nielsen

PATRICIA M. NIELSEN
Chairperson
Legislative Committee

Francine Wai

FRANCINE WAI
Executive Director

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

LATE TESTIMONY

SENATE COMMITTEE ON HUMAN SERVICES & PUBLIC HOUSING

TESTIMONY REGARDING SB 2049
RELATING TO TAXATION

January 24, 2008

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 SB 3117**, 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. SB 3117 provides for such relief and has been factored into the executive budget.

II. THE DEPARTMENT RAISES THE FOLLOWING TECHNICAL ISSUES.

The Department raises technical flaws for this Committee's consideration.

TECHNICAL MATTER – ADDITIONAL SUBSECTION REQUIRED – A new subsection should be inserted with the following subsections renumbered accordingly. The new subsection should read:

The credit allowed under this section shall be claimed against net income tax liability

> <u>for the taxable year. For the purpose of deducting this tax credit, "net income tax" liability means net income tax liability reduced by all other credits allowed the taxpayer under this chapter.</u>

TECHNICAL MATTER – DEFINITION OF "QUALIFIED CARE RECIPIENT" – The definition could be construed to mean that the third requirement (certification by a physician or nurse) is only required when the taxpayer meets the second requirement (providing more than fifty percent of the financial support) but not when the taxpayer meets the first requirement (co-residing with the caregiver at least six months of the taxable year). Thus, the Department recommends that the first and second requirements be combined into a single requirement reading:

> <u>(1) Has co-resided with the caregiver at least six months of the taxable year for which the credit is claimed or has received more than fifty per cent of the qualified care recipient's financial support during the taxable year from the caregiver; and</u>

The Department also 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.

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

ASSISTING THE OFFICE ON AGING—This bill requires in subsection (h) that the Department assist the Executive Office on Aging, by providing information on caregiver services to those who claim the tax credit. The Department has no objection to assisting taxpayers learn more about caregiver services. *Practically, however, the Department will be unable to provide taxpayer identities, addresses, or other contact information to the Executive Office on Aging because of strict taxpayer confidentiality laws.* To avoid any problems, the Department offers the suggestion that all mailing materials be provided by the Executive Office on Aging to the Department, and then the Department can mail these materials to taxpayers without breaching confidentiality standards. Should this committee deem this provision of the bill necessary, the Department respectfully requests that this bill be amended to provide for a $100,000 appropriation for the Department to cover the costs of processing and mailing such materials.

III. <u>REVENUE IMPACT.</u>

Annual revenue loss is $43.6 million for FY 2009.

Thank you for this opportunity to testify.

Respectfully submitted,

KURT KAWAFUCHI
Director of Taxation

L E G I S L A T I V E

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)

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.

SB 2049/HB 2197; HB 2113 - Continued

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

TO : SENATE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING
Sen. Suzanne Chun Oakland, Chair
Sen. Les Ihara, Jr., Vice Chair

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

SUBJECT: **SB 2049 Relating to Taxation**

HEARING: 1:30 pm Thursday, January 24, 2008
Conference Room 016, 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 legislative committees in hearing 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.

SEE NEXT PAGE

$ 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 a variety of measures, including support groups, information and referral to services, 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.

The Twenty-Fourth Legislature
Regular Session of 2008

THE SENATE
Committee on Human Services and Public Housing
Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

State Capitol, Conference Room 016
Thursday, January 24, 2008; 1:30 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2049
RELATING TO TAXATION**

The ILWU Local 142 supports S.B. 2049, 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, S.B. 2049 offers a small gesture to recognize the invaluable service provided by these caregivers. If not for their sacrifices, many more frail elderly and disabled personsw 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 and more than one in-law.

The ILWU urges passage of S.B. 2049 with or without the suggested amendment. Thank you for the opportunity to share our views and concerns.

Aloha,

We wish to see the following language added to the Bills below:

SB 2042 Add to end of the last sentence "...including the use of home health technologies."

SB 2047 Add to the end of the last sentence "...and tax credit for taxpayers who utilize home health technologies in their homes to assist them to age in place."

SB 2049 Add to the end of the last sentence "...or who use home health technologies in their homes to assist them to age in place."

Thank you,

Peter Durkson, Chairman
Maui County Council on Aging
Maui, Hawaii
(808) 250-2216

Peter Durkson [duroy@earthlink.net]