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**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TAXATION**

**TESTIMONY REGARDING SB 2155  
RELATING TO GENERAL EXCISE TAX**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: FEBRUARY 12, 2008**

**TIME: 1:15PM**

**ROOM: 224**

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This legislation provides a general excise tax exemption for managed care support contractors of the TRICARE program that is established under 10 United States Code chapter 55.

This measure was re-referred to this Committee after the Committees on Health and Intergovernmental & Military Affairs deferred the measure.

The Department of Taxation has no comments on this legislation.

This legislation will result in a revenue loss of approximately \$3.6 million for FY 2009 and thereafter. The Department estimated the annual reimbursements of costs or advances to be \$90.3 million.

# HMSA



Blue Cross  
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of Hawaii

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February 12, 2008

The Honorable Carol Fukunaga, Chair  
The Honorable Will Espero, Vice Chair

Senate Committee on Economic Development and Taxation

**Re: SB 2155 – Relating to General Excise Taxation**

Dear Chair Fukunaga, Vice Chair Espero and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 2155 which would exempt from the general excise tax amounts received by managed care support contractors as reimbursements of costs or advances made pursuant to a contract for the administration of the federal TriCare program.

This measure would clarify that any amounts received by a managed care support contractor for reimbursements of costs made by the contractor, made pursuant to the contract with the federal government for the administration of the TriCare program, are exempt from the Hawaii General Excise Tax. It seems, at this time, it is unclear as to whether or not TriCare reimbursements are indeed subject to the GET.

SB 2155 would clear up any confusion on this issue and bring Hawaii in line with every other state in the U.S. (except Texas), that has put this exemption into law. This exemption will truly support the continued availability and strength of the TriCare program and ensure that it is able to provide coverage to the approximately 150,000 current and former military personnel and their family members who reside in Hawaii.

Thank you for the opportunity to provide testimony on SB 2155.

Sincerely,

A handwritten signature in black ink, appearing to read "JD".

Jennifer Diesman  
Director, Government Relations

## L E G I S L A T I V E

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**SUBJECT:** GENERAL EXCISE, Exempt reimbursements for TRICARE program**BILL NUMBER:** SB 2155; HB 2306 (Identical)

2/10 EDT 2/7 PSM

**INTRODUCED BY:** SB by Baker and 1 Democrat; HB by Caldwell and 1 Democrat**BRIEF SUMMARY:** Amends HRS section 237-24.75 to clarify that amounts received by a managed care support coordinator of the TRICARE program established under the 10 United States Code chapter 55 for reimbursement of costs or advances made pursuant to a contract with the United States shall be exempt from general excise taxation.**EFFECTIVE DATE:** July 1, 2008**STAFF COMMENTS:** The TRICARE program was established by the U.S. Department of Defense (DOD) as the managed care component of the Military Health Care system: to augment the health care services provided to DOD personnel at military treatment facilities. TRICARE contracts with third-party administrators (managed care support contractors) to establish and maintain networks of TRICARE-authorized civilian health care providers. These managed care support contractors make advances to health care providers for the services they provide to TRICARE beneficiaries and are reimbursed by the DOD for the amounts of such advances.

This measure clarifies that amounts received by the managed care support coordinators as reimbursements from the DOD for advances they made on behalf of the DOD for TRICARE program purposes are not taxable under Hawaii's general excise tax law.

While an understanding of HRS section 237-20 which delineates the cost reimbursement provision under the general excise tax law appears to dictate that such reimbursements are not taxable unless the person making the advance receives additional monetary consideration for the services provided, the adoption of this measure may be unnecessary.

On the other hand, if the third party administrator receives a fee for handling these reimbursements, then it runs into the ban that HRS 237-20 imposes where the fee taints the entire amount received from the DOD. Hawaii law has already set precedent, providing that amounts received as reimbursements for wages, salaries and benefits of hotel workers paid by a hotel operator on behalf of the hotel owner are exempt as are reimbursements made on behalf of the city for the operations of the city's bus system by a third party operator even though additional consideration is received in both cases. It should be noted that the fee paid to the third party administrator would continue to be subject to the general excise tax as the fee is gross income to the third party administrator.

Digested 2/01/08