

SB 197

Kokua Council
Laura Manis Testifier

COMMITTEE ON HUMAN SERVICES

Senator Suzanne Chun Oakland, Chair, Senator Les Ihara, Jr., Vice Chair

Tuesday, February 10, 2009 2:15pm Conference Room 016

SB 197 RELATING TO TAXATION. Provides a tax credit to taxpayer caregivers who care for qualified care recipients.

SUPPORT

Kokua Council whose mission includes advocating for the health of the elderly and those vulnerable populations who cannot advocate for themselves support this bill.

This bill fits Kokua Council's principle to help the elderly to Age in Place. We are very cognizant that the elderly want to avoid institutionalization as long as possible.

According to a recent Joint Legislative Committee on Caregiving research project, 1 out of 4 employees report that they are caregivers and that this affects their employment, losing wages, hours, and eventually Social Security benefits. A tax credit will afford some relief.

The statewide caregiver survey also stated 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.

A refundable tax credit recognizes the fact that while many elderly caregivers are not subject to State taxes and so are not eligible for tax credits, they pay most of the costs of caregiving out of pocket at great expense to themselves and their families.

We also realize that making it possible for the elderly to avoid institutionalization relieves overcrowded hospitals and long term care facilities.

While the tax credit will take some money out of the general fund, in the long run the state will save money by not having the responsibility of paying for institutional long term care when they can not provide for themselves.

We ask that you will support this bill.
Laura G. Manis, Legislative Chair, Kokua Council tel. 597-8838

The Twenty-Fifth Legislature
Regular Session of 2009

THE SENATE
Committee on Human Services
Sen. Suzanne Chun Oakland, Chair
Sen. Les Ihara, Jr., Vice Chair

State Capitol, Conference Room 016
Tuesday, February 10, 2009; 2:15 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 197
RELATING TO TAXATION**

The ILWU Local 142 supports S.B. 197, which provides a tax credit to a caregiver who cares for a qualified care recipient.

There is no denying that Hawaii's population is aging. And with age, many are requiring more care. Most of these so-called care recipients choose to live at home, not in institutions or even residential care homes. This means, however, that someone must provide the care they need. Usually this caregiver will be a family member who must take time off from work or even early retirement to provide the care. Other times, family members must pool resources to provide for paid home care or adult day care or day health programs.

While the tax credit alone will not make a caregiver decide to provide care or not, it does recognize the work and sacrifice of the caregiver to ensure that the care recipient is able to remain in the community rather than in institutional care, which could become extremely costly for the State if the care recipient qualifies for Medicaid. We believe a tax credit should be seen as a sound investment in providing for the long-term care needs of Hawaii's residents.

The ILWU urges passage of S.B. 197. Thank you for allowing us to share our views and concerns.

TO: Committee On Human Services
RE: Testimony on SB 197 – RELATING TO TAXATION
HEARING: Tuesday, February 10, 2009
State Capitol Conference Room 016, 2:15 p.m.

As a Social Worker with professional and personal experience on caregiving and working with caregivers, I am in favor of this bill that provides a tax credit to a caregiver who cares for a qualified care recipient. With caregiving in home and community-based environments on the increase, I believe this tax credit will add to the infrastructure our community needs for an increasing aging population with longevity.

Mahalo for your consideration of this bill.

John A. H. Tomoso, MSW, ACSW, LSW
51 Ku'ula Street
Kahului, Maui, Hawai'i 96732-2906
jtomoso@hawaii.rr.com

BCC: Maui JACOSA ListServe, Maui County State Legislators

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

**SENATE COMMITTEE ON HUMAN SERVICES
TESTIMONY REGARDING SB 197
RELATING TO TAXATION**

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

DATE: FEBRUARY 10, 2009

TIME: 2:15PM

ROOM: 016

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) **supports the intent** of this legislation; however **must oppose passage of this measure at this time** due to budget restrictions.

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.

II. BUDGET CONSTRAINTS AND REVENUE IMPACT

Notwithstanding this bill's intent, the Department cannot support the tax provision in this measure because it is not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall. In light of the budget constraints the State currently faces, the Department suggests passing this measure at a later date. The Department also has concerns that, as currently drafted, the bill may not accomplish what the drafters intended.

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

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Caregiver tax credit

BILL NUMBER: SB 197

INTRODUCED BY: Chun Oakland and 3 Democrats

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 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 \$_____.

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 "qualified care recipient" as a person with a disability who is 60 years of age or older, a citizen or resident alien of the United States and a relative of the taxpayer who: (1) has 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 the eligible taxpayer; and (2) is certified by a licensed physician or advanced practice registered nurse as requiring the specified care delineated. Defines "eligible taxpayer," "cognitive impairment" and "relative" for purposes of the measure.

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 executive office on aging to maintain records of the eligible taxpayers and the total amount of tax credit the taxpayer is allowed to use for the taxable year. The executive office on aging shall not

verify more than \$10 million in credits in the aggregate for all taxpayers for each taxable year.

The department of taxation, with the assistance of the executive office on aging, shall report annually to the legislature on the number of eligible taxpayers claiming the tax credit and the total cost of the credit to the state during the past year.

EFFECTIVE DATE: July 1, 2009; applicable to tax years beginning after December 31, 2008

STAFF COMMENTS: 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. While the measure proposes 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?

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 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? The 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. Recently, 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.

SB 197 - Continued

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 2/9/09