SB 2317

Measure Title:	RELATING TO TAXATION.
Report Title:	Caregivers; Tax Credits
Description:	Establishes three new tax credits for caregivers: small business caregiver leave tax credit; caregiver tax credit based on a percentage of adjusted gross income; caregiver educational cost tax credit.
Companion:	
Package:	Kupuna
Current Referral:	HMS, WAM
Introducer(s):	CHUN OAKLAND, GALUTERIA, Fukunaga, Ihara, Shimabukuro

TO: COMMITTEE ON HUMAN SERVICES
Sen. Suzanne Chun Oakland, Chair
Sen. Les Ihara, Vice-Chair

FROM: Eldon L. Wegner, Ph.D.
POLICY ADVISORY BOARD FOR ELDER AFFAIRS (PABEA)

HEARING: 1: 15 pm Tuesday, January 31, 2012
Conference Room 016, Hawaii State Capitol

SUBJECT: SB 2317 Relating to Taxation

POSITION: The Policy Advisory Board for Elder Affairs **supports** SB 2317, which establishes 3 new tax credits for caregivers: small business caregiver leave tax credit, caregiver tax credit based on percentage of adjusted gross income, and caregiver educational cost tax credit.

RATIONALE:

The Policy Board for Elder Affairs has a statutory obligation to advocate on behalf of the senior citizens of Hawaii. While we advise the Executive Office on Aging, we do not speak on behalf of the Executive Office of Aging.

- Studies have shown that family caregiving entails significant financial costs to families, affecting their standard of living and future financial security. This proposal would provide a tax credit which would assist with mitigating the negative effects of the financial burden.

- Reducing hours of work for someone in a small business can have a devastating effect on productivity and income. The small business caregiver leave tax credit would assist with reducing this financial burden and make it viable for a small business owner to provide needed care.

- Family caregivers face significant out-of-pocket expenses in providing care and often have to reduce or abandon employment. The result is lost productivity for their employers and a reduction of standard of living for the caregiver's family and a reduction in financial security for their future. The caregiver tax credit would assist to reduce these negative effects.

- The caregiver educational cost tax credit would make it possible for more caregivers to take advantage of the caregiving training courses available in our community, for example through the Kupuna Educational Center at Kapiolani Community College or through our major health care centers. Caregiving entails many challenges and requires many skills, and most family caregivers have no experience preparing them for this undertaking. Caregiver education is critical to being able to offer quality care to their loved one.

Thank you for allowing me to testify on this bill.

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 credits

BILL NUMBER: SB 2317; HB 2188 (Identical)

INTRODUCED BY: SB by Chun Oakland, Galuteria and 3 Democrats; HB by M. Lee, Aquino, Carroll, Cullen, Evans, Hanohano, Johanson, Marumoto, McKelvey, Mizuno, Okamura, Pine, Thielen, Yamane, 3 Democrats and 1 Republican

BRIEF SUMMARY: **Small Business Caregiver Leave Tax Credit** - Adds a new section to HRS chapter 235 to provide that each resident taxpayer who owns a small business can claim a small business caregiver leave tax credit for a portion of the payroll cost of allowing an employee of the small business to serve as a caregiver. The tax credit shall be deductible from the taxpayer's net income tax liability for the taxable year in which the credit is properly claimed. The amount of the tax credit shall be equal to ____% of the payroll cost of the employee of the small business on caregiver leave for the taxable year up to a maximum of $_____ in payroll costs per taxpayer in a taxable year.

The tax credit under this section, when claimed by: (1) an individual resident taxpayer or a husband and wife filing a joint return that own a small business; or (2) a small business that is a business entity; may be claimed only once in the taxable year regardless of the number of owners or the number of shareholders, partners, members, or other owners; provided that a resident husband and wife filing separate tax returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled under this section had a joint return been filed.

Credits in excess of the taxpayer's net income tax liability may be used as a tax credit against the taxpayer's net income tax liability in subsequent years until exhausted. Requires all claims, including any amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Directs the director of taxation to prepare any forms that may be necessary to claim a credit under this section, may also require the taxpayer to furnish information to ascertain the validity of the claims for credit, and may adopt rules necessary to effectuate the purposes of this section pursuant to HRS chapter 91.

Defines "caregiver" as any person who has undertaken the care, custody, or physical assistance of an elderly or disabled relative. "Caregiver leave" means leave with pay of up to ____weeks annually for an employee of the small business. Further defines "relative" and "small business" for purposes of the measure.

Caregiver Tax 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	___%
$30,000 to under $50,000	___
$50,000 to under $75,000	___
$75,000 and over	___

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. A maximum of $_____ of tax credits in the aggregate for all eligible taxpayers may be used in any one year.

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 applied to subsequent income tax liability until exhausted. Requires all claims for the credit to 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.

Caregiver Educational Cost Tax Credit - Adds a new section to HRS chapter 235 to allow each qualified taxpayer to claim a caregiver educational cost tax credit which shall be deductible from the taxpayer's net income tax liability for the taxable year in which the credit is properly claimed. The amount of the tax credit shall be equal to___% of the qualified educational costs incurred by the taxpayer during the taxable year up to a maximum of $_______in qualified educational costs in any taxable year.

Tax credits in excess of the taxpayer's net income tax liability may be credited against tax liability in subsequent years until exhausted. Requires all claims for the credit, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the tax credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit. Directs the director of taxation to prepare the necessary forms to claim the credit, requires the taxpayer to furnish information to ascertain the validity of the claim for the tax credit, and the director may adopt rules necessary to effectuate the purposes of this section pursuant to HRS chapter 91.

Defines "qualified educational costs" as tuition, fees, books, and other educational costs of caregiver courses or programs offered through the University of Hawaii system.

EFFECTIVE DATE: Tax years beginning after December 31, 2011

STAFF COMMENTS: This measure proposes an income tax credit for a small business that allows an employee of the small business to serve as a caregiver for an elderly relative of the caregiver. If this credit is enacted, it would provide an indirect subsidy of state funds for a small business regardless of the businesses need for tax relief. While the measure provides that the tax credit is a portion of the payroll cost of that employee, as there is no definition of payroll cost it is questionable what costs qualify for the credit. Further, while the credit is allowed for a small business (under 100 employees), it would discriminate against other businesses - those with over 100 employees which would be ineligible for the credit.

This measure also 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 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.

This measure also proposes a caregiver educational cost income tax credit to allow taxpayer caregivers to recover a portion of the qualified educational costs incurred by a taxpayer, provided those costs are from programs or courses provided by the University of Hawaii system. This would preclude educational costs from programs other than the University of Hawaii system from qualifying for the credit. Again, the adoption of this credit would provide an indirect subsidy of state revenues without the taxpayer's need for tax relief.

Finally, it should be remembered that if any or the proposed tax credits are enacted, they would be difficult to reduce or eliminate. Thus, if any of the credits proposed in this measure gets approved, it will more than likely become a permanent fixture of the tax system. 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 caré 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 care giver in the skills needed to provide quality care while providing alternatives to alleviate the stress that is placed on the caregiver.

Digested 1/30/12

Healthcare Association
of Hawaii

SENATE COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun Oakland, Chair

Conference Room 016
January 31, 2012 at 1:15 p.m.

Supporting SB 2317: Relating to Taxation

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 40,000 people. Thank you for this opportunity to testify in support of SB 2317, which creates tax credits to support those who provide care to an elderly or disabled relative.

This bill is one of many that are designed to strengthen the infrastructure that cares for the elderly or reduce elder abuse.

Hawaii's elderly population is growing faster than even the national average. Since statehood, the proportion of elderly to Hawaii's total population has increased three-fold, from roughly 5% in 1960 to 15% in 2009. By comparison, the nation's population stands at 13%. Between 1990 and 2009, the number of elderly aged 75 and older increased 115% in Hawaii compared to 44% nationally. By 2030, the elderly population will represent 20% of the population, both in Hawaii and nationally.

There is a clear relationship between age and the prevalence of chronic conditions and level of disability. The elderly are the heaviest users of health care resources. Hawaii's existing resources are not sufficient to satisfy the current high demand for care for the elderly, which is increasing further as the population ages.

A related issue is elder abuse. As elders become more physically frail, they are less able to stand up to bullying and/or to fight back if attacked. They may not see or hear as well or think as clearly as they used to, leaving openings for unscrupulous people to take advantage of them.

Elder abuse can take the form of physical abuse, emotional abuse, sexual abuse, neglect, abandonment, and financial exploitation. An infrastructure has been created to prevent elder abuse and to address it when it happens. Some of its components include the following: (1) Respite care to provide relief for caregivers; (2) Public awareness campaigns; (3) Chore services to support the frail elderly; (4) Special provisions to encourage the reporting of abuse by certain professionals and institutions, including banks; (5) Adult Protective Services; and (6) Making fiduciaries, persons with power of attorney, and guardians more accountable for their actions. This infrastructure should be strengthened.

HAH supports a broad range of legislative measures designed to expand care for the elderly and address elder abuse.

Thank you for the opportunity to testify in support of SB 2317.