

SB 2489

RELATING TO THE MILITIA

Description:

Establishes an employer income tax credit for taxpayers who maintain employee insurance coverage for national guard members for the duration of the national guards' active duty. Expands the powers of the governor and governor's designee in calling the national guard into active duty. Allows the adjutant general to order the national guard into active service for nonemergency purposes that are necessary and attendant to the mission of the department of defense. Expands the rights granted to national guard members to incorporate rights granted under the Servicemembers Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



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To: The Honorable Will Espero, Chair
and Members of the Senate Committee on Public Safety, Government Operations, and
Military Affairs

Date: Thursday, February 2, 2012
Time: 2:50 p.m.
Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2489 Relating to the Militia

The Department of Taxation (Department) appreciates the intent of S.B. 2489 and offers the following recommendations for your consideration.

S.B. 2489 establishes a new tax credit for taxpayers who maintain employee insurance coverage for National Guardsman employees who are on active duty.

The Department recommends the following amendments be made for clarity and consistency under chapter 235:

"235- Employer tax credit; national guard employee insurance coverage. (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a credit equal to the cost of employee insurance coverage for employees who are members of the national guard for the duration of the national guards' state active duty.

(b) If the tax credit claimed by the taxpayer under this section exceeds the amount of the income tax payments due from the taxpayer, the excess credit over payments due shall be paid to the taxpayer; and provided that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than \$1.

(c) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section, may require proof of the claim for the tax credit, and may adopt rules pursuant to chapter 91.

(d) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(c)(1) shall apply to the tax credit under this section.

(e) Claims for the tax credit under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed.

Note that the proposed language above is for implementation of a refundable tax credit. If instead, the Committee desires to implement a nonrefundable tax credit, replace proposed (e) above with the following provisions:

(e) All claims for a tax credit under this section shall 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 properly claim the credit shall constitute a waiver of the right to claim the credit.

Thank you for the opportunity to provide comments.



January 31, 2012

**TESTIMONY IN SUPPORT OF SENATE BILL 2489
RELATING TO THE MILITIA**

**SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS
AND MILITARY AFFAIRS**

**HEARING ON THURSDAY, FEBRUARY 2ND, AT 2:50PM, IN CONFERENCE
ROOM 224**

Aloha Chair Espero: The Oahu Veterans Council's delegates are honored to serve at the pleasure of our veterans and their families. Our Legislative Committee voted unanimously to support SB 2489.

We are sincerely grateful for your efforts to

- establish an employer income tax credit for taxpayers who maintain employee insurance coverage for national guard personnel, for the duration of their active duty,
- expand the rights granted to national guard personnel
- incorporate rights granted under the Federal Servicemembers Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.

The Oahu Veterans Council respectfully urges your committee to consider passing Senate Bill 2489 as written; mahalo for allowing us to testify, regarding this extremely important issue.

Dennis Egge

Dennis Egge; Chairman, Legislative Committee



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SUBJECT: INCOME, Employer tax credit for insurance coverage

BILL NUMBER: SB 2489; HB 2427 (Identical)

INTRODUCED BY: SB by Kidani, Galuteria, Ryan, 8 Democrats and 1 Republican; HB by Takai, Aquino, Belatti, Brower, Cabanilla, Cullen, Har, Hashem, Keith-Agaran, C. Lee, Luke, Manahan, Marumoto, McKelvey, Morikawa, Nishimoto, Okamura, Riviere, Souki, Thielen, and 2 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow employer/taxpayers to claim an employment increase tax credit for the taxable year in which the credit is properly claimed. The credit shall be equal to the amount of the actual expenses incurred by the taxpayer to maintain employee insurance coverage for members of the National Guard for the duration of the Guards' state active duty.

Makes other nontax amendments relating to the militia.

EFFECTIVE DATE: Tax years beginning after December 31, 2012

STAFF COMMENTS: This measure proposes an income tax credit equal to the amount paid by an employer to maintain insurance coverage for members of the National Guard for the duration of the National Guard's active duty. The adoption of this measure would provide a tax benefit to certain employers without their need for tax relief. Depending on the types and kinds of insurance, the amount of the credit could be substantial. On the other hand, the credit could be discriminatory between employers who offer a multitude of insurance coverages versus the employer who can offer only the legally required insurances such as prepaid healthcare and workers' compensation. Further, it should be noted that the measure does not specify if the credit is refundable or non refundable. If non-refundable, then the amount of the credit can only be used to offset income tax liability which requires the business to have been profitable.

Current law does not require employers to provide insurance coverage for employees who take leave for other than personal medical reasons. Under the prepaid healthcare act, such coverage is required for a period of three months if the employee is taking leave to address a personal medical problem such as maternity leave.

It should be remembered that the tax system is a poor means of achieving such social goals. Providing such credits against the state income tax merely reduces state revenues which may necessitate a shift in the tax burden to other taxpayers who are not able to claim the credit. Tax credits that have absolutely no relationship to the burden of taxes imposed on the employer/taxpayer and the taxpayer's ability or inability to pay those taxes cannot be justified. This credit is nothing more than a subsidy of an employer who is able to maintain insurance coverage for the active duty National Guard member.

Digested 1/31/12