HAWAII LONG TERM CARE ASSOCIATION

February 8, 2008

TO: Chair Josh Green
Members of the House Committee on Health

FROM: Bob Ogawa, President - Hawaii Long Term Care Association

RE: H.B. 2171, HD1, Relating to Health

The Hawaii Long Term Care Association strongly supports H.B. 2171, HD1, which would provide a tax credit for the costs incurred in the construction and improvement of long term care facilities.

We would most like to see targeted incentives concentrating on encouraging the development of specialized capacity to address the needs of waitlisted patients, but an across-the-board credit would, obviously, encompass that.

Addressing Hawaii's long term care needs, including our waitlist problem, requires a multi-faceted strategy: reimbursement enhancement, regulatory reform, facilitation of appropriately-focused capacity-building and workforce development. Every aspect is critical and interdependent upon every other. This measure represents a significant cornerstone in our beginning to lay the foundation we require, and we urge its passage. Thank you.

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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, Long-term care facility construction and improvement tax credit

BILL NUMBER: HB 2171, HD-1

INTRODUCED BY: House Committee on Health

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a long-term care facility construction and improvement tax of 25% of costs incurred for the construction or improvement of each long-term care facility in Hawaii. The qualified costs shall not include costs of construction or improvement for which another income tax credit was claimed for the taxable year. The credit shall be applicable to construction and improvement costs incurred after December 31, 2008.

In the case of a partnership, S corporation, estate or trust, the credit shall be based on qualified costs incurred by the entity with costs on which the credit is computed determined at the entity level. To qualify for the credit, the taxpayer shall be in compliance with all applicable federal, state, and county statutes, rules, and regulations. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for such qualified costs for which the deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes shall be reduced by the amount of credit allowable and claimed.

Credits in excess of a taxpayer's income tax liability may be applied to subsequent income tax liability. 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.

Directs the director of taxation to prepare the necessary forms to claim the credit, may require proof of the claim for the tax credit and may adopt rules pursuant to HRS chapter 91.

Defines "construction or improvement cost" and "qualified long-term care facility" for purposes of the measure.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This measure proposes an incentive in the form of an income tax credit to encourage taxpayers to construct a new qualified long-term care facility or improve, make alterations, or modifications to an existing facility. It should be noted that the use of the tax system for these purposes is an inefficient means to accomplish this goal. The proposed measure would grant a credit regardless of a taxpayer's need for tax relief and provide preferential tax treatment to a very select group of taxpayers and do so without the taxpayer's need for tax relief.

Tax credits generally are designed to alleviate an undue burden on those who are unable to carry that burden, largely the poor and low income. An example is the 4% general excise tax food credit for purchases made by the poor. Inasmuch as there is absolutely no relationship between the cost of constructing or improving a facility and the taxpayer's tax burden, there is little justification for granting this tax preference which would amount to a partial subsidy by state government.

Finally, it should be remembered that unless lawmakers reduce spending by an amount equal to the loss of revenues this bill represents, all other taxpayers will have to pick up the tab for this tax incentive. So instead of improving the plight of the taxpayer and the overall economic and business environment, this measure makes sure it remains difficult to survive in Hawaii.

While there is a growing need for such long-term care facilities, the need has been a longstanding issue dating back at least to the early 1990's when the Executive Office on Aging proposed a state-run long-term care insurance program and it was noted that all the money in the world will do no good for people needing long-term care because Hawaii had a dearth of both facilities and care providers. Part of the dearth of long-term care facilities is due to the fact that the state's regulatory process basically dictates just how many units can be built by requiring a certificate of need. Thus, while this measure attempts to be an incentive for taxpayers to build such facilities, until the regulatory process is revised, Hawaii will continue to have a shortage of long-term care facilities.

Digested 2/07/08

TO:	**House Committee on Health** Representative Josh Green, MD, Chair Representative John Mizuno, Vice Chair **House Committee on Human Services and Housing** Representative Maile SL Shimabukuro, Chair Representative Karl Rhoads, Vice Chair
FROM:	Harry Mattson, member PABEA Legislative Committee
SUBJECT:	**HB 2171, HD1, Relating to Health**
HEARING:	Friday, February 8, 2008 8:00am Conference Room 329, Hawaii State Capitol
PURPOSE:	Provides a tax credit for the costs incurred in the construction and improvement of long-term care facilities
POSITION:	**PABEA agrees with the intent of HB 2171, HD1; with certain reservations**
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 represents the views of PABEA and necessarily the EOA. As you know PABEA is advises the Executive Office on Aging (EOA) on matters which impact Hawaii's elders. We serve a critical role in the planning and implementation of policies and programs designed to help this population cope with the issues they face. We all know there is a critical shortage of all types of long-term care facilities. Any reasonable action the Legislature may initiate for the purpose of encouraging the development and/or improvement of such facilities deserves through and thoughtful consideration. HB 2171, HD1 is an attempt to do just that. However, we are not clear as to what kinds of facilities are included in the in the following language "or other similar adult care facilities licensed by the State serving elders" (section 2g). If this language includes Adult Residential Care Homes (ARCHs) then we have a concern. Simply put, if the owner of an ARCH receives the benefit of a tax credit and then decides to sell that facility within a reasonably short period after receiving the credit we believe the state should "re-capture" the value of the credit from the seller. This is analogous to the state "buy-back" requirement for low-moderate income housing projects.