



HOUSE OF REPRESENTATIVES

TWENTY-SECOND LEGISLATURE
COMMONWEALTH OF THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500586 SAIPAN, MP 96950

DONALD M. MANGLONA
CHAIRPERSON
WAYS AND MEANS COMMITTEE

STANDING COMMITTEE REPORT NO. 22-10
DATE: MAY 13, 2021
RE: H.B. 22-57

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Ways and Means to which House Bill No. 22-57 was referred, entitled:

“To provide a tax credit for business entities that hire United States citizens or residents of the CNMI whose employment was affected by the Covid-19 pandemic.”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H.B. NO. 22-57 be passed by the House in the form of House Draft 1.

HOUSE CLERK'S OFC
RECEIVED BY *[Signature]*
DATE *5/24/2021* TIME *3:18P*

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 22-57 is to provide a tax credit for business entities that hire United States citizens or residents of the CNMI whose employment was affected by the Covid-19 pandemic.

B. Amendments:

In addition to non-substantive technical amendments, the Committee made the following amendments to strengthen the intent of House Bill No. 22-57.

- Page 1
 - Line 8, after the word “the”:
 - **Delete** “NMTIT, excise taxes, or the”
- Page 2
 - Line 6, after the word “resident”:
 - **Insert** “, or citizen of the Freely Associated States who is a resident of the CNMI,”
 - Line 8, after the word “of”:
 - **Delete** “\$2,500.00”
 - **Insert** “\$1,500.00”
 - Line 9, after the word “by”:
 - **Delete** “4 CMC §1701, et seq., the excise tax codified in Title 4 Section 1402 et seq., and”
- Page 3
 - Line 8, after the word “expire”:
 - **Delete** “on December 31, 2023”
 - **Insert** “one year after it becomes law”

C. Committee Findings:

Your Committee finds that the Covid-19 pandemic, commonly known as the “Coronavirus Pandemic”, is an ongoing global pandemic that has negatively impacted the economic stability of several countries and the livelihood of their respective citizens, most especially the CNMI. Due to such catastrophic occurrences, many businesses were forced to shut down their operations leaving their employees to become jobless. As a result of such circumstance, many eligible residents within the CNMI were forced to avail of the Pandemic Unemployment Assistance (PUA) Program along with other federal assistance programs. Your Committee finds that it is of utmost importance to provide opportunities to our residents and businesses, especially those who were greatly affected by the Covid-19 pandemic, to enable them to provide for their needs and to once again become positive contributors to the CNMI’s economy.

Your Committee also finds that the Hiring Incentives to Restore Employment (HIRE) Act of 2010, codified as U.S. Public Law 111-147, is a legislation that was enacted on March 18, 2010 by President Barrack Obama. The initial intent of such legislation was to provide tax breaks and incentives for businesses who hire unemployed workers. Your Committee finds that due to the current pandemic and the ailing economic status of the CNMI, it would be imperative to enact a similar tax break that would be applicable within the CNMI. Cognizant of close-approaching expiration of the PUA Program and other federal programs, it is appropriate to provide an incentive for these struggling businesses to actively seek out probable employees. Your Committee finds that the benefits realized by this proposed legislation will provide a much-needed initial boost for the CNMI’s economy that will benefit current and future generations.

Your Committee further finds that the Work Opportunity Tax Credit (WOTC) is a federal tax credit administered by the U.S. Department of Labor that is available to employers for hiring individuals from certain targeted groups who have consistently faced significant barriers to employment.¹ One specific target group are the Qualified Long-Term Unemployment Recipients, which are those who have been unemployed for not less than 27 consecutive weeks at the time of hiring and received unemployment compensation during some or all of the unemployment period. Your Committee finds that the proposed legislation aims to implement a tax credit that is similar to the WOTC with regards to unemployed citizens. Cognizant of the ongoing struggles that our unemployed residents are currently facing, it is of great importance to prioritize opportunities for them to capitalize on and move forward with their lives.

¹ <https://www.dol.gov/agencies/eta/wotc>

It is the intent of your Committee to amend the proposed legislation by removing the applicability of such tax break for the NMTIT and excise tax; by allowing eligibility for residents who are citizens of the Freely Associated States; and by limiting the sunset clause to expire exactly one year after the proposed legislation becomes law. Your Committee finds that the aforementioned amendments are necessary in strengthening the intent and applicability of the proposed legislation. Therefore, your Committee agrees with the intent and purpose of House Bill No. 22-57 and recommends its passage in the form of House Draft 1.

D. Public Comments/Public Hearing:

The Committee received comments from the following:

- David DLG. Atalig, Secretary, Dept. of Finance

Comments received have been attached as part of this committee report.

E. Legislative History:

House Bill No. 22-57 was introduced by Representative Ralph N. Yumul on April 23, 2021 to the full body of the House and was referred to the House Standing Committee on Ways & Means for disposition.

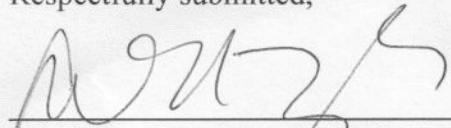
F. Cost Benefit:

The enactment of House Bill No. 22-57, HD1 will result in additional cost to the CNMI Government due to the additional tax credit that will be imposed on the Business Gross Receipt Tax (4 CMC §1301 et. seq.), which will result in a loss of funds. However, the benefits of providing employment opportunities to qualified citizens, especially those whose employment status was affected by the Covid-19 pandemic, heavily outweigh the costs.

III. CONCLUSION:

The Committee is in accord with the intent and purpose of H.B.NO. 22-57, and recommends its passage in the form of House Draft 1.

Respectfully submitted,




Rep. Donald M. Manglona, Chairperson


Rep. Ivan A. Blanco, Vice Chair

Rep. Celina R. Babauta, Member


Rep. Sheila J. Babauta, Member



Rep. Vicente C. Camacho, Member



Rep. Richard T. Lizama, Member



Rep. Edwin K. Propst, Member

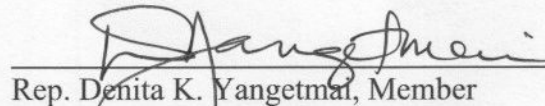


Rep. Christina M.E. Sablan, Member

Rep. Patrick H. San Nicolas, Member



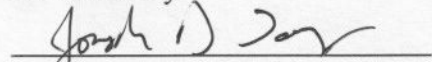
Rep. Leila H.F.C Staffler, Member



Rep. Denita K. Yangetmal, Member

Rep. Ralph N. Yumul, Member

Reviewed by:



House Legal Counsel

Attachment:

- Letter dated May 7, 2021: SOF, Department of Finance
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Office of the Secretary
Department of Finance



P. O. Box 5234 CHRB SAIPAN, MP 96950

TEL.: (670) 664-1100 FAX: (670) 664-1115

May 7, 2021

SFL 2021-122

Hon. Donald Manglona
Chairman
Committee on Ways & Means
22nd Commonwealth Legislature
P.O. Box 500586, Saipan, MP 96950
Tel: 1-(670) 664-8950

Subject: Commonwealth of the Northern Mariana Islands Department of Finance
Comments and Recommendations on House Bill 22-57, "To provide a tax credit
for business entities that hire United States citizens or residents of the CNMI
whose employment was affected by the COVID-19 pandemic."

Dear Chairman Manglona:

On behalf of the Commonwealth of the Northern Mariana Islands (CNMI) Department of Finance, I am pleased to provide you with our comments and recommendations on House Bill 22-57, to provide a tax credit for business entities that hire United States citizens or residents of the CNMI whose employment was affected by the Coronavirus Disease 2019 (COVID-19).

In an attempt to provide our comments and recommendations on this legislation, the Department of Finance sought to understand the impact of this bill on the Commonwealth's ability to safeguard limited revenue sources for the continued administration of important government services.

While we understand the intent of the legislation to encourage businesses to hire local workforce whose employment were affected by the COVID-19 pandemic, upon thorough review of the bill's language, we regret to inform you that the Department of Finance is not in support of House Bill 22-57.

With little to no exemption on qualifying employers set to avail the proposed tax incentive, the Commonwealth stands to lose a significant amount of revenue collections for approximately two fiscal years or until the proposed sunset clause of December 31, 2023. The fiscal impact is compounded by the lack of specificity in the legislation's language for the proposed credit. Section 101 (a) of the legislation states:

“Any employer who hires a United States citizen or United States permanent resident who is unemployed may qualify for a nonrefundable credit of \$2,500.00 per worker against the tax imposed on Commonwealth-sourced income by 4 CMC § 1701, et seq., the excise tax codified in Title 4 Section 1402 et seq., and the Business Gross Receipt Tax codified in Title 4 Section 1301 et seq.”

The language of this Section is unclear as to whether the \$2,500.00 per worker credit applies to only a tax liability containing either 4 CMC § 1701, et seq., Section 1402 et seq., or Section 1301 et seq. A reading of the language could suggest that the \$2,500.00 per worker credit would apply as a separate credit against three tax liabilities held by a business, potentially amounting to a \$7,500.00 per worker credit. As these taxes involve separate reporting requirements, and payment terms, the application of this credit to the taxpayer’s CNMI tax liability is unclear and potentially problematic.

According to the CNMI Department of Labor, it has been estimated that 3,000 individuals would qualify for the second round of the Pandemic Unemployment Assistance program¹. If this program is successful in its intents to rehire employees impacted by the COVID-19 pandemic the associated cost of this program could amount to \$7,500,000 in foregone revenue to the Commonwealth, or approximately 7.7% of the net available resources for appropriation identified for Fiscal Year 2022. If the interpretation is to expand to cover a credit against three separate taxes, the total program cost could reach \$22,500,000 or 23% of the net available resources for appropriation in Fiscal Year 2022. The uncertainty of eligible claimants from this structure of support, would cause a dramatic impact to the financial resources available to meet the resource forecasts used in crafting departmental and agency budgets.

Further, this legislation appears to provide a credit on taxes adopted in the Northern Marianas Territorial Income Tax Code, which is the mirror of the Internal Revenue Code of the United States. The Internal Revenue Code, as adopted through the mirror system, is a complex assortment of various taxes, and credits against these taxes often correspond with different filing requirements and rules. The present language lacks the appropriate guidance as to the process and rules for determining eligibility of this credit on taxes imposed under 4 CMC § 1701, et seq.

Additionally, and more broadly, the labor force market is primarily driven by supply and demand, where businesses create job opportunities when the need for additional employees outweighs the cost associated with maintaining the employment. With the present economy at a standstill, the proposed tax benefit offers little to no incentive for qualifying businesses to hire permanent employees. Upon further review, the Department of Finance believes that such tax incentive is not only ineffective, but also counterproductive to the Commonwealth’s economic recovery plan.

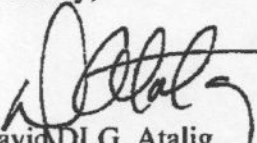
¹ Saipan Tribune, “PUA eligibility is expanded”, <https://www.saipantribune.com/index.php/pua-eligibility-is-expanded/>, (accessed 7, May 7, 2021).

I would like to note that the CNMI presently has the financial resources to support the costs associated with the hiring and training of permanent U.S. employees under the Commonwealth Worker Fund, which is funded through the annual supplemental fee of \$200 per nonimmigrant worker on each prospective employer who is issued a permit under the CW-1 program. Should it be the interest of the Commonwealth to support the financing of new employees in a manner that does not negatively encumber limited CNMI government finances, the CNMI could utilize this funding source to provide direct support to businesses to hire and train employees on site, granted this expenditure is placed into the CNMI's plan for the expenditure of these funds to the U.S. Department of Labor.

Ultimately, the Legislature is faced with a choice of policy with regards to enhancing the access to opportunity for U.S. workers in our Commonwealth. A tax credit of this amount comes with a necessary cost to the government. Whether the expense undertaken through foregone revenue be better placed in an appropriation to local training and education institutions or should limited available resources toward support of local workforce participation be open to non-institutional training programs is an important conversation that must take into account resource limitations and potential gains from either option. The total cost to the government could potentially range between \$7.5 million to \$23 million. Should the Legislature feel these resources are available, it may be more impactful to directly appropriate these sums to existing programs that support the mandate of U.S. workforce training, and employment.

On behalf of the CNMI Department of Finance, I thank you for the opportunity to provide this letter, if you have any questions or need additional information, please do not hesitate to contact me at 664-1100 or email at david.atalig@dof.gov.mp.

Sincerely,



David DLG. Atalig
Secretary of Finance

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 2021

First Special Session, 2021

H. B. 22-57, HD1

A BILL FOR AN ACT

To provide a tax credit for business entities that hire United States citizens or residents of the CNMI whose employment was affected by the Covid-19 pandemic.

**BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and purpose.** The Commonwealth Legislature finds it
2 reasonable and appropriate to provide incentives, through tax credits, for CNMI
3 businesses to hire United States citizens or residents of the CNMI. A similar tax
4 deduction, known as the Hiring Incentives to Restore Employment (HIRE) Act,
5 was signed into law by President Obama on March 18, 2010, and provided tax
6 benefits to employers who hire previously unemployed workers. It is the intent of
7 the Legislature to provide a local tax incentive by providing for a tax credit against
8 the NMTIT, ~~excise taxes, or the~~ Business Gross Revenue Tax. This incentive will
9 also help bridge the economic gaps that may occur when the Pandemic
10 Unemployment Assistance Program and other federal assistance programs expire.

1 **Section 2. Amendment.** Subject to codification by the Law Revision
2 Commission, Title 4, Division 1, Chapter 7 of the Commonwealth Code is amended
3 to add the following new section:

4 **“101. Employment Tax Credit.**

5 (a) Any employer who hires a United States citizen, ~~or~~ United States
6 permanent resident, or citizen of the Freely Associated States who is a
7 resident of the CNMI, who is unemployed may qualify for a nonrefundable
8 credit of ~~\$2,500.00~~ \$1,500.00 per worker against the tax imposed on
9 Commonwealth-sourced income by ~~4 CMC §1701, et seq., the excise tax~~
10 ~~codified in Title 4 Section 1402 et seq., and the Business Gross Receipts~~
11 Tax codified in Title 4 Section 1301 et seq.

12 (b) To qualify for this tax credit, the employee hired must have been
13 unemployed for a period of at least 6 months. The term “unemployed” for
14 purposes of this subsection shall mean that the claimed employee did not
15 work for more than 480 hours over a period of 180 days from the date of
16 employment by the claiming employer or that the employee was furloughed
17 or terminated between March 2020 and the effective date of this provision.

18 (c) In order to qualify for the tax credit provided for in §101(a), the
19 employee hired must be continuously employed by the employer who
20 claims the credit for at least six consecutive months within the immediate
21 preceding tax year.

1 (d) To obtain the nonrefundable credit, the employer who claims the
2 credit must furnish to the Division of Revenue and Taxation a properly
3 documented compliance letter for each employee issued by the Department
4 of Labor certifying that such employer complies with the provisions of this
5 Act. The Department of Labor may impose a reasonable fee for the issuance
6 of the compliance letter pursuant to their rules and regulations.

7 **102. Sunset Clause.**

8 The tax credit provided for under §101 of this Act shall expire on
9 ~~December 31, 2023~~ one year after it becomes law.”

10 **Section 3. Severability.** If any provisions of this Act or the application of
11 any such provision to any person or circumstance should be held invalid by a court
12 of competent jurisdiction, the remainder of this Act or the application of its
13 provisions to persons or circumstances other than those to which it is held invalid
14 shall not be affected thereby.

15 **Section 4. Savings Clause.** This Act and any repealer contained herein
16 shall not be construed as affecting any existing right acquired under contract or
17 acquired under statutes repealed or under any rule, regulation, or order adopted
18 under the statutes. Repealers contained in this Act shall not affect any proceeding
19 instituted under or pursuant to prior law. The enactment of the Act shall not have
20 the effect of terminating, or in any way modifying, any liability, civil or criminal,
21 which shall already be in existence on the date this Act becomes effective.

1 **Section 5. Effective Date.** This Act shall take effect upon its approval by
2 the Governor, or its becoming law without such approval

Prefiled: 4/22/2021

Date: 4/22/2021

Introduced By: /s/ Rep. Ralph N. Yumul
/s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Edmund S. Villagomez

Reviewed for Legal Sufficiency by:

/s/ Joseph L.G. Taijeron, Jr.
House Legal Counsel