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March 18, 2015

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Maile S.L. Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: March 19, 2015
Time: 9:30 p.m.
Place: Conference Room 016, State Capitol

From: Elaine N. Young, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 496, H.D. 1 Relating to Employment

I. OVERVIEW OF PROPOSED LEGISLATION

HB496 HD1 provides for employee-funded paid family leave under the Hawaii Family Leave Law, chapter 398, Hawaii Revised Statutes (HRS), via a DLIR administered trust fund account. The measure expands the law to include leave for the placement of a foster child and limits the applicability to of the Hawaii Family Leave Law by excluding employees of the State and counties. Weekly benefit amounts are no less than 58% and no more than 66 2/3% of the average weekly wage.

The DLIR supports the intent and suggests that the Committee consider amending the proposal to require employers to procure insurance coverage paid for by employee contributions through a carrier to achieve the intent of the current proposal, especially in considering the fiscal aspects ($40,000,000 plus impact).

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II. CURRENT LAW

The current Hawaii Family Leave Law (HFLL) allows qualifying employees working at employers with 100 or more employees with 4 weeks of job-protected leave to care for a sick family member or for the birth or adoption of a child. Except in certain situations, the law also requires an employer who provides sick leave to employees to permit an employee to choose to use up to ten days of accrued and available sick leave for family leave purposes.

There is an exception to the use of sick leave when the employer utilizes sick leave as its TDI plan. In this situation the employer can only elect to use only sick leave that is in excess of the minimum required by TDI. It is possible that the employee has sick leave but cannot use any of it for family leave purposes because the employee has no excess sick leave. The law also permits the use of other kinds of leaves as well.

III. COMMENTS ON THE HOUSE BILL

Overview

The employee-funded partial wage replacement leave trust fund here is created in a new part of the Hawaii Family Leave Law chapter 398, HRS. The rate of contribution for the employee is set at .5% (one-half of one percent). The weekly benefit amount is set by the temporary disability insurance law (section 392-22, HRS) or 58% of the average weekly wage or not more than 66 2/3% of the average weekly wages (section 386-31, HRS) of the workers compensation law.

HD1 does not amend chapter 398 (HRS) basic eligibility requirements: that an employee must work for an employer with 100 employees, for at least 6 months before becoming eligible to take Hawaii Family Leave. The new part that creates the payment benefit has a financial effect in HD1 from the previous version which included all employees. Now this measure includes approximately 200,000 employees (about 40% of all private employees) instead of 501,000 employees of private employers.

Estimate of Employee-funded Benefits

Based on the approximately 200,000 employees contributing .5% of wages the DLIR estimates the fund could accumulate $40 million a year. Estimating an average payout for an average employee at $800 average weekly wages ($41,600 annually) would be $464 weekly or a total of $1,856 for the four week period. The same employee would contribute $4 a week, for a total of $104 before becoming eligible, and a total of $208 per year. If 10% of the $40 million is taken from the total for administrative purposes, this would support approximately 19,000 claims a year.

Rhode Island, a comparable state in size (approximately 400,000 eligible employees), operating an employee-funded paid leave temporary disability program since 1942, added its paid temporary caregiver leave program in 2014 and had 5109 claims that totaled $6,336,600.
(http://www.dlt.ri.gov/lmi/pdf/tdi/2014.pdf)

Estimates of Operating and Startup Costs

Section 398-C of this measure obliquely references Chapter 383, HRS, and implies that the family leave assessments can be collected by the Unemployment

Insurance (UI) Division using the same process that employers currently submit their quarterly UI tax contributions, which are deposited into the UI trust fund. While both systems may appear to be similar, they are disparate and incomparable, conceptually and operationally.

If the UI Division is responsible for assessment and collection of the family leave contributions under this bill, the entire UI tax system must be redesigned at an estimated cost of $40 million and would involve a consultant as well as a DLIR project team dedicated for at least two years of full time effort for implementation. An entirely new system must be designed and developed to implement family leave deductions from employee earnings and to administer paid family leave benefits since there is no current capability in the UI tax process to handle any family leave functions.

Once the family leave automated system is successfully operational, the number of positions the bill would require if enacted would have to be determined, although the department notes the administrative complexities entailed in operating and managing a program as outlined in the proposal. The DLIR does know such a system would require the following sections and functions in addition to one dedicated to the management of the trust fund:

<u>Employee Contribution Section</u>:
- Account Registration
- Report Intake and Processing
- Cashiering
- Delinquency, Collection, Monitoring and Compliance
- Trust Fund Monitoring and Compliance
- Appeals

<u>Benefit Section</u>**:**
- Intake of claims
- Claims processing
- In-house adjudication
- Monitoring and compliance
- Processing and disbursement of benefits
- Appeals

There is currently no system in the DLIR that collects from employees through their employers. Within the DLIR, the Unemployment Division may collect from employers an unemployment tax on their employees' wages, but assessments are made on total wages paid to all covered employees on a quarterly basis up to the annual taxable wage limit (100% average annual wage). These taxes are collected and deposited into the UI trust fund for purposes of payment of UI benefits to eligible jobless workers.

Conversely, the family leave system is based on employee contributions to the partial wage replacement leave trust fund and requires employers to withhold .5% of each employee's income during each pay period in the name of the employee. These contradictions require family leave to run on a separately constructed computer system, operating on an accounting logic entirely different than the UI tax system.

Substantive points that need addressing

Conflicting definitions of similar terms between the different laws creates ambiguity in the interpretation of what is intended. The DLIR recommends if a provision is to be used from another chapter, create the provision in the new part as a section so the references all refer back to the same set of definitions.

This proposal allows any paid family leave accrued under other programs to substitute for a portion of the four weeks but not specific sick or vacation leave. It does not articulate how other benefits like TDI, Workers Compensation, or Unemployment Insurance would be considered in conjunction with the paid Hawaii Family Leave.

Hawaii's Family Leave Law currently allows leave to be taken in hour increments. Is the paid leave contemplated by this measure also to be taken in single hour increments? It may be simpler to limit the paid benefits to increments of at least a day.

Again, the department suggests that the Committee consider amending the law to require employers to procure insurance coverage paid for by employee contributions through a carrier to achieve the intent of the current proposal.

WRITTEN ONLY

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON
HOUSE BILL NO. 496, H.D. 1

March 19, 2015

RELATING TO EMPLOYMENT

House Bill No. 496, H.D. 1, establishes the Partial Wage Replacement for Leave Trust Fund (Trust Fund) outside the State treasury to be administered by the Department of Labor and Industrial Relations (DLIR) into which shall be deposited a maximum 0.5% withholding on employee's wages, interest earned, and other revenues earned by the Trust Fund. The Trust Fund would provide eligible employees with up to four weeks per calendar year of paid family leave for a weekly benefit amount not to exceed 66-2/3% of the employee's weekly wage. In addition, the bill allows DLIR to use up to 10% of the annual receipts of the Trust Fund to perform the functions relating to the administration of the Trust Fund.

The Department of Budget and Finance defers to the DLIR on the viability and appropriateness of trying to provide partially paid family leave for eligible employees through a payroll funding mechanism. As a matter of general policy, the department does not support the creation of trust funds that would not be self-sufficient. Furthermore, it is strongly recommended that an actuarial study be conducted before this endeavor is implemented to determine if the revenues generated by the 0.5% withholding would sustain the payment of claims from the Trust Fund and the administrative costs incurred on a yearly basis.

HAWAII STATE COMMISSION ON THE STATUS OF WOMEN

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March 19, 2015

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: <u>Testimony in Support of the Intent of HB 496, HD 1, Relating to Employment</u>

On behalf of the Hawaii State Commission on the Status of Women, I would like to express the Commission's support for the intent of this measure, with **serious concerns and reservations as to the language in HD 1**, which makes a significant departure from the original language in HB 496. If the original language cannot be restored, the Commission would alternatively support amendments to provide for a fiscal analysis or actuarial of a state paid leave insurance fund in order to fully analyze the benefits and potential fiscal note of such a program. A possible amendment to the current language could be:

"The state shall study the establishment of a paid family leave voluntary insurance program, contingent on the availability of federal funds to be administered through the department of labor and industrial relations and supported by a payroll deduction or other revenue source. Additionally, an actuarial shall be performed using state, federal and/or private funds to determine the costs of sustaining a paid family leave voluntary insurance program for employees in Hawaii."

The language in HD 1 is problematic for several reasons: HD 1 creates a paid family leave "trust fund" for those employed at firms/businesses of 100 or more employees. A number carve out is financially unsustainable. All other states with a paid family leave insurance program have universal eligibility (1 worker and up) because without universal eligibility (everyone pays in and everyone gets to take out), an insurance fund of this size has no way of remaining financially solvent and risks becoming financially overburdensome on employees. If a worker works for an employer with 100 or more employees for years, having contributions deducted from their pay check year after year, and then decides to start a small business or work for an employer with fewer than 100 employees, that worker would NOT be able to take paid family leave, despite all of the financial contributions they made into the fund. Conversely, a worker who worked for years for a small employer, and then changes jobs to work for an employer with more than 100 employees, would then receive the benefits despite never having paid into the fund. There is an inherent unfairness in this that many workers would not find acceptable.

Workers routinely change jobs. The way HD 1 is drafted, it would set people up to pay in, and then potentially never gain back their contributions. Coverage for paid family leave needs to be directly tied to who is paying in—which is why family leave funds are viewed as insurance funds. By allowing for universal eligibility of all workers in the State, as in the original language of HB 496, the program can be self sustaining, thereby not relying on any state funds to continue operating. This is win-win for businesses and employees and the state.

<u>Few Workers Would be Covered Under HD1</u>
Only 700 firms in Hawaii have 100 or more employees. 30% of the employees in the state would be covered by the language in HD1. 70% of the employees in the state would not have access to paid family leave. This means that 30% of the workers in the state would be asked to help keep afloat an insurance fund—this would be a larger financial onus is placed on a small portion of the state's employees.

The Amount of Leave Under HD 1, 4 Weeks, Is Problematic for Mothers

The only other state that offers only 4 weeks of employee funded paid family leave is Rhode Island. Rhode Island was able to pass 4 weeks because the state has a robust Temporary Disability Insurance (TDI) program, that is overseen and enforced by the state. For example, a woman who gave birth via caesaraean would be eligible for 8 weeks of TDI to recover from a major surgery and then could take the 4 weeks of paid family leave insurance for bonding with a newborn. (12 weeks still pales in comparison to the amount of paid family leave provided by every other nation in the world, except the United States and Papua New Guinea). In Hawaii, many are ineligible for TDI (state employees, city and county employees, those with sick leave programs), which means many women would solely be eligible for 4 weeks of paid family leave (even though the bare minimum recommended by physicians is at least 6 weeks to recover). Additionally, our TDI system is privatized and the statute provides for very little enforcement, weakening our TDI application and eligibility.

HD 1 Will Hurt Those Who Have and Are Employed by Small Businesses

Employees of small business have no legally mandated paid sick leave. With the language in HD1, they would then have no access to paid family leave. Under our Hawaii Family Leave Law (4 weeks unpaid, 100 or more employees, only covers 16% of our workforce), employees are not guaranteed unpaid time off to care for a family member. Under the federal Family and Medical Leave Act (12 weeks unpaid, with job protection, 50 or more employees, which already excludes 40% of the national workforce[1]), employees at small businesses would not be covered. In the end, *HD1 penalizes* those who choose to work for small business, creating an incentive for employees to leave small business, knowing that larger businesses have more competitive benefit packages.

For employees at firms of less than 100 employees, the decision of whether you receive unpaid maternity leave, paternity leave, or leave to take care of an aging and ill parent or spouse is completely dependent on your employer. Most people working in Hawaii cannot take unpaid leave and still maintain financial stability. Our workforce demographics are constantly changing. Today, women make up half of our workforce, yet 2/3 of women serve as sole or primary breadwinners for their families. Women make up the majority of caregivers to young children and elderly relatives, yet they routinely must choose between their caregiving responsibilities and their jobs. It is clear that our current law needs to be revised and updated to provide true benefit to employees.

The Definition of Family Members is Limited under HD 1

HD1 strips the revised language of family members and covered individuals. The Commission requests that the original language found in HB 496 be used for the definition of family members. Additionally, the “designated individual” language should be added to ensure that hanai family members, or family members with no legally recognized relationship, can be covered.

Other States Have Successfully Implemented Paid Family Leave Policies with No Economic Disadvantage to Businesses

California, New Jersey and most recently, Rhode Island, have all passed strong state policies providing partial wage replacement for family and medical leave purposes. California passed the nation’s first comprehensive paid family leave program in September 2002, allowing six weeks of wage replacement leave at 55 percent of a worker’s usual weekly earnings when the worker needed to take time off of work to bond with a new child or to care for a seriously ill family member. In the more than ten years that this law has been in effect, California has seen economic, public health, and business savings because of this measure. In "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California", key findings from California's experience were as follows:

- The business community's concerns, that it (paid family leave) would impose extensive new costs on employers and have serious detriment to small businesses, were unfounded. After five years of this policy in place, employers reported that it had minimal impact on their business operations. [2]
- Small businesses were less likely than larger establishments to report any negative effects.
- The vast majority of respondents to the survey reported that they were not aware of any instances in which employees abused the state Paid Family Leave program.
- The use of paid family leave increased retention of workers in low quality jobs.
- Paid family leave doubled the median duration of breastfeeding for all new mothers who used it.

Hawaii needs a paid family leave fund for several reasons. The majority of our workforce already provides care, whether to children, parents, spouses, or ill family members (or for those in the "sandwich generation", provide care to children *and* aging parents simultaneously). The majority of families in Hawaii are "working families" with multiple employees and multiple caregivers. This bill would strengthen economic security for families, so families would not have to risk falling through the economic cracks in times when they need to provide care for another family member. Additionally, measures such as these improve public health, lower levels of public assistance reliance and increase employee loyalty and retention.

The legislature has been considering legislation like HB 496 for almost a decade (in 2007 and 2008, the legislature created Joint Committees on Aging and Family Caregiving that reiterated the goals found in HB 496). The legislature has an opportunity to show that Hawaii is a leader for working families. The Commission respectfully urges you to consider the original language found in HB 496, in order to make amendments to HB 496, HD1. Again, in the alternative, the Commission requests that this Committee amend the language to provide for a fiscal analysis with a report due to the legislature. Thank you for this opportunity to testify in support of the intent.

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[1] Family Values at Work, Updated FMLA Survey Results

[2] Eileen Applebaum and Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California* (2011).

From:	Anthony Lenzer
To:	JDLTestimony
Subject:	Testimony in Support of HB 496 HD 1
Date:	Monday, March 16, 2015 5:33:21 PM

To: Senate Committee on Judiciary and Labor
Sen. Gilbert S. C. Keith-Agaran, Chair

From: Anthony Lenzer, PhD, Member
Policy Advisory Board for Elder Affairs

Subject: Support for HB 496 HD 1

Hearing: Thursday, March 19, 2015, 9:30 a.m.
Conference Room 016

I am testifying in support of this measure on behalf of PABEA, the Policy Advisory Board for Elder Affairs. For those not familiar with our organization, PABEA advises the Executive Office on Aging, and advocates for Hawaii's older citizens and their families. However, PABEA does not speak for the Executive Office on Aging.

House Bill 496 HD 1is an important measure in that it's preamble endorses the principle that Hawaii's working people need and are entitled to paid family leave to care for a newborn, a sick child, a frail parent or other family member in need of such care. This principle is critically important, and should be established as the official policy of the State of Hawaii with regard to working people.

However, the provisions of this draft of House Bill 496 would provide such paid leave to only a small segment of Hawaii's private sector workforce. The original version of the bill was much more comprehensive, in that it covered all workers, both public and private. However, we recognize that the original bill was perhaps too ambitious in scope, given the present state of knowledge with regard to such matters as costs, utilization rates, and other factors relevant to creation of a viable state program. I therefore recommend that the provisions regarding paid family leave for private sector workers in firms employing 100 or more persons be replaced by language which would authorize feasibility/actuarial studies of the issue of paid family leave. If this recommendation meets with your approval, I also recommend that funding be inserted in the bill to allow such studies to be carried out.

Thank you for the opportunity to testify on this important legislation.

Thursday, March 19, 2015

Relating to House Bill 496 House Draft 1
Testifying Supporting the Intent

Aloha, Chair Keith-Agaran, Vice-Chair Shimabukuro and Members of the Senate Committee on Judiciary and Labor,

The Democratic Party of Hawaii **supports the intent of HB496 HD1 Relating to Employment**, which establishes a partial wage replacement for leave trust fund funded by employee wage withholdings, uses the trust fund to provide partial wage replacement for four weeks of family leave, as well as appropriates moneys to administer the trust fund. However, this bill is a significant deviation from the original language, which we prefer.

This approach, we believe is problematic for a number of reasons.

The intent of the bill is to provide a mechanism for employees to take time off to care for ill or elderly family members, however, the current language is only applicable for business that have 100 or more employees, leaving out an overwhelming majority of workers in the state.

Nowadays, workers change jobs multiple times through the course of their lives and given the small number of businesses to which this draft would apply, some workers would likely pay into the trust fund, and then potentially be unable to access the benefits later on. Or a worker would enter a job that qualifies and have the ability to access the benefits without ever having paid into the trust fund. By expanding the coverage to all business and employers, the long-term financial sustainability of the fund would be assured and guarantees coverage for all employees in the state, not just the small percentage of the workforce covered by this draft.

This draft also provides a far smaller benefit. Only one other state, where Temporary Disability Insurance is far more robust, provides for only four weeks of paid family leave. Allowing for up to 12 weeks a year is not unreasonable and is still a far cry less than benefits provided for in every other industrialized nation.

We believe the current draft would put smaller businesses at a disadvantage. There is no state or federal law that provides for paid family leave for small businesses, creating a disincentive for workers to take a job, or stay in a job, at a small business. We encourage you to amend HB496 to address these concerns and allow for ongoing discussion on this important issue.

Mahalo for the opportunity to testify,
And The Legislation Committee of the Democratic Party of Hawaii

March 19, 2015

To: Senator Gilbert Keith-Agaran, Chair
Senator Maile Shimabukuro, Vice Chair and
Members of the Committee on Judiciary and Labor

From: Jeanne Y. Ohta, Co-Chair

RE: HB 496 HD1 Relating to Employment
Hearing: Thursday, March 19, 2015, 9:30 a.m., Room 016

POSITION: Support

The Hawai'i State Democratic Women's Caucus writes in support of the intent HB 496 HD1 Relating to Employment, preferring the original language of the bill and with concerns about the current language which limits the financial feasibility because of the very small number of employees who would be paying into the fund.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls it is because of this mission that the Caucus supports enabling legislation for paid leave.

Paid leave makes fiscal sense for small and large businesses because employers are not responsible to pay for the leave time. Paid leave is funded by employees.

We have an economy where many mothers are in the workforce. Nearly 66% of all children in the U.S. have two parents who work or are supported by a single parent. In addition to childcare, by 2020, about 40 percent of the workforce will be providing care for older parents.

It is alarming that nearly 25% of adults in the U.S. have lost or job or been threatened by job loss for leave due to illness and only 11% of U.S. workers have access to paid family leave through their employers.

Women, as primary caregivers of infants, children and elderly parents, are affected disproportionately by the unavailability of paid family and medical leave. Women are the primary or co-breadwinners for almost two-thirds of families in the U.S., so women's income lost during maternity leave has significant economic impact on her entire family. Many grandmothers are also caring for grandchildren.

Women in Hawai'i can apply for TDI after giving birth, but it is time-limited. Fathers are not eligible to apply. In Hawai'i the majority of families are "working families" who cannot afford to take unpaid leave. Access to paid family leave alleviates economic instability for struggling families by ensuring job security.

We need legislation because in Hawai'i, only 88 businesses employ 100 or more employees within the state. Thus, only employees from these 88 business are eligible for 4 weeks unpaid leave guaranteed by state law.

We prefer the original language of HB 496 for the following reasons:

1. The measure only requires employees in businesses with 100 or more employees to participate. No other state with a paid family leave insurance program has this type of limitation. Limiting the participants creates solvency issues.
2. Employees who move from large to small employers would not be able to draw from the fund they contributed to.
3. Conversely, a worker who worked for years for a small employer and then changes jobs to work for an employer with more than 100 employees, will receive a windfall having never paid into the fund.
4. Coverage should be tied to what has been paid in.
5. HD 1 exempts all state employees from coverage. This also ends up taking out a significant portion of potential payments into the fund.
6. Employees of small firms deserve workplace protection and paid the opportunity to take a paid family leave to take care of their families when necessary.

We ask that the committee reinstate language from the original bill or explore other means to enable meaningful family leave provisions for all employees, not just those working for large businesses. Thank you for this opportunity to provide testimony.

The Twenty-Eighth Legislature
Regular Session of 2015

THE SENATE
Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
State Capitol, Conference Room 016
Thursday, March 19, 2015; 9:30.m.

STATEMENT OF THE ILWU LOCAL 142 ON H.B. 496, HD1
RELATING TO EMPLOYMENT

The ILWU Local 142 supports the intent of H.B. 496, HD1, which establishes a partial wage replacement for leave trust fund funded by employee wage withholdings and uses the trust fund to provide partial wage replacement for four weeks of family leave.

The federal Family and Medical Leave Act and the Hawaii Family Leave Law both provide for <u>unpaid</u> leave to care for a newborn, adopted or foster child and to care for a seriously ill family member. While these laws recognize the need for family leave, they do not acknowledge the need for most workers to be <u>paid</u> during such leave. H.B. 496, HD1 is an attempt to provide monetary compensation for a worker who needs to take family leave by establishing a trust fund into which employee contributions will be made through an employee tax.

The original language in H.B. 496 required that paid family leave be available to all employees of employers of any size. However, HD1 preserves the current threshold of 100 employees for employers to be required to provide family leave. HD1 also keeps family leave at four weeks rather than 12 weeks as proposed in the original H.B. 496.

Expanding family leave coverage to <u>all</u> employees is good public policy. As the preamble to the bill states, family leave is taken by employees to bond with a new child and to care for a family member with a serious health condition. Women are disproportionately affected as primary caregivers for their children and for seriously ill family members like a spouse or an elderly parent. Denying family leave to all employees is effectively forcing women to decide between caring for their loved ones and retaining employment, resulting in an untenable choice.

Employees who are provided with family leave (best with compensation) will be more productive and motivated employees, more loyal to their employers, and better parents and adult children to their own parents. The employee benefits, the employer benefits, and society benefits.

We also support increasing family leave from four weeks to 12 weeks as is provided under the federal Family and Medical Leave Act (FMLA) and the original H.B. 496. However, if increasing the leave is burdensome, at the very lease, the Hawaii Family Leave Law (HFLL) should be amended to address how family leave may be applied in relation to FMLA.

Currently, employers with 100 or more employees are permitted to apply both leaves concurrently. For example, if an employee asks for four weeks of FMLA leave to care for a seriously ill family member, both HFLL and FMLA are applied at the same time, leaving the employee with no HFLL and only eight weeks of FMLA remaining. Not only is family leave currently unpaid, this quirk of application eliminates the effect of the state law.

The ILWU urges passage of H.B. 496, HD1 to continue discussion on this important issue. Family leave is needed for employees to fulfill their family responsibilities. Providing wage replacement during such leave is essential for employees to afford to take the leave.

Thank you for the opportunity to share our views and concerns.

a better balance

the work and family legal center

Testimony by
Sherry Leiwant, Co-President and Co-Founder
A Better Balance

Hearing on Paid Family Leave in Hawaii
HB 496, HD1, Relating to Employment

Submitted to:
Members of the Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

March 19, 2015

I am submitting this testimony on behalf of my organization, A Better Balance, which is a national legal advocacy organization whose mission is to fight for policies that will protect American workers from having to choose between caring for their families and maintaining their economic security. To that end, we have been working on paid family leave issues in states throughout the country for the last ten years. We thank the committee for holding a hearing on this important issue. A Better Balance supports the general intent of HB 496, HD1 to provide paid family leave to workers in Hawaii, but we strongly believe the legislation needs to cover all employers, regardless of size, in order to be effective.

Paid family leave – an issue whose time has come.

It comes as a shock to most Americans that the United States is the only developed country that does not provide paid leave to workers when a new child is born. Among industrialized nations, the United States stands alone in its failure to guarantee workers paid leave. As of 2011, 178 countries have national laws that guarantee paid leave to new mothers. Only three countries in the world provide absolutely no legal right to paid maternity leave — Papua New Guinea, Swaziland, and the United States.[i] With no right to paid family leave, workers must rely on their employers to provide these benefits, but because paying for a worker to be on leave for an extended period is costly, most employers do not or cannot voluntarily provide those benefits: as of March 2013, only 12% of American workers received paid family leave through their employers.[ii] Among the lowest wage earners in the country, only 4% of workers have access to paid family leave.[iii] Therefore, far too many workers are forced to choose between their jobs and their family's health and wellbeing.

The lack of paid family leave reflects the fact that our workplace laws and policies have failed to keep up with the changing nature and demographics of working families. The labor force participation rate of women and mothers has increased significantly during the past 40 years, and the number of dual-income families and single working parents has skyrocketed. Despite these changes, we have failed to pass laws and policies that allow workers to care for loved ones without risking their economic security. It is critical that we pass laws to guarantee paid family leave to bond with new children and care for seriously ill loved ones.

Americans are beginning to recognize the importance of this issue for our families. In his 2015 State of the Union address, our President recognized that the U.S. is "the only advanced country on Earth that doesn't guarantee paid sick leave or paid maternity leave to our workers." He pledged to make Federal money available to the states to study the issue with the hope that they would lead the way in providing paid family leave for their citizens. California, New Jersey and Rhode Island already have paid family leave programs that have been extremely successful and have caused no problems for employers.

And this year, there are dozens of other states exploring the possibility of setting up their own paid family leave programs. The emergence of paid family leave as an important issue is a reflection that paid family leave is a win for everyone: workers, businesses, children, elders, and the economy. A paid family leave program would make it easier for new parents—both mothers and fathers—to care for their children without undue financial hardship. Research has shown that paid family leave helps parents to recover from childbirth, bond with newborn or newly adopted children, and better meet their children's health needs.[iv] Access to paid family leave also increases the likelihood and average duration of breastfeeding, which improves the health of newborn children and their mothers.[v] Seriously ill children benefit when their parents can afford time off to care for them. Research shows that ill children have better vital signs, faster recoveries, and reduced hospital stays when cared for by parents.[vi]

In addition, with paid family leave, workers would not have to sacrifice their economic security in order to care for seriously ill or aging relatives. The benefits of family caregiving to elderly and sick individuals are clear: family caregivers can help these individuals recover more quickly and spend less time in hospitals.[vii] As a result, policies that support family caregiving create savings that benefit all Hawaii taxpayers. Unpaid family caregivers not only help to ease the burden on our crowded hospitals and long-term care facilities but also create enormous financial savings. For example, recipients of family caregiving are less likely to have nursing home care or home health care paid for by Medicare.[viii] In 2007, unpaid family caregivers in the United States provided services valued at approximately $375 billion a year.[ix]

As noted above, California, New Jersey, and Rhode Island have adopted—and successfully implemented—paid family leave laws. Research shows that an overwhelming majority of California employers believe paid family leave has had a positive or neutral effect on their business operations.[x] Studies have also shown that paid family leave leads to business savings, by increasing employee retention, lowering turnover costs, improving productivity, and enhancing worker morale and loyalty.[xi] In today's economy, paid family leave is a low-cost way to keep workers employed and to help workers meet family needs. For example, women who take paid leave after a child's birth are more likely to be employed 9-12 months after the child's birth than working women who take no leave. New mothers who take paid leave are also more likely to report wage increases in the year following the child's birth.[xii] When forced to leave their jobs or take unpaid leave, many poorer workers must turn to public assistance programs for support. By keeping workers with caregiving needs attached to the workforce, paid family leave can decrease reliance on public assistance, in turn creating significant taxpayer savings.[xiii]

The Hawaii Proposal (HD1) and Employer Size Threshold.

As an attorney who helped to draft the paid family leave bill that went into effect in Rhode Island last year, and proposals in New York, Connecticut, Massachusetts, Colorado, and Wisconsin, I want to focus on a critical element that has no place in a paid family leave law—the carve out in HD1 of workers and businesses with fewer than 100 employees. An employer size carve out may not seem unreasonable on its face but it is highly problematic for a number of reasons. And because the paid family leave benefit in HD1 is *employee* funded, there is no reason to exclude small businesses from the benefits of the bill:

- **A carve out based on business size is unfair to workers.** For most workers, the need for paid family leave will only arise a few times in their working life. But workers change jobs. After years of working for a larger employer, a worker may be employed with a smaller employer when his father has a stroke or his wife has a baby. Since the paid family leave program is funded by employee contributions, this is extremely unfair; someone who has paid into the program for years may not have access to it when paid family leave is needed—the opposite of an appropriate insurance program.[1] All workers need paid family leave and should not be deprived because they happen to work for a smaller employer.

- **A carve out is unfair to small business.** Small businesses are among the most important beneficiaries of an employee funded state paid family leave program. Small businesses are often like a family, and we have spoken to numerous small employers over the years who wish they could provide pay for their workers when they need time off to care for a new child or seriously ill parent. They are happy to give them the time. But they can't afford to pay them for it. Unlike many larger businesses that can afford to provide paid family leave out of their pockets,

[1] HD1 does not make it explicit that only employees who are covered by the law contribute to the paid family leave trust fund. It would be incredibly unjust if all employees in Hawaii are required to contribute to a trust fund that only benefits workers employed by businesses with 100 or more employees.

many small businesses simply cannot do so. For example, I run a small non-profit, and we do pay for family leave for our workers. But it would be wonderful if we didn't have to—if paid family leave would be provided instead through a state program. As someone who runs a non-profit with fewer than 100 employees, I would be very upset if my employees could not take advantage of a state-run paid family leave program and I had to continue paying the benefit myself. Small employers in Hawaii would be equally upset that their employees would be excluded from a state-sponsored and employee-funded paid family leave program, thus giving larger employers an advantage in recruitment and retention of staff—the opposite of leveling the playing field.

- **A carve out excludes many workers who desperately need paid family leave.** The proposed employer size threshold for paid family leave would leave approximately 70% of employees in Hawaii—a significant percentage—without access to paid family leave, including many low-wage workers who need this benefit the most. Low-wage workers are likely to rely on every paycheck to make ends meet, especially when a new child arrives or a family member has a health crisis; all too often, these workers are forced to make impossible choices between their jobs and their families in times of need.

- **There is no precedent for a carve out.** There is no other paid family leave program that has an employer size carve out. As a result, the proposed bill would create a harmful precedent for other proposed paid family leave programs across the country.

Additional Comments on HD 1.

- **We urge consideration of a broader definition of family**. We strongly support the broader family definition that was included in the original version of HB 496. The original proposal included siblings, who are also covered under California's paid family leave program and included in many of the proposed paid family leave bills around the country. When an individual has a serious illness, they often turn to siblings for care, and Hawaii's paid family leave bill should support this important family relationship. In addition, we support the inclusion of a "designated person," as in the original HB 496; by allowing workers to designate one additional person for whom they can use their paid family leave, the original HB 496 reflected the diversity of Hawaii's families and the reality that many workers have close caregiving relationships with people who are equivalent to family.

- **We support a longer period of paid family leave than the 4 weeks included in HD1.** The 4 weeks of paid family leave provided in HD1 is a shorter length of time than the paid family leave programs in California and New Jersey. In addition to helping parents to meet the needs of a new child, longer periods of paid family leave increase the likelihood of attending well-baby visits and receiving immunizations; a longer period of paid family leave also improves the health of children by increasing the likelihood and duration of breastfeeding.[xiv] Although the Hawaii TDI law provides wage replacement to covered biological mothers for pregnancy-related disabilities and the period of childbirth recovery, adoptive parents and new fathers currently receive no wage replacement for time off when a new child arrives; nor do biological mothers receive paid leave to bond with their children. For new parents, 4 weeks to bond with a newborn or newly adopted child is incredibly limited. Although Rhode Island provides 4 weeks of paid family leave, it is important to note that Rhode Island's law covers nearly all workers in the State and does not include an employer size threshold. Furthermore, nearly all of the paid family leave bills that are being considered around the country propose 12 weeks of paid family leave, as in the original version of HB 496. By comparison, most countries in the world provide ***more*** than 12 weeks of paid parental leave. Also, the Family and Medical Leave Act, which many employers are familiar with, also provides 12 weeks of unpaid, job-protected leave; a 12-week paid family leave program in Hawaii would be welcomed by many of Hawaii's employers who are already accustomed to the FMLA's length of leave.

Thank you for this opportunity to submit testimony on paid family leave and thank you for your recognition that Hawaii families need paid family leave.

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[i] *Failing its Families: Lack of Paid Leave and Work-Family Supports in the US*, Human Rights Watch (Feb. 2011), p. 1. There is insufficient information on paid leave in Bhutan, Liberia, Tuvalu, Samoa, Sierra Leone, Bosnia-Herzegovina, Marshall Islands, Micronesia, and Suriname.

[ii] U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in the United States, March 2013* (September 2013), Civilian Workers Table 32, available at: www.bls.gov/ncs/ebs/benefits/2013/ebbl0052.pdf.

[iii] Ibid. (figure for the bottom 10% of wage earners)

[iv] *Failing its Families*, pp. 37-48.

[v] Ibid., pp. 37-38.

[vi] *See* S. J. Heymann, A. Earle & B. Egleston, *Parental Availability for the Care of Sick Children*, Pediatrics, Vol. 98 No. 2 (Aug. 1996), pp. 226-30; S.J. Heymann, *The Widening Gap: Why America's Working Families are in Jeopardy and What Can Be Done About It*, Basic Books (2000), p. 57.

[vii] See, e.g., A. Houser & M.J. Gibson, *Valuing the Invaluable: The Economic Value of Family Caregiving, 2008 Update*, AARP Public Policy Institute (Nov. 2008), pp. 1-2, 6; --, *Valuing the Invaluable: A New Look at the Economic Value of Family Caregiving*, AARP (June 2007), p. 6.

[viii] Houser and Gibson, *Valuing the Invaluable: A New Look at the Economic Value of Family Caregiving*, p. 6.

[ix] --, *Valuing the Invaluable: The Economic Value of Family Caregiving, 2008 Update*, pp. 1-2.

[x] E. Appelbaum & R. Milkman, *Leaves that Pay: Employer and Worker Experiences with Paid Family Leave in California*, CEPR (Jan. 2011), p. 4.

[xi] *See, e.g.,* Ibid, pp. 5, 8; E. Rudd, *Family Leave: A Policy Concept Made in America*, Sloan Work and Family Research Network (2004).

[xii] L. Houser & T. Vartanian, *Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public*, commissioned by the National Partnership for Women & Families and conducted by the Center for Women and Work at Rutgers University (Jan. 2012), pp. 6-7.

[xiii] *See, e.g.,* A. Dube & E. Kaplan, *Paid Family Leave in California: An Analysis of Costs and Benefits*, Labor Project for Working Families (July 2002), pp. 44-49 (estimating annual savings of $23.5 million in usage of food stamps and TANF).

[xiv] *See, e.g.*, U.S. Department of Health and Human Services, *Fact Sheet: The Surgeon General's Call to Action to Support Breastfeeding* (January 2011), available at: www.surgeongeneral.gov/library/calls/breastfeeding/factsheet.html.

Testimony for Family Leave:
HB 496, HD1, Relating to Employment
Submitted by Wendy Chun-Hoon, DC Director
Family Values @ Work

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor

Thank you for the opportunity to send this testimony on HB 496, HD1. I am writing on behalf of Family Values @ Work, a network of coalitions in 21 states that work for policies such as paid family and medical leave insurance. Three of our states – California, New Jersey and Rhode Island – have enacted such policies, and many others are engaged in campaigns. We are deeply involved in discussions about program design and impact. <u>While we applaud the intent behind HD1, we want to share serious concerns about a number of provisions that replaced the original language in HB 496.</u>

Our concerns are fivefold:

1. the program runs counter to the purpose of a social insurance fund by excluding the majority of the Hawaii workforce;
2. as proposed, it cannot be solvent;
3. as proposed, the bill would harm rather than protect small businesses;
4. the definition of family is too narrow; and
5. the amount of leave is insufficient for the purposes of the act.

1) The three states with a family and medical leave insurance program explicitly cover all workers. The HD1 proposal arbitrarily excludes the vast majority of the workforce.
   - Only 700 firms in Hawaii have 100 or more employees. 196, 564 employees would pay into the fund and receive coverage. More than twice that number – 396, 331 – would not pay in and would not receive paid family leave. (DLIR, March 2014 business data)
   - If a worker works for years for an employer with 100 or more employees, having contributions deducted from their paycheck year after year, and then goes on to work for an employer with fewer than 100 employees, that worker would NOT be able to take paid family leave, despite all of the financial contributions they made into the fund.
   - Conversely, a worker who worked for years for a small employer and then changes jobs to work for an employer with more than 100 employees, would be able to draw pay to bond with a newborn or care for a seriously ill family member even though they have never paid into the fund.

2) HD1 as designed cannot achieve solvency.
   - In order to be solvent, the fund needs participation from the entire workforce.
   - HD1 exempts all state employees from coverage. This also ends up taking out a significant portion of potential payments into the fund.

3) The bill would harm small businesses.
   - Rather than protecting small businesses, HD1 creates an incentive for employees to leave smaller firms. Adding more workplace protections for larger workplaces creates more of a burden for small businesses to compete.

4) The bill does not recognize the reality of today's families.
   - HD1 strips the inclusive definition of who is considered "family" by not allowing for a single "designated individual" to be named, thus discounting hanai family who do not have a legally recognized or blood relationship.

5) The length of leave is insufficient for bonding with a newborn or caring for a loved one who is healing form an illness.
   - HD1 cuts the 12 weeks originally proposed in HB 496 and replaces it with only 4 weeks. The one other state that has a 4-week limit, Rhode Island, also has very robust temporary disability insurance coverage, which protects women who give birth because it allows them to use both types of leave (time to heal and time to bond with their newborn). Hawaii's TDI coverage, on the other hand, is not robust. Four weeks is not enough time to recover from childbirth, let alone bond with a newborn.

Once or twice in our lifetimes, each of us will need time to care for a seriously ill loved one or to welcome a new child as well as the financial wherewithal to manage that time away from work. HB 496 – as originally drafted – would help Hawaii's families and employees do this. I grew up in Hawaii, my entire family lives in Hawaii and, one day soon, I hope to come back home to live. I want to see Hawaii be a leader for our country on paid family leave. I am hopeful that the legislature will create a robust and viable paid family leave program.

Chamber of Commerce HAWAII
The Voice of Business

Testimony to the Senate Committee on Judiciary and Labor
Thursday, March 19, 2015 at 9:30 A.M.
Conference Room 016, State Capitol

RE: HOUSE BILL 496 HD1 RELATING TO EMPLOYMENT

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 496 HD1, which establishes a partial wage replacement for leave trust fund funded by employee wage withholdings and uses the trust fund to provide partial wage replacements for four weeks of family leave.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We appreciate and understand the intent of this bill to allow for paid leave in the workplace. We are concerned that the amount of leave in this bill is in addition to other benefits currently offered by employers, and could allow for a large amount of leave available to an employee. This adversely affects businesses that need to find staffing to cover the employee on leave. We are also concerned of the economic impact of this new payroll tax.

Thank you for the opportunity to testify.

1132 Bishop Street, Suite 2105 • Honolulu, Hawaii 96813 • Phone: (808) 545-4300 • Facsimile: (808) 545-4369

OUR BUSINESS IS MAUI BUSINESS

HEARING BEFORE THE
SENATE COMMITTE ON JUDICIARY AND LABOR

TESTIMONY IN OPPOSITION OF HB 496 HD1 RELATING TO EMPLOYMENT

March 19, 2015
Conference Room 016
9:30 A.M.

Aloha Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The Maui Chamber of Commerce **opposes** HB 496 HD1, which establishes a family leave insurance program, requiring employees to make contributions into a trust fund to be used to provide employees with family leave insurance benefits in order to care for a designated person. The bill also appropriates funds to DLIR to implement the program.

Here at the Maui Chamber of Commerce, we believe in creating a strong economic environment that supports job growth while also protecting our environment and preserving our quality of life. We support the "triple bottom-line" view of sustainability: economy, environment and social well-being. We have approximately 500 members, 95% of whom are small businesses with 25 or fewer employees.

We appreciate and understand the intent of this bill to allow for paid leave in the workplace. We are concerned that the amount of leave in this bill is in addition to other benefits currently offered by employers, and could allow for a large amount of leave available to an employee. This adversely affects businesses that need to find staffing to cover the employee on leave. We are also concerned of the economic impact of this new payroll tax. The expense of administering such a fund and ensuring its adequacy outweighs its intended benefit.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

TO : SENATE COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

FROM: Eldon L. Wegner, Ph.D.,
Hawaii Family Caregiver Coalition (HFCC)

SUBJECT: **HB 496 HD 1 Relating to Employment**

HEARING: 9:30 am Thursday, March 19, 2015
Conference Room 016, Hawaii State Capitol

POSITION: The Hawaii Family Caregiver Coalition **strongly supports HB 496 HD 1** which proposes a partial wage replacement for leave trust fund funded by employee wage withholdings. Uses the trust fund to provide partial wage replacement for four weeks of family leave. Appropriates moneys to administer the trust fund. (HB496 HD1)

RATIONALE:

I am offering testimony on behalf of the Hawaii Family Caregiver Coalition (HFCC), which is a coalition of agencies and individuals committed to addressing the needs and improving the ability family caregivers to provide quality care for their frail and disabled loved ones.

- Family caregivers provide 70% of the care for frail elderly persons and thus bear the major burden and expense of care.
- The majority of family caregivers are also in the workforce and their employment is necessary to support the needs of their families as well as to assure that they will have sufficient social security and retirement savings to support themselves in retirement.
- Although we have several ways which enable family caregivers to receive unpaid family leave, employed caregivers in Hawaii currently have no financial assistance when they must take leave to provide care for family members.
- The Trust fund proposed by HB 496 HD 1, would enable family caregivers to receive partial wage replacement when taking short periods of leave to deal with crises which occur in their families. The measure should enable some to continue in their employment and avoid the negative financial consequences of dropping out of the workforce.
- Paid family leave for caring for family members is common in many countries and also has been adopted by several states in the U.S. We believe that providing a mechanism for this support for family caregiving is feasible and overdue in Hawaii.

I urge you to pass this much needed bill. Thank you for allowing me to offer testimony.

HAWAII FOOD INDUSTRY ASSOCIATION

Executive Officers:
John Schilf, RSM Hawaii - Chairperson
Derek Kurisu, KTA Superstores - Vice Chair
Lisa DeCoito, Aloha Petroleum - Treasurer
John Erickson, Frito-Lay - Secretary
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235
Honolulu, HI 96813
Fax : 808-791-0702
Telephone : 808-533-1292

TO:
COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: March 19, 2015
TIME: 9:30am
PLACE: Conference Room 16

RE: HB496 HD1

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

While we understand the intent of this measure, we believe that this is too great a financial and administrative burden for both employers and employees. The costs of this fund are not merely the withholdings paid into it, employers and employees will have to expend time and resources calculating, collecting, and contributing to the fund. Those expenditures, along with the 10% of the money collected which will be spent on administering the fund, will never be recuperated by those who contribute to the fund.

Furthermore, this bill makes no mention of what will happen if the cost of benefits paid out plus the cost of administering the fund exceed the amount of withholding collected. We are concerned that this will turn into another unmitigated drain on the general fund.

In this bill the State is not included in the definition of “employer”, and would therefore not be responsible for withholding employee contributions. If the legislature can see that this measure is not a good idea for the state as an employer than surely it is clear that this is not the right choice for the rest of Hawaii’s employers and employees either. Please do not move this measure further.

Thank you for the opportunity to testify.

healthy mothers healthy babies COALITION OF HAWAII

March 19, 2015

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor

From: Lisa Kimura, Executive Director, Healthy Mothers Healthy Babies Coalition of Hawaii

Re: Testimony in Support of the Intent of HB 496, HD 1, Relating to Employment

On behalf of Healthy Mothers Healthy Babies Coalition of Hawaii, I would like to express support for the intent of this measure, with **serious concerns and reservations as to the language in HD 1**, which makes a significant departure from the original language in HB 496. If the original language cannot be restored, we would alternatively support amendments to provide for a fiscal analysis or actuarial of a state paid leave insurance fund in order to fully analyze the benefits and potential fiscal note of such a program.

The language in HD 1 is problematic for several reasons:

HD 1 creates a paid family leave "trust fund" for those employed at firms/businesses of 100 or more employees. **All other states with a paid family leave insurance program have universal eligibility** (1 worker and up) because without universal eligibility (everyone pays in and everyone gets to take out), an insurance fund of this size has no way of remaining financially solvent and risks becoming financially overburdensome on employees.

There is an inherent unfairness in this that many workers would not find acceptable: If a worker works for an employer with 100 or more employees for years, having contributions deducted from their pay check year after year, and then decides to start a small business or work for an employer with fewer than 100 employees, that worker would NOT be able to take paid family leave, despite all of the financial contributions they made into the fund. Conversely, a worker who worked for years for a small employer, and then changes jobs to work for an employer with more than 100 employees, would then receive the benefits despite never having paid into the fund.

Workers routinely change jobs. **The way HD 1 is drafted, it would set people up to pay in, and then potentially never gain back their contributions. By allowing for universal eligibility of all workers in the State, as in the original language of HB 496, the program can be self sustaining**, thereby not relying on any state funds to continue operating. This is win-win for businesses and employees and the state.

Few Workers Would be Covered Under HD1
Only 700 firms in Hawaii have 100 or more employees, leaving **70% of the employees in the state without access to paid family leave**. This means that 30% of the workers in the state would be asked to help keep afloat an insurance fund—this would be a larger financial onus is placed on a small portion of the state's employees.

The Amount of Leave Under HD 1, 4 Weeks, Is Problematic for Mothers
Today, women make up half of our workforce, yet 2/3 of women serve as sole or primary breadwinners for their families. Women make up the majority of caregivers to young children and elderly relatives, yet they routinely must choose between their caregiving responsibilities and their jobs. It is clear that our current law needs to be revised and updated to provide true benefit to employees.

The only other state that offers only 4 weeks of employee funded paid family leave is Rhode Island. Rhode Island was able to pass 4 weeks because the state has a robust Temporary Disability Insurance (TDI) program, that is overseen and enforced by the state. In Hawaii, many are ineligible for TDI (state employees, city and county employees, those with sick leave programs), which means many women would solely be eligible for 4 weeks of paid family leave (even though the bare minimum recommended by physicians is at least 6 weeks to recover). Additionally, our TDI system is privatized and the statute provides for very little enforcement, weakening our TDI application and eligibility.

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(808) 737-5805 lisak@hmhb-hawaii.org www.hmhb-hawaii.org

HD 1 Will Hurt Those Who Have and Are Employed by Small Businesses
Employees of small business have no legally mandated paid sick leave. With the language in HD1, they would then have no access to paid family leave. Under our Hawaii Family Leave Law (4 weeks unpaid, 100 or more employees, only covers 16% of our workforce), employees are not guaranteed unpaid time off to care for a family member. Under the federal Family and Medical Leave Act (12 weeks unpaid, with job protection, 50 or more employees, which already excludes 40% of the national workforce[i]), employees at small businesses would not be covered. In the end, ***HD1 penalizes*** **those who choose to work for small business, creating an incentive for employees to leave small business, knowing that larger businesses have more competitive benefit packages**.

The Definition of Family Members is Limited under HD 1
HD1 strips the revised language of family members and covered individuals. HMHB requests that the original language found in HB 496 be used for the definition of family members. Additionally, the "designated individual" language should be added to ensure that hanai family members, or family members with no legally recognized relationship, can be covered.

States Have Successfully Implemented Paid Family Leave Policies with No Economic Disadvantage to Businesses
California, New Jersey and most recently, Rhode Island, have all passed strong state policies providing partial wage replacement for family and medical leave purposes. **California passed the nation's first comprehensive paid family leave program in September 2002**, **allowing six weeks of wage replacement leave at 55 percent** of a worker's usual weekly earnings when the worker needed to take time off of work to bond with a new child or to care for a seriously ill family member. In the more than ten years that this law has been in effect, California has seen economic, public health, and business savings because of this measure:

- The business community's concerns, that it (paid family leave) would impose extensive new costs on employers and have serious detriment to small businesses, were unfounded. After five years of this policy in place, employers reported that it had minimal impact on their business operations.
- Small businesses were less likely than larger establishments to report any negative effects.
- The vast majority of respondents to the survey reported that they were not aware of any instances in which employees abused the state Paid Family Leave program.
- The use of paid family leave increased retention of workers in low quality jobs.
- Paid family leave doubled the median duration of breastfeeding for all new mothers who used it.

Hawaii needs a paid family leave fund for several reasons. The majority of our workforce already provides care, whether to children, parents, spouses, or ill family members (or for those in the "sandwich generation", provide care to children *and* aging parents simultaneously). The majority of families in Hawaii are "working families" with multiple employees and multiple caregivers. This bill would strengthen economic security for families, so families would not have to risk falling through the economic cracks in times when they need to provide care for another family member. Additionally, measures such as these improve public health, lower levels of public assistance reliance and increase employee loyalty and retention.

Paid leave is pro-business, pro-family, and a win-win for employees, small and large businesses, and ultimately, Hawaii's economy.

Paid leave is cost-effective for employers:
• Paid leave makes fiscal sense for small and large business because business owners do not contribute to an employee's replacement income.
• Paid leave is a form of work-life support solely funded by employees.
• Paid leave reduces absenteeism.
• Paid leave will increase business revenue and retain the best possible workforce.
• Paid leave reduces turnover costs. A 2011 study of California's family leave program found that it would save employers $89 million a year by improving employee retention and reducing costs of hiring and training new employees.
• The Small Business Majority supports family medical leave and also supports proposals paid for by payroll contributions. (See smallbusinessmajority.org/small-business-research/family-medical-leave/092713-FML-report.php) "A plurality of small businesses support a proposal to set up a publicly administered family and medical leave insurance pools where the insurance premiums are shared by employees and employers—each contributing just one-fifth of 1% of an employee's wages."

Paid leave is cost-effective for the State:
• Paid leave is revenue neutral. As a self-sufficient, employee-funded program, TCI will not add to the state budget.
• Paid leave helps keep families off public assistance and saves the state money devoted to elder care by promoting immediate and long term health outcomes for mothers, children, and aging relatives.

Why is Paid Family Leave necessary?

• The number of children with parents or their only parent working (nearly 66% of all children in the U.S.) has increased by 13% since the drafting of FMLA.
• Seven percent of people who filed for bankruptcy in 2010 cited costs associated with the birth of a child as the cause.
• By 2020, about 40 percent of the workforce will be providing care for older parents.
• Nearly 25% of adults in the U.S. have lost or job or been threatened by job loss for leave due to illness.
• Only 11% of U.S. workers have access to paid family leave through their employers.
• Women, as primary caregivers of infants, children and elderly parents, are affected disproportionately by the unavailability of paid family and medical leave.
• Women are the primary or co-breadwinners for almost two-thirds of families in the U.S., so women's income lost during maternity leave has significant economic impact on her entire family.
• Women in Hawaii can apply for TDI after giving birth, but it is time-limited. Fathers are not eligible to apply.
• Hawaii has one of the highest rates of grandparents as primary caregivers for grandchildren.
• In Hawaii the majority of families are "working families" who cannot afford to take unpaid leave--- paid family leave alleviates economic instability for struggling families by ensuring job security.
• In Hawaii, only 88 businesses employ 100 or more employees within the state. Thus, only employees from these 88 business are eligible for 4 weeks unpaid leave guaranteed by state law.

Healthy Mothers Healthy Babies Coalition of Hawaii and the Paid Family Leave Coalition has collected personal stories from families in the state of Hawaii on the importance of paid family leave:

"It is foolish to believe that in 6 weeks you and your child are used to the 'new' way of life, new schedule, new everything. Life changes whether it is your first child [or] an addition to your family. Having a newborn is worrisome, and for your health and that of your baby, you shouldn't be worried about going back to work, pumping, stressing with boss/coworkers, but at home focusing all your much needed energy on baby. It doesn't take 6-8 weeks to completely recover from giving birth and it is hard to get any good amount of sleep even after 6 weeks, especially [for] breastfeeding moms. For the health of our children, moms should be able to stay home much longer. In Canada, they get up to a year. In France, they go on leave from 10 weeks prior to due date, and stay home 12 weeks after due date, ALL COMPENSATED IN FULL (not just 2/3 disability!!!). In order for our children to be healthy, and in order for them not to become a burden to society (permanent disability, obese, diabetic, asthmatic…), it is so crucial to be able to properly bond with your child!!"

– *Terevarevahaunui Jacobson, Maui*

"How about when you, yourself, a single mother and a school teacher for the state, end up with cancer and the doctor signs you out of work for six months for your chemotherapy treatment and you MAY get UP TO a whopping 15 days of Temporary Disability?? AND, you have to pay your own health insurance, over $600/month, out of pocket. Everything else, you have to cover yourself. They told me to go apply for welfare. Really? I wonder how they treat their teachers in other countries?"

- *Lori Sturm, Kihei*

"Even though I am a state employee, I was denied temporary disability insurance when I had my second child. I had a repeat c-section, which would have warranted 8 weeks of partially paid leave. I also had postpartum depression, which is considered a disability. I had to exhaust my vacation leave and then take unpaid leave so I could care for my newborn."

– *Catherine Betts, Honolulu*

"Some women are single mothers [and] some families barely get by with both paychecks. We need this. A few weeks or days are not enough"

– *Corey Utu Peters, Kalihi*

"Worker to working mother… I'm still adjusting. Employers allow [breast] pumping at work and must provide a safe place, but it's different from actually breastfeeding. I love my son and being a mother, but I also love to work. …6 weeks was not enough. I had complications during my second trimester and was out of work during my pregnancy with little support from disability. The adjustment was difficult because within a month my child's eating and sleeping pattern changed. How is that fair for both employee and employer? Sleepless nights are not good for the baby or mother, putting both of them in danger."

– *Hanna Mae Bueno, Ewa Beach*

"If we, as a nation, want to strive to be the best in the world, we need to nurture every generation, starting at home, from the beginning. We are already too far behind most other first world countries when it comes to support of paid family leave. IT'S TIME TO DO BETTER."

– *Megan Mario, Honolulu*

"I had to go on 6 weeks unpaid leave, which was not enough time to re-coup and bond, but by that time I had no choice but to go back to work as I needed the income. I felt helpless and angry that I couldn't have more time to nurture my family. This is a measure that I think is incredibly important to support. It not only makes sense to support healthy and happy family life, but supporting happy and productive employees makes business sense. When I went back to work I was exhausted, hormonal, distracted, and not as productive as I was before. I was fortunate to have a private office where I could pump, but many women are not so lucky. I was also fortunate enough to be able to work from home part time (a deal I had to strike when I was hired due to the low pay), but many women are not so lucky. Parents are the most loyal beings on earth. Think of the commitment level of a happy parent that feels supported in raising a family."

– *Gwen Woltz, Kaaawa*

"These family support policies help to keep our population more balanced, countering our aging society. Without kiddos, we will not have a future labor force, so this is also in business's interest."

– *Gayle Flynn, Honolulu*

"Paid family leave is a great idea!!"

– *Jenni Lesmann, Honolulu*

"Support, support, support!!! 26 weeks paid leave would be awesome!"

– *Twyla Kukahiko, Lahaina*

"Having time off to bond with my newborn and help my wife would have been so helpful. We need to support families by providing paid leave."

– *Vincent Kimura, Honolulu*

"Let's see… Increased breastfeeding numbers; Better bonding = less social issues; Better parenting through support for parents; Less financial burden/less stress on new patents = more productive workers. We had a terrible experience with our elder child and so I chose to stay home this time until my son was old enough to communicate what was happening during his day. Finding reliable child care for my son, now that I am working, that doesn't cost my whole paycheck is hard. Trusting someone to take care of your babies for you is even harder. Support our families, let parents be parents!"

– *Christina Sorte, Hilo*

"Paid Family Leave would be awesome… Especially if they increase it to a year like other countries!"

– *Heather Sales, Waipahu*

"I do not want to live in fear of going broke because a family member or I become sick. Having paid sick days and paid family leave is important because it tells me that I am important to my company. My physical and emotional health is important, and keeping myself healthy allows me to work. Without paid leave, my family had to go through the system to receive TANF. Having paid leave would put less stress on me and my family. I would have more confidence in my company and my own work because of how they were treating me. It would tell me that I am important to my company because they value my health and the health of my family."

– *Anonymous*

"This is one of the reasons I separated from the Navy. Gosh, I can't even type how much this [Paid Family Leave] means, hopefully they extend maternity leave days too. Six weeks is not even close to enough time for a mother and her newborn!"

– *Lynn Mandie, Honolulu*

"I totally support [this bill]! As a Canadian citizen, I think it's crazy not being able to stay home with the little ones. Those are some of the most important times in a child's life. In Canada, they get one year off."

– *Anne-Marie Lerch, Honolulu*

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[i] Family Values at Work, Updated FMLA Survey Results

Ku'ikahi Mediation Center

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Phone: (808) 935-7844 • Fax: (808) 961-9727
Email: info@hawaiimediation.org • Web: www.hawaiimediation.org

March 17, 2015

From:	Julie Mitchell, Executive Director, Ku'ikahi Mediation Center
To:	Sen. Gilbert Keith-Agaran, Chair & Sen. Maile Shimabukuro, Vice Chair Committee on Judiciary and Labor
Re:	In support of HB 492
Hearing:	Friday, March 20, 2015 at 9:15 a.m. State Capitol, Conference Room 016

Dear Sen. Keith-Agaran & Sen. Shimabukuro and Committee on Judiciary and Labor,

Ku'ikahi Mediation Center supports HB 492, which appropriates funds for the judiciary to enter into contracts with community mediation centers for mediation services.

Ku'ikahi has long helped to bring about peaceful resolutions to conflicts in our community—since 1983 as a program of the Hawai'i Island YMCA, and from 2006 as an independent non-profit organization. We empower people to come together—to talk and to listen, to explore options, and to find their own best solutions. To achieve this mission, we offer mediation, facilitation, and training to strengthen the ability of diverse individuals and groups to resolve interpersonal conflicts and community issues.

Ku'ikahi Mediation Center is the sole non-profit mediation center serving East Hawai'i and one of only five in the state. Our agency helps individuals, families, organizations, businesses, schools, and others to find creative solutions to challenging situations. Mediation resolutions tend to be long lasting and help to improve relationships, promote understanding, and ultimately strengthen our community.

Mediation Centers of Hawai'i (MCH)

The Mediation Centers of Hawai'i (MCH) is a 501(c)(3) representing the five community mediation centers in the state. Since its incorporation in 1991, MCH has opened more than 77,672 cases. Over the past three fiscal years (FY 2011-2014), an average of 3,168 cases per year were referred to MCH Centers, with 71% of those cases coming from the State Judiciary. Despite this track record of success, funding for the centers has declined. In FY 1991-1992, funding from the Judiciary's Center for Alternative Dispute Resolution (CADR) to MCH was $528,529. Today the contract between CADR and MCH is $400,000 and $10,000 of those funds support the administration of the Family Court Volunteer Settlement Master Program in the First Circuit. Thus, the available funds to support community mediation and dispute resolution services is $390,000 annually, which represents only 25% of the community mediation centers' total annual operating budgets.

Impact

Mediation changes lives. Here are two stories that demonstrate the impact of our services.

Two adult stepsisters were referred to mediation by the court since one was seeking a restraining order against the other. It turns out the underlying issue was the care of their father/stepfather, who was ill and dying. When the mediator asked the stepsister seeking the restraining order if that was what her stepfather would want, she realized it was not. The two women were then able to work out an agreement to stay away from one another while still spending time with their father/stepfather during his final few months.

A young man purchased the home he grew up in from his parents, who continued to live there with him and contribute to his mortgage payment. Unfortunately, his father lost his job due to a prolonged illness and no longer had sufficient income to contribute. Since the young man was unable to keep up with his mortgage payments, the lender filed a foreclosure case in court, which was referred to mediation. Following a mediation session between the borrower and the lender, the young man was offered and accepted a loan modification. He now plans to move one of his parents out of a care facility and back into the family home with him.

Need

Our mediation services are provided on a sliding scale fee schedule, and no one is turned away for lack of funds. Over 50% of our clients have annual household incomes of under $20,000. Community mediation services provide a critical alternative to litigation, especially for poor and indigent populations who cannot afford legal counsel and/or have a hard time navigating the legal system as pro se (self-represented) litigants. In this recovering economy of high debt defaults and home foreclosures, our services are often the only option for those with low or no incomes to resolve conflicts and move on with their lives.

With additional funding, we would be able to play an even greater role in helping to increase access to justice by helping more: homeowners negotiate loan modifications to avoid foreclosure; divorcing couples negotiate the terms of their divorce without fighting; unmarried couples with children agree on time-sharing and co-parenting plans that focus on the needs of their children; and landlords and tenants to negotiate payment plans that would enable the tenants and their families to remain in their homes.

Kupuna Pono Program

A current critical need in Hawaiʻi is helping families talk and make plans and decisions together to support kupuna. The growing elder population and limited resources to support this population has placed huge strains on families. Family conflicts related to caring for an elderly member, particularly if that person has Alzheimer's disease or a related dementia, adversely impact everyone in the family. It is for this reason that the Hawaiʻi State Plan on Alzheimer's Disease & Related Dementias has included mediation and family conferencing as one of its targeted goals.

Currently, the Mediation Center of the Pacific on Oʻahu is piloting the Kupuna Pono Program. This unique program provides culturally sensitive processes for families from diverse backgrounds to discuss their issues and simultaneously incorporate the recommendations of healthcare personnel and/or other professionals into a customized plan to support the elder. Through the program, families are more quickly able to agree on appropriate next steps to support their elder member including transitioning from medical discharge to home or assisted living, maintaining the dignity of the elder person, strengthening the family relationship, and eliminating the need for guardianship proceedings or other legal interventions.

In 2014, Kuʻikahi was approached by Alan Parker, then Director of the County Office on Aging, to ask if we could offer the Kupuna Pono Program on Hawaiʻi Island. Only with additional funding will this program be able to grow and be extended to the neighbor islands via the five community mediation centers. With funding through HB 492, the Kupuna Pono Program would be made available to all families in Hawaiʻi.

Funding support through HB 492 will enable us to help more of Hawaiʻi's people work through their differences quickly, divert cases from our overburdened courts, and serve our most vulnerable populations.

Mahalo for your kind consideration,

Julie Mitchell

Julie Mitchell
Executive Director

national partnership for women & families
Because actions speak louder than words.

March 19, 2015

To: Representative Gilbert S.C. Keith-Agaran, Chair
Representative Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary & Labor

From: Vicki Shabo, Vice President
National Partnership for Women & Families

Re: Testimony in Support of the Intent of HB 496 - HD 1, Relating to Employment.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy organization based in Washington, D.C. For more than four decades, we have fought for every major policy advance that has helped women and families. We promote fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help women and men meet the dual demands of work and family.

Although we strongly support the intent of Hawaii's legislators in addressing the needs of workers and their families by creating a family leave insurance program, the National Partnership has serious concerns about House Bill 496 as amended in HD 1. Our chief concern with H.B. 496 - HD 1 is the eligibility requirement that employees must work for any employer with 100 or more employees to be eligible to receive benefits even if they have spent years paying into the new insurance-based system. Secondarily, we are concerned that H.B. 496 as amended limits the amount of available leave to four weeks, especially in light of the more fulsome language used in the original bill.

Based on the evidence that paid family leave insurance, available to virtually all private sector workers regardless of business size and to some public sector workers, has worked well in the states of California, New Jersey and Rhode Island, we urge the committee to reconsider the limitations imposed in H.B. 496 - HD 1 and revert to the original text of the bill as introduced in the House.

I. Paid Family and Medical Leave Offers Necessary Benefits for Families and Businesses

At some point, nearly everyone will need to take time away from work to deal with a serious personal or family illness, or to care for a new child. But only 13 percent of workers in the United States have access to paid family leave through their employers, and fewer than 40 percent have access to personal medical leave through employer-provided short-term disability insurance.[1] Without the ability to receive income, many workers must forgo taking leave or put their economic security in jeopardy in order to care for a family member, a new child or their own health. Lower-wage workers are hit even harder: only five percent of workers in the bottom wage quartile have access to employer-provided paid family leave, and 17 percent have access to employer-provided short-term disability insurance.[2]

Guaranteeing workers access to paid leave can improve families' economic security and promote financial independence in the face of major life events. Paid leave also encourages workforce attachment. Mothers who take paid leave are more likely than mothers who do not to be working nine to 12 months after a child's birth.[3] These figures are particularly important in context: Having a baby is the most expensive health event that families face during their childbearing years,[4] and it is estimated that 13 percent of families with a new infant become poor within a month.[5]

Family caregivers and workers with serious health conditions are also more likely to be able to stay and contribute in the workplace if they have workplace accommodations such as paid leave.[6] And helping older workers stay employed has real implications for their retirement security: A woman who is 50 years of age or older who leaves the workforce to care for a parent will lose more than $324,000 in wages and retirement.[7] For men, the figure is substantial as well – close to $284,000 in lost wages and retirement.[8] In addition, it is worth noting the role that personal and family illnesses play in personal bankruptcies.[9] Paid leave could ameliorate that result.

II. Other States Have Implemented Successful Paid Family and Medical Leave Insurance Programs

California, New Jersey and Rhode Island have successfully implemented paid family leave programs that demonstrate how well paid leave insurance works.[10] Hawaii should take lessons from these states in creating its own program.

In California, workers have filed approximately 1.7 million leave claims since the state implemented its family leave insurance program in 2004.[11] The vast majority of California employers report seeing a positive impact on employee productivity, profitability and performance, or no effect.[12] Even the Society for Human Resource Management, one of the chief opponents of paid family leave in California, issued a report finding that the law had created "relatively few" new burdens for employers and that employers' concerns about the program "have so far not been realized."[13]

In New Jersey, workers have filed more than 160,000 leave claims since the state implemented its paid family leave program in 2009.[14] Three out of four workers (76.4 percent) say they view the program favorably.[15] In a report prepared on behalf of the New Jersey Business and Industry Association, both small and large businesses said they had adjusted easily to the law and experienced no effects on business profitability, performance or employee productivity.[16]

In Rhode Island, workers filed nearly 4,000 claims in 2014, the first year of the program's implementation.[17] Business supporters were critically important to passing the law. New analysis the National Partnership conducted indicates that women and men have used the program more equally than during the first years of the California and New Jersey programs and that leave-taking is more evenly distributed between baby bonding claims and family caregiving claims.[18]

III. Universal Eligibility for Paid Family Leave Benefits is Equitable and Financially Essential

Despite its intent to provide family leave insurance to workers who need it, H.B. 496 - HD 1 creates an unworkable and unfair system for employees in Hawaii. By incorporating the definitions of employer and employee in Hawaii Statutes Chapter 398, all employees with six months in their current job would pay into the new family leave trust fund, but only those employees who work at business with 100 or more employees are eligible to receive paid leave benefits. By applying an employer threshold to the program, H.B. 496 - HD 1 has negative implications on workers moving into or out of jobs and for both employees and employers in small businesses overall.

An employee who is currently working will be paying into the trust fund with every paycheck, contributing hard-earned dollars in order to secure necessary and vital paid family leave in the future. If that employee changes jobs to a smaller business to seek career advancement, higher wages or other opportunities, that employee would no longer be eligible for the paid leave despite his or her financial contribution. This scenario is fundamentally unfair to Hawaii's workers and their families.

Employees of small businesses are currently shut out of other important leave protections as well. Under the Hawaii Family Leave Law, the same 100 employee carve out denies these employees four weeks of *unpaid* leave to care for an ill family member.[19] Many of these workers also do not qualify under the federal Family and Medical Leave Act for unpaid family and medical leave because of the 50 employee carve out. H.B. 496 - HD 1 only further isolates small business employees in Hawaii from necessary leave. Without any legal protection or affirmative family and medical leave mandate, small business employees are at the mercy of their employer to decide to provide maternity or paternity leave or for leave to take care of an ill family member.

By omitting coverage of workers in smaller businesses, the bill fails to help those who most need this benefit: lower wage workers, who are more frequently found in smaller enterprises. Furthermore, only 6.1 percent of businesses in Hawaii have 100 or more employees and only 30 percent of employees work at firms of this size.[20] Coverage under H.B. 496 - HD 1 should provide universal coverage so that the bill aligns employee contributions with access to paid leave. This means including small business employees as well as state employees, who were removed in H.B. 496 - HD 1.

IV. The Amount of Leave Must Be Sufficient to Meet the Needs of Families and, in Particular, Mothers

H.B. 496 - HD 1 provides four weeks of leave to care for a new child or child, parent, spouse or reciprocal beneficiary with serious health condition. Though four weeks would be a large improvement for workers who are currently forced to take unpaid leave, it may be insufficient to provide care for seriously ill family members or newborns. Hawaii would lag behind California and New Jersey in creating a program that provides only four weeks of leave. Although four weeks is the standard in Rhode Island, that state provides coverage to employees regardless of their employer size and also requires employers to reinstate employees to their current or an equivalent job.

In order to create an effective paid family and medical leave program that truly assists working families, Hawaii should consider an increase its allotted leave. We support the 12 weeks originally considered in HB 496.

V. Other Improvements

As noted above, H.B. 496 - HD 1 also significantly reduces the number of persons for whom leave can be taken. We request that the definition of family members used in the original HB 496 be used. Furthermore, the bill does not provide job protection for workers on leave beyond that provided under the Hawaii unpaid family leave law or the federal FMLA, thus eliminating an important protection for workers in smaller businesses.

***

We applaud the Committee for working to create a statewide paid family leave insurance program that will assure working people the security and stability they need when they take time from their jobs to gaze into the eyes of a new child and form a lifelong bond, hold the hand of a dying parent, or recover from their own serious health issue. We hope the committee will continue to work to create a self-sustaining paid family leave program that helps *all* workers, provides caregivers and new parents with adequate leave and strengthens economic security for families. As the committee moves forward, the National Partnership stands ready to assist with any technical questions about program design that may arise in the course of the legislature's consideration. Thank you for your consideration, and we look forward to continuing to work with you on this bill.

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2 Ibid.

3 Houser, L., & Vartanian, T. (2012, January). *Pay Matters: The Positive Economic Impact of Paid Family Leave for Families, Businesses and the Public*. Center for Women and Work at Rutgers, the State University of New Jersey Publication. Retrieved 17 March 2015, from http://www.nationalpartnership.org/site/DocServer/Pay_Matters_Positive_Economic_Impacts_of_Paid_Family_L.pdf?docID=9681

4 Amnesty International. (2010). *Deadly Delivery: The Maternal Health Care Crisis in the USA.* Amnesty International Publication. Retrieved 17 March 2015, from http://www.amnestyusa.org/sites/default/files/pdfs/deadlydelivery.pdf

5 Rynell, A. (2008, October). *Causes of Poverty: Findings from Recent Research.* Heartland Alliance Mid-America Institute on Poverty Publication. Retrieved 17 March 2015, from http://www.woodsfund.org/site/files/735/69201/260704/363127/causes-of-poverty_report_by_Heartland_Alliance.pdf

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9 Himmelstein, D. U., Thorne, D., Warren, E., & Woolhandler, S. (2009, August). Medical Bankruptcy in the United States, 2007: Results of a National Study (Table 2). *The American Journal of Medicine, 122*(8), 741-746. Retrieved 17 March 2015, from http://www.amjmed.com/article/S0002-9343(09)00404-5/fulltext#sec2.1

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13 Redmond, J., & Fkiaras, E. (2010, January). *Legal Report: California's Paid Family Leave Act Is Less Onerous than Predicted.* Society for Human Resource Management Publication. Retrieved 17 March 2015, from http://www.shrm.org/LegalIssues/EmploymentLawAreas/Documents/LR012010.pdf

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15 Houser, L., & White, K. (2012). *Awareness of New Jersey's Family Leave Insurance Program is Low, Even as Public Support Remains High and Need Persists*. Rutgers University, The State University of New Jersey Center for Women and Work Publication. Retrieved 17 March 2015, from http://njtimetocare.com/sites/default/files/03_New%20Jersey%20Family%20Leave%20Insurance-%20A%20CWW%20Issue%20Brief.pdf

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19 H.R.S. § 398-1 *et seq.*

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TO: Members of the Committee on Judiciary and Labor

FROM: Natalie Iwasa

HEARING: 9:30 a.m. Thursday, March 19, 2015

SUBJECT: HB 496, HD1, Family Leave Tax – **OPPOSED**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB 496, HD1, which creates a new payroll tax for family paid leave. I oppose both versions of this bill.

It appears this tax would apply to employees who only make minimum wage. It's already hard enough for them to make ends meet.

In addition, we have enough taxes. Please let employers decide what benefits they would like to offer their employees.

Please vote "no" on this bill.

HB 496, HD1 RELATING TO EMPLOYMENT.

TESTIMONY IN SUPPORT OF INTENT
Requesting Amendments and Language Consistent with Original HB 496

Committee on Judiciary and Labor

Senator Gilbert Keith-Agaran, Chair
Senator Maile Shimabukuro, Vice Chair

Thursday, March 19, 2015 at 9:30 am
Conference Room 308

March 18, 2015

Aloha Chair Keith-Agaran and Vice Chair Shimabukuro, and Members of the Committee:

My name is Shay Chan Hodges and I have been a Maui resident for twenty-three years. I have two sons who currently attend King Kekaulike High School.

For the majority of my years as **a working mother in Hawaii**, I have written grants for nonprofits in the health and human services arenas. I also owned and operated Maui Child Toys and Books for six years in Makawao Town, and most recently, published ***Lean On and Lead, Mothering and Work in the 21st Century Economy*** about the **economic impacts of the intersection of work and parenting**.

I support the intent of HB 496, but have serious concerns and reservations about the language in HD1, which is significantly different from the original bill, specifically, it:

- Only creates paid family leave **for those employed at firms/businesses of 100 or more employees**, which creates huge solvency problems.
- Treats workers who change jobs unfairly. HD1 penalizes workers who move from an employer with 100 or more employees to a smaller employer because even though that worker would have made financial contributions into the fund for years, he or she would NOT be able to take paid family leave. Conversely, a worker who has not paid into the fund and changes jobs to work for an employer with more than 100 employees, would be able to access the leave. **Coverage needs to be tied to what has been paid in**.
- Exempts all state employees from coverage. **This also ends up taking out a significant portion of potential payments into the fund**.
- Creates an incentive for employees to leave small businesses, rather than protecting small businesses. Small businesses are not required to provide sick leave, and under HD 1, would not be required to provide paid family leave. **Adding more workplace protections for larger workplaces creates more of a burden for small businesses to compete.**

In my ebook *Lean On and Lead*, I present a variety of first person narratives and interactive data that describe what parents and other caregivers need to significantly participate in the economy while raising children or caring for other family members.

> *Individuals interviewed include working women, mothers, and fathers from around the world who represent a broad variety of occupations, as well as quite a few Hawaii residents, for example,* ***Lieutenant Governor Shan Tsutsui, then Congresswoman Colleen Hanabusa, US Senator Brian Schatz, State Senator Jill Tokuda, State Representative Beth Fukumoto, and Maui District 2010 Teacher of the Year Emily Haines-Swatek,*** *to name a few.*

The stories told in the interviews make it very clear how important policies that support working parents are to our economy -- both in the short and long-term.

In fact, one of my interviewees, an engineer and start-up entrepreneur in California, discusses how California's Paid Family Leave laws helped her:

> *"It was a tricky case for me. I could have received no financial support during my maternity leave because my current employer does not provide pay for family leave, and my short term disability insurance policy only provided me with up to two-thirds of my pay for two weeks. So although I could take twelve weeks off without losing my job, based on my current job situation, I was only entitled to wages for five percent of that time.*
>
> *"I was very disappointed. Luckily, I found out that my previous employer (a private company) participated in the California State Disability Insurance program.* ***Since I had paid into the SDI fund when I was at the former employer and it was within the required time frame, I was automatically eligible for paid family leave. I received about fifty-five percent of my pay. The paid leave was a great help to my family.*** *Since my husband's employer also participated in PFL, he was able to get partial pay when he took time off to care for our daughter during the first year. " – Lala Zhang, Excerpt From "Lean On and Lead." iBooks.*

Last summer, as a result of my work collecting interviews and compiling robust research and data, I was invited to attend the **White House Summit on Working Families**. That event, which was attended by President Barack Obama and the First Lady, members of the President's cabinet, business leaders, advocates, union representatives, and diverse workers, **addressed the need for public policy and private sector supports for caregivers.** More recently, I had the opportunity to join a **Google hang-out with Secretary of Labor Tom Perez** and a half dozen other writers and policy experts who have been following the Administration's efforts to pass paid family leave legislation nationwide. The hang-out took place two days after **President Obama's State of the Union** speech when he said:

"Today, we're the only advanced country on Earth that doesn't guarantee paid sick leave or paid maternity leave to our workers."

Before taking questions at the hang-out, Sec. Perez reported that the Administration was working on several fronts to increase women's and family's economic security, noting that he had recently spoken with about a hundred state legislators about these issues. He also encouraged those of us working to pass paid family leave and paid sick days to make the business case for workplace policies that support families.

So I wanted to make sure to emphasize that not only does supporting working families improve the economy for the state as a whole, it also improves the economic landscape for businesses**. A 2011 study of California's family leave program estimated that paid family leave saves employers $89 million a year by improving worker retention and increasing productivity, and a similar Rutgers University study showed cost savings for businesses in New Jersey from decreased turnover, improved productivity, and improved employee morale.**

As I am sure you are aware, nationwide, only 11% of employees have access to paid family leave through their employers **and female employees are affected disproportionately by this situation.** In Hawaii, 247,000 people serve as family caregivers, and of those who need paid leave in our state but do not have access to it, one in three need to care for an aging parent or spouse.

The original HB 496 would create a trust fund that employees would contribute to which would provide partial wage replacement for **up to twelve weeks when needed**. Because Hawaii's bill does not require businesses to contribute, nor does it rely on state funds to continue operating, it is a win-win for businesses and employees.

I know that this is not the first time that a family paid leave bill has been introduced to the Hawaii State Legislature, but I believe the time is right for the original Bill HB 496 to pass. Now more than ever, Hawaii's legislators, many of whom are caregivers themselves, understand that a thriving economy is only as strong as the families that participate in it.

They also understand that the majority of workers are also caregivers at some point in their working lives, and our economy depends on their ability to continue to contribute both labor and intellectual capital, even if they have to take breaks to care for loved ones. I urge you to pass HB 496 as it was originally drafted.

Mahalo,

Shay Chan Hodges
Author, Lean On and Lead, Mothering and Work in the 21st Century Economy
Maui, Hawaii

From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for HB496 on Mar 19, 2015 09:30AM*
Date:	Wednesday, March 18, 2015 3:59:58 PM

HB496

Submitted on: 3/18/2015

Testimony for JDL on Mar 19, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Monk	Individual	Support	No

Comments:

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