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EMPLOYEES' RETIREMENT SYSTEM

TESTIMONY BY THOMAS WILLIAMS
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STATE OF HAWAII

TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2333, S.D. 1, H.D. 1

April 4, 2018
1:30 P.M.
Conference Room 308

RELATING TO RETIREMENT SAVINGS

Chair Luke, Vice Chair Cullen and Members of the Committee,

S.B. 2333, S.D. 1, H.D. 1 would conduct a study on the feasibility of implementing a Hawaii Retirement Savings Plan and to establish a Hawaii retirement savings board to administer the retirement savings plan for private sector employees in order to achieve economic security, improve economic mobility, and reduce wealth disparity. The Board would be administered by the Department of Budget and Finance and would include a representative from the Employees' Retirement System to be selected by the Governor.

The Staff of the Employees' Retirement System supports the intent of this legislation; however, it concurs with the comments provided by the Department of Budget and Finance which suggests conducting the feasibility study prior to the establishment of the plan, the board and the special fund provided by S.B. 2333, S.D. 1, H.D. 1.

Thank you for the opportunity to provide comments on this legislation.



Employees' Retirement System
of the State of Hawaii



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House of Representatives
Committee on Finance
Wednesday, April 4, 2018
1:30 a.m.
Conference Room 308

To: Representative Sylvia Luke, Chair
Re: S.B. No. 2333, S.D. 2, H.D. 1, Relating to Retirement Savings

Dear Chair Luke, Vice-Chair Cullen, and Members of the Committee,

My name is Kerry M. Komatsubara and I am the Advocacy Director for AARP Hawai'i. AARP is a membership organization of people age fifty and over with about 150,000 members in Hawai'i. AARP advocates for issues that matter to Hawai'i families, including the high cost of long-term care; access to affordable, quality health care for all generations; and serving as a reliable information source on issues critical to people over the age of fifty.

AARP Hawai'i strongly supports S.B. No. 2333, S.D. 2, H.D. 1, which requires the Legislative Reference Bureau (LRB) to conduct a study on the feasibility of implementing a Hawai'i retirement savings program for private-sector employees. After completing the study, LRB shall report its findings and proposals to the 2019 Legislature and, if the results of the study support it, a Hawai'i retirement savings program shall be established and implemented.

A. Why do we need a government-sponsored retirement savings program for private-sector workers?

Today, the typical working household has only \$3,000 in retirement assets and those close to retirement have only \$12,000. A secure retirement is out of reach for about half of Hawai'i's private-sector workers, especially those who work for small business.

Fewer and fewer people have a pension plan and many workers – about 216,000 people in Hawai'i – currently have no access to a 401K, or other ways to save for retirement at work. This is critical because studies show that workers are 15 times more likely to save for their future if they can save through payroll deduction. (See, AARP's Fact Sheet, dated August 2015 and is attached to this testimony.)

B. What is the benefit to the State government if more workers begin to save for their retirement?

When people save for retirement they are less likely to rely on public assistance programs later in life. An AARP and University of Maine study estimates Hawai'i would save \$32.7 million on public assistance programs through 2032 if lower-income retirees saved enough to increase their retirement income by \$1,000 more per year. This information is reported in AARP's Fact Sheet dated May 2017, and is attached to this testimony.

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C. Is this problem unique to Hawai'i? What are other states across the Nation doing about this?

Nine states have already passed legislation that improves workers' access to a retirement program, and 22 more are in progress to help their future retirees. Oregon, the first state to implement a state retirement program for private-sector employees, started its program to enroll eligible workers into the OregonSaves program in October of 2017. As of March 1, 2018, 26,361 Oregon workers have active accounts (80% participation) and about \$1.2 million have been contributed toward their retirements. (See, OregonSaves Communication Update – March 1, 2018, at page 4.) Hawai'i must join in this national effort to identify solutions to help our future retirees to be retirement ready, and AARP Hawai'i stands ready to work with the Legislature to determine the appropriate details for a Hawai'i Saves program.

D. Are there questions that need to be answered before Hawai'i establishes and implements a Hawaii retirement savings program?

Yes. There are questions that need to be studied and answered, and that is the purpose of the feasibility study. Some of the questions raised by opponents, however, are not intended to solve the problem at hand, which is: how do you help Hawai'i's workers save for their retirement? Opponents to a Hawai'i Saves Program raise objections with no alternative solution – in essence, the opponents advocate for a status quo approach to address a problem that is growing in Hawai'i and across the Nation.

For example, we believe concerns raised by opponents regarding the Employee Retirement Income Security Act of 1974 are a red-herring. Oregon's program has been live for six months, and to date the standing of the program as exempt from ERISA has not been challenged. More specifically, we believe these programs fall under the 1975 safe harbor regulation providing that voluntary payroll deduction IRAs will not be treated as ERISA plans so long as they are merely *facilitated* by employers. (See 29 CFR 2510.3-2(d); 40 FR 34526 (Aug. 15, 1975).) These plans also come within longstanding Department of Labor guidance: (1999 DOL guidance issued by Interpretative Bulletin 99-1.)

Attached is a copy of the legal opinion from K&L Gates which opines that the California Secure Choice Retirement Savings Trust Act, which is similar to S.B. No. 2333, S. D. 2, H.D. 1, is drafted so as to avoid ERISA preemption. Hawai'i has the benefit of the experiences of Oregon, California, Illinois, Maryland and Connecticut regarding this ERISA question. In all five of these states, laws to start a payroll deduction IRA plan were enacted over the objections of American Council of Life Insurers (ACLI), which also raised this same ERISA preemption concern.

E. Are there any changes that should be made to S.B. No. 2333, S.D. 2, H.D. 1?

We suggest for this Committee consider the following changes to S.B. No. 2333, S.D. 2, H.D. 1:

1. Sections 4 and 5 may not be necessary and perhaps the reference to the appropriations should be deleted.
2. The last sentence in Section 2(a) provides that LRB "may issue a request for proposals for a third party to conduct the market analysis under paragraph (1)." We suggest that this sentence be clarified to provide that the third-party services also include all other studies required of LRB under this Act, including the work described in paragraphs (2) through (9).
3. We believe that an appropriation amount of \$150,000 should be inserted into Section 6. This figure is based upon an estimate provided by the Center for Retirement Research at Boston College which is the research center that conducted the feasibility studies for Oregon, Connecticut and Illinois. In addition, we suggest that Section 6 be clarified to

state that the funds appropriated may be expended by LRB for all of the marketing and research work required of LRB under this Act and not just the work described in section 2(a)(1).

4. Section 7:

- a. Paragraph (1), we suggest that it be made clear that the Legislature should be the body that makes the determination of "a positive finding in the feasibility study pursuant to section 2 of this Act."
- b. Paragraph (2), we suggest that the LRB should report to the Legislature on the ERISA question rather than have the LRB make the determination whether the Hawai'i retirement savings program qualifies as an employee benefit plan under ERISA.
- c. Paragraph (3), we suggest that this issue be included as a part of the feasibility study and the reference to the number of years of the prohibition should be eliminated since it is a matter to be determined subsequent to the study.

Thank you for the opportunity to testify in support of S.B. No. 2333, S. D. 2, H.D. 1.

Attachments: AARP Fact Sheet: Workplace Retirement Plans Will Help Workers Build Economic Security, August 2015.
AARP Fact Sheet: Hawai'i Could Save \$32.7 Million by Helping People Save for their Own Retirement, May 2017.
OregonSaves; Communication Update, March 1, 2018, at page 4.
K&L Gates opinion letter dated May 16, 2017.

Fact Sheet: Hawaii

Workplace Retirement Plans Will Help Workers Build Economic Security

David John and Gary Koenig
AARP Public Policy Institute

Access to an employer-based retirement plan is critical for building financial security later in life. Yet, about 50 percent of Hawaii's private sector employees—roughly 216,000—work for an employer that does not offer a retirement plan. Significant numbers of workers at all levels of earnings and education do not have the ability to use payroll deductions to save for retirement.

Currently in Hawaii, workers of larger employers are more likely to have a retirement plan than workers of smaller employers. The probability of having a workplace retirement plan also differs considerably by workers' earnings level, education, and race and ethnicity. The lack of ability to participate in an employer-provided retirement plan, however, spans all levels of education and earnings, and cuts across all groups.

Hawaii's Situation by the Numbers

About 50 percent of Hawaii workers ages 18 to 64 in the private sector work for businesses that do not offer a retirement plan.

- **Small-business employees are less likely to have a plan:** Workers in Hawaii businesses with fewer than 100 employees are much less likely to have access to a plan (66 percent) than workers in larger businesses (34 percent). In raw numbers, about 139,000 small-business employees do not have access to a retirement plan compared with about 77,000 in businesses with 100 or more workers.
- **Workers at all education levels do not have a plan:** About 72 percent of workers who did not have a high school degree did not have an employer-provided retirement plan—a much higher percentage than workers with some college (49 percent) or a bachelor's degree or higher (40 percent). But in raw numbers, workers with at least some college who did not have access to an employer plan exceeded those workers without a high school degree who did not have access to an employer plan (117,000 versus 14,000).

- **Workers at all earnings levels do not have a plan:** More than 167,000 of Hawaii employees with annual earnings of \$40,000 or less did not have access to a workplace plan. These workers represent about 78 percent of the 216,000 employees without an employer-provided retirement plan.
- **Access to a plan differs substantially by race and ethnicity:** About 62 percent of Hispanic workers and about 62 percent of African Americans lacked access to an employer-provided retirement plan. Minorities accounted for about 84 percent (182,000) of the roughly 216,000 employees without a workplace retirement plan.

Why Access to Payroll Deduction Retirement Savings Plans Is Important

- **Makes saving easier:** About 90 percent of households participating in a workplace retirement plan today report that payroll deductions are very important and make it easier to save.¹ Saving at work appears to be critical: Few households eligible to contribute to an Individual Retirement Account outside of their jobs regularly do so.²
- **Helps increase retirement income:** Social Security is essential to retirement security, but its

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average retirement benefit is only \$1,300 a month. Most retirees will need additional resources. Providing workers with a convenient way to save is an important step to increase the amount of assets a person will have at retirement: A 2014 Employee Benefit Research Institute study found that about 62 percent of employees with access to a retirement plan had more than \$25,000 in total savings and investments, and 22 percent had \$100,000 or more. However, only 6 percent of those without access to such a plan had over \$25,000 saved, and only 3 percent had \$100,000 or more.³

- **Allows individuals to build their own economic security:** Retirement savings plans help workers achieve economic security through their own efforts. Greater access could also help improve economic mobility and reduce wealth disparity.

Hawaii: Who is NOT Covered by a Workplace Retirement Plan? (percentage and number of private wage and salary workers ages 18-64 whose employer does not offer a retirement plan)

Item	Group	%	Number
	ALL	ALL	
Age	18-34 years	49.8%	215,596
	35-44 years	58.0%	98,730
	45-54 years	46.5%	41,514
	55-64 years	42.2%	39,499
	Hispanic	44.9%	35,852
Race & Ethnicity*	Asian (non-Hispanic)	61.5%	27,059
	Black (non-Hispanic)	48.8%	88,843
	White (non-Hispanic)	61.8%	2,049
Education	Less than high school	46.6%	33,966
	High school	72.4%	13,847
	Some college	56.7%	84,285
	Bachelor's or higher	49.3%	72,954
Gender	Male	40.4%	44,510
	Female	50.4%	114,782
Employer Size	Under 10	49.1%	100,814
	10-49	78.2%	56,969
	50-99	62.0%	57,145
	100-499	55.0%	24,458
	500-999	43.5%	29,549
Earnings Quintile	1,000+	34.0%	8,260
	\$14,000 or less	29.9%	39,216
	\$14,001 to \$25,000	75.4%	63,215
	\$25,001 to \$40,000	62.9%	61,301
	\$40,001 to \$63,500	43.6%	42,771
Over \$63,500	36.3%	32,073	
		25.0%	16,235

Source: U.S. Census Bureau's Current Population Survey, March Supplements 2012-2014.

Note: The results are based on three-year averages from 2011-2013. The sample includes workers whose longest held job was in the private sector. Earnings quintiles are based on all wages and salary earned by U.S. workers, whether or not they were covered by a retirement plan.

* Other non-Hispanic category is not shown, so sum of race & ethnicity categories may not sum to total

- 1 Jack VanDerhei, "The Impact of Modifying the Exclusion of Employee Contributions for Retirement Savings Plans from Taxable Income: Results from the 2011 Retirement Confidence Survey," Employee Benefit Research Institute (EBRI) Notes, March 2011. Available at http://www.ebri.org/pdf/notespdf/EBRI_Notes_03_Mar-11_K.Taxes_Acct-HP.pdf.
- 2 For workers earning between \$30,000 and \$50,000, about 72 percent participated in an employer-provided retirement savings plan when one was available, compared with less than 5 percent without an employer plan who contributed to an Individual Retirement Account. Unpublished estimates from EBRI of the 2004 Survey of Income and Program Participation Wave 7 Topical Module (2006 data).
- 3 2014 RCS Fact Sheet #6, EBRI. Available at http://ebri.org/pdf/surveys/rcs/2014/RCS14_FS_6_Prep_Ret_Final.pdf.

State Fact Sheet: HI, #332, August 2015

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Fact Sheet: Hawaii

Hawaii Could Save \$32.7 Million by Helping People Save for Their Own Retirement

William Shiflett and Catherine Harvey
AARP Public Policy Institute

When individuals save for retirement they are less likely to rely on public assistance programs later in life. State-facilitated retirement savings plans for small-business employees would help people save more for retirement and, in turn, save significant taxpayer dollars for programs like Medicaid, Supplemental Security Income, the Supplemental Nutrition Assistance Program, and housing assistance. More than 30 states are considering creating retirement plans for private-sector workers whose employers do not already offer one. New research finds that Hawaii would save \$32.7 million on public assistance programs between 2018 and 2032 if lower-income retirees save enough to increase their retirement income by \$1,000 more per year.

Fiscal Savings to States of \$1,000 More in Retirement Income for the Bottom Two Retirement Income Quintiles

State	Total Savings, Combined Federal and State, 2018-32	Savings to State, 2018-32
Alabama	\$156,459,591	\$17,652,790
Alaska	\$40,947,013	\$13,051,329
Arizona	\$396,596,440	\$89,210,583
Arkansas	\$129,450,257	\$27,611,939
California	\$5,383,081,091	\$1,393,743,339
Colorado	\$472,289,002	\$154,864,156
Connecticut	\$421,454,107	\$89,974,509
Delaware	\$69,140,518	\$18,176,268
Florida	\$1,404,379,386	\$290,543,822
Georgia	\$338,628,931	\$52,545,035
Hawaii	\$160,312,439	\$32,749,675
Idaho	\$54,198,256	\$11,508,077
Illinois	\$758,140,927	\$139,013,992
Indiana	\$268,263,150	\$55,927,866
Iowa	\$264,687,543	\$67,574,339
Kansas	\$195,565,665	\$51,724,322
Kentucky	\$319,759,599	\$46,163,299
Louisiana	\$201,858,462	\$32,884,222
Maine	\$135,574,464	\$22,980,536
Maryland	\$331,624,472	\$69,676,767



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State	Total Savings, Combined Federal and State, 2018-32	Savings to State, 2018-32
Massachusetts	\$1,318,605,436	\$333,548,142
Michigan	\$496,846,112	\$81,681,041
Minnesota	\$796,004,880	\$257,527,390
Mississippi	\$195,911,435	\$29,494,258
Missouri	\$403,926,297	\$99,087,689
Montana	\$46,325,459	\$8,374,620
Nebraska	\$130,684,259	\$40,763,572
Nevada	\$127,056,172	\$24,048,205
New Hampshire	\$62,650,543	\$15,672,254
New Jersey	\$809,192,172	\$193,934,233
New Mexico	\$49,319,790	\$7,424,601
New York	\$4,952,709,650	\$1,467,056,431
North Carolina	\$617,668,545	\$127,363,525
North Dakota	\$26,421,294	\$5,652,108
Ohio	\$1,093,070,035	\$240,600,349
Oklahoma	\$83,792,496	\$20,526,999
Oregon	\$453,533,958	\$98,930,353
Pennsylvania	\$1,359,355,285	\$330,156,349
Rhode Island	\$171,075,417	\$25,439,603
South Carolina	\$212,798,415	\$37,450,871
South Dakota	\$81,640,098	\$14,053,954
Tennessee	\$1,142,228,011	\$260,188,825
Texas	\$1,381,708,267	\$340,644,794
Utah	\$147,106,849	\$26,089,868
Vermont	\$53,543,140	\$12,722,408
Virginia	\$481,686,611	\$135,330,635
Washington	\$1,030,924,340	\$297,935,294
West Virginia	\$132,024,966	\$17,217,926
Wisconsin	\$684,324,456	\$139,334,771
Wyoming	\$50,305,916	\$17,966,328
United States	\$32,978,295,282	\$7,793,556,409

Source: AARP Public Policy Institute analysis of Philip Trostel, The Fiscal Implications of Inadequate Retirement Savings in Maine (Orono, ME: The University of Maine Margaret Chase Smith Policy Center, February 2017). https://mcspolicycenter.umaine.edu/wp-content/uploads/sites/122/2017/03/final_aarp_report.pdf

Fact Sheet 463, May 2017

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Communications Update – Mar. 1, 2018

Summary

Outreach highlights

- For all waves and the pilots combined, 362 employers registered, 267 (74%) added employees, and 143 (40%) began payroll deductions as of 3/1/18.
- For wave one, 174 employers (8%) registered, 1,934 (88%) certified exemption, and 97 (4%) did not respond as of 3/1/18. Direct outreach continues to those that have yet to respond.
- Early adoption notices are going out to 500 employers a day, starting with wave two on 2/15/18. For wave two, 39 employers (1.7%) have registered and 335 (14.3%) have claimed exemption. 135 employers in all have joined early (not counting the pilots) as of 3/1/18.
- Outreach continues to focus on general awareness, providing employer and employee education sessions, and collecting feedback.
- We focused statewide, in-the-field outreach along the coast in February. 109 events are scheduled to date for 2018.
- Paid media tactics, including video, continue to be a major driver of website visits and social media following.

Goals and metrics (as of 3/1/18)

- 32,913 employees are now eligible to participate. 26,361 (80%) have active accounts, and 7,517 (23%) have begun making contributions.
- Employees contributed \$1,240,962.52, and assets now total \$1,196,465.61.
- Website visits dropped this month as wave one activity slowed down.
- Employer calls remained steady. Employee calls dropped after the spike caused by wave one employees receiving first notice.
- Stakeholder engagement continues to steadily expand.
- Earned media continues to dip after the big spike due to wave one.
- The number of events in February exceeds the number from the same time last year.
- Click-thru rates are still above industry average for most digital tactics.

May 16, 2017

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By E-mail and FedEx

Katie Selenski
Executive Director
California Secure Choice
915 Capitol Mall, Room 110
Sacramento, CA 95814

Re: California Secure Choice

Dear Ms. Selenski:

The California Secure Choice Retirement Savings Trust Act (the "Act") established the Secure Choice Retirement Savings Board ("Board") and instructed the Board to design and establish a retirement savings program for private sector workers ("Secure Choice" or the "Program").¹ The Act provides that the Board may not implement Secure Choice if it would be considered an employee benefit plan under the Employee Retirement Income Security Act ("ERISA").² In addition, the Act expressly required that the Program qualify as a non-ERISA plan under an anticipated Department of Labor ("DOL") "safe harbor" regulation covering state-based IRA savings programs. Such a regulation was issued as DOL Regulation Section 2510.3-2(h) ("2016 Safe Harbor"). However, the 2016 Safe Harbor is expected to be revoked under the Congressional Review Act ("CRA").³ While I understand that the California legislature intends to eliminate the reference to the 2016 Safe Harbor from the Act, the requirement that Secure Choice may not be an ERISA-regulated plan is expected to remain.

You have asked my advice on the effect of the CRA disapproval resolution on Secure Choice, in particular the Board's efforts to develop the Program as a non-ERISA savings vehicle. Subject to the discussion and assumptions below, I believe that pre-2016 DOL safe harbor guidance and applicable case law provide firm grounds for the Board to accomplish its mission to design and implement Secure Choice as a non-ERISA savings program for private sector workers in California. In addition, I believe that current law should not impede the Board if it chooses to consider Program designs using an "opt out" negative election approach.

My analysis assumes that the description of the Program below is accurate; the Act will be amended to remove references to the 2016 Safe Harbor; and the Board intends to design, implement and administer the Program in accordance with the conditions in the remaining safe harbor guidance. Please note that the final authority to determine whether the Program as it is ultimately designed is not an ERISA employee benefit plan rests with the courts and it is possible that a court could take a different view than expressed in the 1975 Safe Harbor (as defined below) or in my analysis. Further, my advice is based on an analysis of relevant provisions of applicable laws, regulations and regulatory interpretations currently in effect. Because such laws, regulations and interpretations are subject to change, either prospectively or retroactively, the Board should continue to monitor developments in this area to determine whether future judicial or regulatory developments may affect the analysis or conclusions in this letter.

What follows is a brief description of the Program; a summary of the 1975 Safe Harbor; the application of such safe harbor to the Program as currently envisioned; and the impact of the CRA resolution recently passed by Congress, which the President is expected to sign, disapproving the 2016 Safe Harbor and a brief summary of applicable case law.

Expected Secure Choice Design

Under the Act, Secure Choice will be a state-based payroll withholding savings program using individual retirement accounts (“IRAs”) under Sections 408 and 408A of the Internal Revenue Code of 1986, as amended. Under the Act, certain employers will be required to provide access to the Program to their Californian employees, who are not covered by a 401(k) or other workplace retirement plan. All IRA assets will be held in a trust fund established under California law (the “Trust Fund”). Trust Fund assets will be invested in investments selected by the Board or by third-party investment advisers or managers retained by the Board pursuant to Board-established policies and guidelines.

The Board has broad discretion to “design and implement” the Program and adopt regulations governing the Program.⁴ The Board intends to retain retirement and investment consultants, recordkeepers/administrators, legal counsel and other experts to assist in the design, implementation and operation of its Program.

Employer involvement in Secure Choice will be limited and employers will be prohibited from receiving any compensation in connection with the Program. Employers will be required only to provide census information for their California employees, distribute the disclosure documents and withhold and remit employee contributions to the Trust Fund.⁵ Employers will not be liable for an employee’s decision to participate in, or opt out of, the Program or for employee’s investment decisions.⁶ While the Act provides the Board with discretion to permit employer contributions if such contributions would not result in the Program being considered an

employee benefit plan under ERISA, the Board does not intend to permit employer contributions.

The Board currently intends to select a “default” contribution rate and investment vehicle for eligible employees. Under this approach, no amounts will be withheld from an eligible employee or contributed to the Program unless the employee submits to the Board or its designee an acknowledgment that he or she has read and understood the Program disclosures. Such disclosures will include a plain English description of the default contribution rate and investment vehicle and instructions on how to select a different contribution rate and, if employees are offered a choice of investments, other investment vehicles. Program disclosures also will explain to employees that: (i) the Program is not sponsored by their employer and the employer is not responsible for the Program or liable as a plan sponsor; (ii) their employer will not provide financial advice and they should contact their own financial advisors for advice; and (iii) their employer is not liable for any decisions that the employees make regarding whether to participate in the Program or how to invest their IRAs under the Program.⁷ As currently envisioned, an employee who does not submit the disclosure form will not be permitted to contribute to the Program.

ERISA

ERISA Coverage. ERISA covers employee benefit plans “established or maintained by an employer.”⁸ The typical IRA is not regulated by ERISA because it is set up and funded by an individual, not his or her employer. However, an IRA program that is offered through the workplace to employees could be considered an ERISA plan if, for example, there is significant employer involvement.

The DOL has issued two sets of ERISA “safe harbors” covering payroll deduction IRA programs. First, a 1975 DOL regulation established a general safe harbor ERISA for payroll withholding IRAs satisfying certain conditions including most notably that employers refrain from endorsing the program so employee participation is completely voluntary.⁹ (This regulation, together with subsequent DOL interpretative guidance and advisory opinions, will be referred to as the “1975 Safe Harbor”). The 1975 Safe Harbor predated the efforts by California and other states to establish a state-run mandated payroll withholding IRA savings program for private sector workers. The second DOL regulation was the 2016 Safe Harbor, which provided additional safe harbor protection specifically for state automatic enrollment IRA programs. However, the 2016 Safe Harbor would be repealed upon the President’s signature (or non-action) on the CRA disapproval resolution.¹⁰

1975 Safe Harbor. DOL Regulation Section 2510.3-2(d) provides that a payroll deduction IRA program will not be considered a pension plan subject to ERISA if: (i) no contributions are made by the employer; (ii) the sole employer involvement is collecting contributions through payroll

deductions, remitting them to the IRA sponsor and publicizing the program to employees without employer-endorsement; (iii) the employer receives no compensation (other than for certain permitted services actually performed); and (iv) employee participation is completely voluntary.

The DOL expanded the scope of this four-part regulatory safe harbor by issuing Interpretive Bulletin 99-1 (the "**Bulletin**") as part of its efforts "to encourage retirement savings through payroll deduction IRAs." The Bulletin noted that "over half of the private wage and salary workforce does not have employment-based retirement coverage" and that this lack of coverage was most prevalent among employers with fewer than 100 employees. The Bulletin then observed that small employers do not sponsor retirement plans in part due to the "administrative complexity and burden" and the "risk of commitment to an ongoing expense in the face of financial uncertainties." Although the DOL recognized that employees could always set up their own IRAs, it concluded that employees are more likely to "make use of an individual retirement savings vehicle that is offered in an employment setting and features regular withholding." The Bulletin stressed the DOL's "long-held view that an employer who simply provides employees with the opportunity for making contributions to an IRA through payroll deductions does not thereby establish a pension plan."

The Bulletin discussed that the non-employer endorsement and voluntary participation requirements are interrelated. Thus, the Bulletin stated that to be "completely voluntary" the employer cannot endorse or recommend either the IRA sponsor or the funding media" and should inform employees that other IRA vehicles are available outside the program and that an IRA may not be appropriate for all employees. On the other hand, an employee's participation would not be voluntary if he or she was coerced into contributing.¹¹

Some employer involvement is allowed in a payroll deduction IRA without jeopardizing the ERISA exemption. Thus, in a payroll IRA program that was invested in a group annuity contract, the DOL permitted the employer, as contract holder, to vote on the annuity provider's upcoming plan of demutualization and elect the method for allocating the demutualization proceeds among IRA participants.¹² The DOL based its ruling on three factors: (i) the actions of an independent third party caused the need for the employer to act; (ii) the employer would be acting in accordance with New Jersey insurance law; and (iii) the employer's actions were one-time acts that would not involve the employer retaining any on-going discretion in administering or operating the IRAs.

An even greater and ongoing level of employer involvement was allowed by the DOL when it ruled that an employer could select three IRA sponsors from a pool of applicants, periodically review each sponsor's performance, replace any underperformers and negotiate for and receive a written indemnification from each sponsor.¹³ The DOL found that these activities "would not result in endorsement or involvement beyond that permitted under the regulation" and would not

prevent the program from qualifying under the 1975 Safe Harbor.

Scope of CRA. The CRA provides Congress with a simplified procedure to issue a “disapproval resolution” revoking certain recent federal regulations and prohibiting federal agencies from issuing a new rule that is “substantially the same” as the revoked regulation.¹⁴ The disapproval resolution states that the 2016 Safe Harbor will have “no force or effect” and also appears to revoke the related “preambles” published by the DOL with the regulation.¹⁵ (The CRA resolution cites to the first page of the Federal Register entry as opposed to the page where the actual Safe Harbor regulation begins and the CRA defines the disapproved rule as including “an agency statement of general or particular applicability.”¹⁶) The disapproval resolution revoking the 2016 Safe Harbor does not reference the 1975 Safe Harbor.

1975 Safe Harbor and Secure Choice. Based on our understanding of the expected terms and conditions, the Secure Choice Program should be able to qualify for the 1975 Safe Harbor exemption from ERISA regulation. Employer contributions will not be allowed; employer involvement will be limited to certain ministerial acts such as distributing information and collecting and remitting payroll withholding; employers will receive no compensation or other amounts for participating in the Program; and employee contributions will be made pursuant to employee elections. Program disclosures to employees will highlight the employer’s limited involvement and that the Program is not intended to be an ERISA-governed retirement plan and employees should consider alternative IRA and other savings arrangements and consult with their own advisors for tax and investment advice.

Automatic Enrollment; Alternatives to 1975 Safe Harbor. While the Board has not yet developed the contribution election process, there are strong arguments that a program using automatic enrollment with *opt out* elections also could satisfy the 1975 Safe Harbor. In deliberating whether and under what terms to issue the 2016 Safe Harbor, the DOL argued that a payroll withholding program that nudged employees into savings through automatic enrollment elections would not satisfy the “completely voluntary” condition of the 1975 Safe Harbor. (For purposes of this discussion, the term “automatic enrollment” includes both automatic enrollment and automatic escalation of contribution rates with an employee opt out.) While this position was enunciated in the presumably revoked preambles to the proposed and final 2016 Safe Harbor, it would remain relevant to the extent it reflects the DOL’s reading of the 1975 Safe Harbor and the nature of negative elections with an opt out.¹⁷

The preambles to the proposed and final 2016 Safe Harbor explained the DOL’s view that a program’s auto-enrollment/escalation feature could cause an employer to exercise undue influence over an employee’s participation and that contributions made without an affirmative election might not be completely voluntary. The DOL emphasized the relationship between the employer endorsement and the completely voluntary conditions in the preamble to the proposed

2016 Safe Harbor. For example, according to the DOL, the “completely voluntary” requirement means that the decision to enroll in an IRA program established under the 1975 Safe Harbor must be “self-initiated” (i.e., not coerced by the employer) “**where the employer is acting on his or her own volition** to provide the benefit program, the employer’s actions—e.g., requiring an automatic enrollment arrangement—would constitute its ‘establishment’ of a plan within the meaning of ERISA”¹⁸ Under the DOL’s statements such differing requirements (assuming there is a difference between a voluntary and completely voluntary election) would be unnecessary if the employer’s offering of the program is required by state law and the employer has no say in its terms or conditions; in such case the element of “employer volition” would be absent, with the result that any employee participation in the program should be viewed as “[completely] voluntary.”

Finally, a regulatory safe harbor is just that: it provides a bright-line standard for identifying programs that are not covered by ERISA, but does not cover the landscape for what is or is not an ERISA plan. Thus, a state-mandated IRA savings program, using either opt out or opt in contribution elections, should be considered to be a non-ERISA plan if the element of employer volition in the process of establishment or maintenance of the program is absent.¹⁹

Federal Case Law. ERISA’s regulation of employee benefit plans presumes a level of administrative and operational activity, as it is the employer’s activities with respect to a plan that are vulnerable to abuse.²⁰ The purpose of the “established or maintained” requirement is to “ascertain whether the plan is part of an employment relationship by looking at the degree of participation by the employer in the establishment or maintenance of the plan.”²¹ A plan is established when the employer has taken affirmative steps to extend benefits by, for example, financing or arranging financing to fund benefits, establishing a procedure for disbursing benefits or representing to employees that a plan exists.²² Without documentary evidence, even an employer’s alleged promise to provide benefits does not establish an ERISA plan.²³

The Supreme Court has found that a plan does not exist when an employer assumes no responsibility to pay benefits on a regular basis such that there is no need for ongoing administrative practices associated with the provision of benefits.²⁴ The question of whether a plan is “established or maintained by an employer” is one of fact “to be answered in light of all the surrounding facts and circumstances from the point of view of a reasonable person.”²⁵ In applying this test, the crucial factor is whether the employer intends to provide benefits on a regular and long-term basis.²⁶ To ascertain whether an employer has established an ERISA benefits plan courts will look to: (1) internal or distributed documents; (2) oral representations; (3) the existence of a fund or account to pay benefits; (4) actual payment of benefits; (5) a deliberate failure to correct known perceptions of a plan’s existence; (6) the reasonable understanding of employees; and (7) the intentions of the putative sponsor.²⁷ These and similar

judicial precedents support a conclusion that IRAs established pursuant to the Program should not be considered ERISA plans "established or maintained" by covered California employers

As Secure Choice coalesces over the next several months, I would be pleased to discuss these issues further.

Sincerely,



David E. Morse

cc: Robert Hedrick
William P. Wade

¹ California legislation enacted in 2012 established the Secure Choice Retirement Board and authorized the Board to conduct a detailed market analysis and make recommendations for an IRA-based program. Based on the Board's recommendations (see footnote 6), the California legislature in 2016 enacted SB 1234, which officially established the Program. CA Gov't Code ("CA Law") §§ 100000-44 (West 2016 Supp.).

² Act § 100043(a).

³ Congress has passed the disapproval resolution, H.J. Res 66, 115th Cong. (2017), and the President is expected to either sign the resolution or allow it to become law through non-action.

⁴ Act. §§ 100002(e), 100048.

⁵ *Id.* § 100014(c).

⁶ CA Law § 100034(a).

⁷ Act § 100014(c).

⁸ ERISA § 3(3).

⁹ DOL Reg. § 2510.3-2(d).

¹⁰ H.J. Res 66, 115th Cong. (2017).

¹¹ DOL Interpretive Bulletin 99-1.

¹² DOL Advisory Opinion 2001-03A (Feb. 15, 2001).

¹³ DOL Advisory Opinion 82-27A (Jun. 16, 1982).

¹⁴ CRA § 801(b)(2).

¹⁵ H.J. Res 66, 115th Cong. (2017).

¹⁶ U.S.C. § 551(4).

¹⁷ We are assuming (without expressing our view) for this portion of our advice that the CRA's proscription against the DOL's issuing new rules similar to the 2016 Safe Harbor would not affect the DOL's ability to issue regulatory guidance concerning whether a payroll withholding IRA program would fall within the 1975 Safe Harbor or otherwise be subject to ERISA.

¹⁸ Proposed Safe Harbor, 80 Fed. Reg. 72006, 72008 (Nov. 18, 2015) (emphasis added).

¹⁹ ERISA §§ 3(2)(A), 3(3), 4(a).

²⁰ *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1, 16 (1987).

²¹ *Peckham v. GEM State Mut. of Utah*, 964 F.2d 1043, 1049 (10th Cir. 1992) (holding that an employer's subscription to a multi-employer group insurance trust that provides employers with insurance for their employees, the purchase of insurance for its employees and the listing of insurance in the company manual as an employee benefit created an employment relationship in satisfaction of the "established or maintained" requirement).

²² *Ed Miniat, Inc. v. Globe Life Ins. Group, Inc.*, 805 F.2d 732, 739 (7th Cir. 1986).

²³ See, e.g., *Harris v. Arkansas Book Co.*, 794 F.2d 358, 360 (8th Cir. 1986) (holding that an employer's alleged promise to provide retirement benefits did not constitute the establishment of an employee pension plan despite making payments to another employee following that employee's retirement).

²⁴ *Halifax Packing Co.*, 482 U.S. at 12.

²⁵ *Deibler v. United Food & Commercial Workers' Local Union 23*, 973 F.2d 206, 209 (3d Cir. 1992).

²⁶ See *Deibler*, 973 F.2d at 209 (citing *Wickman v. Nw. Nat'l Ins. Co.*, 908 F.2d 1077, 1083 (1st Cir. 1990)).

²⁷ *Henglein v. Informal Plan for Plant Shutdown Benefits for Salaried Employees*, 974 F.2d 391, 400 (3d Cir. 1992).



CARING ACROSS GENERATIONS

Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair
House Committee on Finance

Wednesday, April 4, 2018, 1:30 p.m. Conference Room 308

TESTIMONY IN SUPPORT OF S.B. No. 2333, S.D. 2, HD1 Relating to Retirement Savings

Caring Across Generations in strong support of Sente Bill 2333, Senate Draft 2, House Draft 1.

Caring Across Generations is a national movement of families, caregivers, people with disabilities and aging Americans working to transform the way we care in this country, calling for policy solutions that enable all of us to live and age with dignity and independence. Caring Across Generations has worked with partners in Hawai'i for years in support of legislation that will help make quality long-term care accessible to everyone.

Hawaii has the fastest growing aging population in the nation. Our senior (age 65+) population is expected to grow 81 percent by 2030. Approximately 247,000 Hawaii workers serve as the primary caregiver for a family member.

Approximately fifty per cent of the State's private sector employees work for an employer that does not offer a retirement plan or are not eligible for the plan offered. The lack of opportunity to participate in an employer-provided retirement plan spans all levels of education and earnings. Employees of Hawaii businesses with fewer than one hundred employees are much less likely to have access to a retirement plan than employees of larger businesses. Employees who are offered the opportunity to save through the employee's place of employment are significantly more likely to participate and make steady contributions to build retirement savings.

Because of the reasons stated above and many others, we are in strong support of Senate Bill 2333, Senate Draft 2, House Draft 1.

Thank you for considering my testimony.

Sincerely,

Pedro Haro
Hawai'i Advocacy Director
Caring Across Generations
pedro@caringacross.org

Presentation To The
Committee on Finance
April 4, 2018 at 1:30 PM
State Capitol Conference Room 308

Testimony on Senate Bill 2333, SD 2, HD 1

TO: The Honorable Sylvia Luke, Chair, Committee on Finance
The Honorable Ty J.K. Cullen, Vice Chair
Members of the Committee

My name is Neal K. Okabayashi, the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing banks with branches in Hawaii.

HBA offers comments on this bill which proposes to require the legislative reference bureau to conduct a study on a possible creation of a Hawaii retirement savings program for private sector employees and provides the framework for the program if the State wishes to implement the program.

HBA recognizes that there is a national and Hawaii concern that despite the availability of many retirement services offered by the Hawaii banks and other financial institutions, many small businesses have not availed themselves of such retirement services to provide retirement benefits for their employees.

While the intent of this bill is commendable, there are concerns about this bill. One concern is that since the heart of the bill is a study, a legitimate question is raised whether section 3 of the bill is needed. While guideline for the program, if enacted, is warranted, most of section 3 should be reserved for a later date rather than prejudging at this time. Therefore, we recommend that section 3 of the bill be deleted.

One concern is the entrance of the public sector in a field that is effectively and efficiently served by the private sector. A public sector entity has many competitive advantages, and it would be unfair for the state to compete where there may be no void in the retirement services sector or in a particular segment of such sector.

It appears that the availability of retirement savings is more a problem for employees of a small business so that if the bill will contain guidelines for the program, one guideline should be that the eligible employer shall employ no more than fifty employees. This can be accomplished by amending the definition of employer in section 1 of the proposed chapter on the Hawaii Retirement Savings Program to read as follows (Ramseyer format):

"Employer" includes any individual, partnership, association, joint-stock company, trust, corporation, the personal representative of the estate of a deceased individual or the receiver,

trustee, or successor of any of the same, employing not more than fifty [any] persons, but shall not include the State or any political subdivision thereof or the United States.”

Another concern is that an employer who already offers a qualified retirement plan may, because of existing cost, administrative burden or fiduciary duty, be incentivized to terminate its present qualified retirement plan and offer the state retirement program instead. To alleviate this possibility, HBA had requested that an eligibility requirement that the employer shall not have terminated a qualified retirement plan within a prior period, of at least three years. Although such concept is included in the bill (see Section 7(3) of the bill), HBA recommends that for purposes of clarity, section 4(a)(2) of section 3 of the bill be amended as follows (Ramseyer format):

“(2) Require an employer to offer its employees the opportunity to contribute to an account in the program through payroll deductions unless the employer offers a qualified retirement plan or has not offered, terminated, or cancelled a qualified retirement plan within the three years preceding participation in the program, including but not limited to a plan qualified under section 401(a), section 401(k), section 403(a), section 403(b), section 408(k), section 408(p), or section 457(b) of the Internal Revenue Code of 1986, as amended;”

Thank you for the opportunity to submit this testimony on SB 2333. SD 2, HD 1, and please let us know if we can provide further information.

Neal K. Okabayashi



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai‘i Appleseed Center for Law and Economic Justice
Supporting SB 2333 SD2 HD1 – Relating to Retirement Savings
House Committee on Finance
Scheduled for hearing on Wednesday, April 4, 2018, 1:30 PM, in Conference Room 308

Dear Chair Luke, Vice Chair Cullen, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **SB 2333 SD2 HD1**, which would require the Legislative Reference Bureau to conduct a study on the feasibility of implementing the Hawaii retirement savings plan. If the results are positive, it establishes a retirement savings board to administer the plan and its fund.

While Hawai‘i’s official elderly poverty rate of 8 percent is lower than the national average, it is the 22nd highest rate among the states. More importantly, if you look at the U.S. Census Bureau’s arguably more accurate supplemental poverty measure, Hawai‘i’s senior poverty rate rises to 17 percent, the 6th highest rate in the nation. Much of this difference is due to the fact that the supplemental measure factors in the cost of living (which are higher in Hawai‘i than in any other state in the nation).ⁱ

In addition, if you look at people aged 65 and older with incomes below 200 percent of the poverty level, Hawai‘i’s indicators worsen considerably. Even by the official measure, over one quarter (27 percent) of Hawai‘i’s elderly live below twice the official poverty threshold. Astoundingly, over half (54 percent) of Hawai‘i’s seniors have incomes below 200 percent of the supplemental measure, which is the 2nd highest rate among the states.

Meanwhile, 86.1 percent, or about 210,000, Hawai‘i residents aged 65 or older received Social Security benefits in 2016, which was lower than the national average of 90.4 percent.ⁱⁱ Hawai‘i seniors received a median monthly Social Security benefit of \$1,332, just below to the national average of \$1,347.ⁱⁱⁱ However, as noted above, our seniors have to contend with the highest cost of living among all the states.

With our ever-growing senior population facing statistics like that, encouraging and enabling our working-age population to save for retirement is crucial to our state’s future economic health.

According to the AARP, half of our state’s private sector workers do not have access to an employer-sponsored retirement plan, and very few who are eligible to contribute to an individual retirement account actually do so. Low-wage workers are especially unlikely to have a retirement plan available to them at their workplace.

The vast majority of Hawai'i registered voters polled by AARP wish that they had more retirement savings, are concerned that some of their fellow residents will end up on public assistance programs in retirement, and agree that lawmakers should do more to make it easier for small business owners to offer their employees a way to save for retirement.^{iv}

Dozens of states have been considering the ways that they could help their workers save more via state-managed retirement plans. In fact, five states – California, Connecticut, Illinois, Maryland, and Oregon – have enacted legislation to create automatic enrollment retirement savings plans for their workers.

According to the Center for Economic and Policy Research, one major advantage of state plans is that workers could keep their accounts with them when they change jobs.^v In addition, the fees of state-managed plans would likely be just a fraction of those levied by private 401(k)s:

This may seem like a small difference, but it adds up over a worker's career. Imagine a person earning \$60,000 a year and putting 6 percent of their pay, or \$3,600 a year, into a 401(k) for thirty years. At the end of thirty years, the difference between a plan with annual administrative costs of 0.3 percent and a plan with costs of 1.0 percent would be almost \$30,000. (This calculation assumes a 5.0 percent average annual nominal return.)

The difference would be even larger if we factored in that private accounts are likely to charge between 10 to 20 percent of savings to convert the sum into an annuity when workers retire. A public plan would charge considerably less.

Another important feature of many of these types of plans is automatic enrollment. According to the AARP, 90 percent of those who are participating in employer-sponsored retirement programs state having their savings automatically deducted from their paychecks is very important and makes it easier for them to save.

We need to start now to ensure that as few of our future retirees as possible end up struggling in poverty. Mahalo for your consideration of this testimony.

ⁱ <https://www.kff.org/report-section/poverty-among-seniors-issue-brief/>

ⁱⁱ https://www.ssa.gov/policy/docs/statcomps/oasdi_sc/

ⁱⁱⁱ <https://www.ssa.gov/policy/docs/statcomps/supplement/2017/index.html>

^{iv} https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2016/2016-Hawaii-Work-and-Save-Onepager-AARP-res-econ.pdf

^v <http://cepr.net/blogs/beat-the-press/the-paul-ryan-small-savers-tax>

House of Representatives
Committee on Finance
Wednesday, April 4, 2018
1:30 p.m., Conference Room 308

April 2, 2018

Representative Sylvia Luke
Chair, House Committee on Finance

Re: S.B. No. 2333, S.D. 2, H.D. 1, Relating to Retirement Savings

Dear Chair Luke and Members of this Committee,

My name is Dean Teramoto of Nisei Building Maintenance (Nisei), a family-owned business with about 75 workers in the office cleaning business in Hawaii. I am writing in support of S.B. No. 2333, S.D. 2, H.D. 1.

Nisei has been searching to find ways to start a retirement savings plan for our workers. Many of our workers need the help to save money regularly, and we have looked at doing 401K or IRA plans for them, but Nisei is too small to afford the costs to administer these types of plans and the fiduciary obligations are too great.

Nisei is very interested in what is happening in the State of Oregon and how a new law there is helping businesses help their employees to participate in a payroll deduction plan. The State of Oregon does "the heavy lifting" in implementing the savings plan and the Oregon plan was supported by many small businesses. S.B. No. 2333, S.D. 2, H. D. 1, is modeled after this Oregon law.

Small businesses like Nisei really want to help its workers start a retirement savings plan, and the program in S.B. No. 2333, S.D. 2, H.D. 1, seems to be a good way to get this done.

Thank you for allowing Nisei to submit this testimony on S.B. No. 2333, S.D. 2., H.D. 1.

Sincerely,



Dean Teramoto

Representative Sylvia Luke
Chair, House Committee on Finance

Wednesday, April 4, 2018
1:30 p.m.
Conference Room 308

Re: S.B. No. 2333, S.D. 2, H.D. 1, Relating to Retirement Savings

Dear Chair Luke and Members of the Committee,

My name is Maria Flaris and I am the owner of Ho'oilina Home Care. I recently started this company and I am very interested in S.B. No. 2333, S.D. 2, H.D.1, Relating to Retirement Savings. My testimony is in support of this measure.

Prior to starting my own business, I was employed by various companies that offered good benefits but none with a retirement program. As an employee I really wanted my employer to provide some type of retirement option. Now as a business owner and researching retirement plans I am learning that they are very expensive especially for small businesses like mine.

From what I have heard about the work and save program I think it would make it financially more manageable for me to offer some type of retirement incentive plan. I have wanted that as an employee, now being on the other side it would be great if I could offer this for my employees. Please consider this measure for all the small businesses like mine.

Thank you for the opportunity to submit my testimony on S.B. No. 2333, S.D. 2, H.D. 1 Relating to Retirement Savings.

Representative Sylvia Luke
Chair, House Committee on Finance

Wednesday, April 4, 2018
1:30 p.m.
Conference Room 308

Re: S.B. No. 2333, S.D. 2, H.D. 1, Relating to Retirement Savings

Dear Chair Luke and Members of the House Committee on Finance,

My name is Mark Aways and I am the owner of Regenerative Living, a local company that currently employs 25 workers in Hawaii. My testimony is in support of S.B. No. 2333.

We have been in operation for about 6 years and over the last 3 years I have wanted to offer more incentive programs for my employees. I looked at several companies with 401K and other retirement plans but the costs are far too prohibitive. When I asked my employees what other type of benefits they would like to have, their number one request has been retirement benefits. They all work very hard and as their employer I want more ways to give back to them.

I believe the Hawaii Retirement Savings Program would create a financially feasible way for not only my company but for many other companies wanting to provide some type of retirement plan for their employees but are not able to because the costs are far too expensive.

Thank you for the opportunity to submit my testimony on S.B. No. 2333.

Representative Sylvia Luke
Chair, House Committee on Finance

Re: S.B. No. 2333, S.D. 2, H.D. 1, Relating to Retirement
Savings

Dear Chair Luke and Members of this Committee,

My name is Gary Hironaka of Legacy Villa, a family-owned business with 10 workers in Hawaii. I am writing in support of S.B. No. 2333.

My company has great workers and I am always searching for ways to take care of my workers. One of my efforts has been to find ways for my workers to save for their retirement. Many of my workers need the help to save money regularly. I know that one of the ways to get my workers to save regularly is through 401K or IRA plans. I looked at doing this, but my company is too small to afford the costs to administer a retirement savings plan and the fiduciary responsibilities are too great.

I heard of what is happening in the State of Oregon and how a new law there is helping businesses help their employees to participate in a payroll deduction plan. I think that offering workers a payroll deduction plan is a great way to encourage workers to save their money for their retirement. I also understand that the Oregon plan does not hurt small businesses and that S.B. No. 2333 is modeled after this Oregon law.

I really want to help my workers start a retirement savings plan, and maybe the program in Oregon can help me help my workers if Hawaii were to adopt a law just like Oregon. Please help businesses like mine to get this done for our workers.

Thank you for taking the time to consider my thoughts and opinions on S.B. No. 2333.

Sincerely,

Gary Hironaka



House Committee on Finance

April 4, 2018 – 1:30 pm – Agenda 1

RE: SB 2333, SD2, HD1 -- RELATING TO RETIREMENT SAVINGS

Chair Luke, Vice Chair Cullen, and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of life insurance agents and financial advisors throughout Hawaii, who primarily market life, annuities, long term care, and disability income insurance products.

SB 2333, SD2, HD1, will enact a Hawaii Retirement Savings Board made of eleven members that will establish, implement and maintain a Hawaii retirement savings plan via voluntary payroll deductions provided that the employer does not offer a qualified retirement plan. This measure also requires that LRB conduct a market analysis on the feasibility of a plan, cost to employers, a timeline for implementation, recommend ways to increase financial literacy in Hawaii, and blank appropriations for the market study, staff for the Hawaii Retirement Savings Board, and the Hawaii Retirement Savings Program Administrative Fund.

In the last two sections of the of SB 2333, SD2, HD1, if this program falls under ERISA then the program will not be established and if employers have a retirement program in place, they will not be able to cancel their programs for a blank number of years.

We respectfully do not support SB 2333, SD2, HD1.

Both policymakers and media attention have focused on workers not saving enough for retirement. States have considered bills that would implement state run IRA type retirement plans options available to workers at small and medium companies. NAIFA understands the importance of retirement security and acknowledges that many Americans are not saving enough for retirement.

A lack of financial education about the need to save for retirement, competing financial needs which cause many to live from paycheck to paycheck with nothing left over each month to put away in a retirement account, as well as a lack of discipline needed to place long term security over immediate wants all play a large role in our country's retirement savings.

We do not believe that a state-run plan that competes with private market plans is the answer. Availability and access to retirement savings options are not the problem— there already exists a strong, vibrant private sector retirement plan market that offers diverse, affordable options to individuals and employers. If a retirement plan is not offered in the workplace, employees have ready access to low cost IRAs through financial institutions and financial advisors.

Analyzing the potential effectiveness of legislative proposals to address the real reasons behind the low rates of retirement savings, policy makers need to carefully consider the potential costs of this proposal and the impact it will have on already over-extended state budget.

Massachusetts has established their Security Choice Savings Program but only for small non-profit organizations. Oregon became the first state last year to receive contributions from private sector employees. California, Connecticut, Illinois, Maryland, and Vermont are implementing similar plans with full roll out over the next few years.

The use of state funds for the start-up, operating costs, state responsibilities and obligations under ERISA would be better served by using scarce state resources for education and outreach efforts designed to educate our citizens about the importance of saving for retirement, rather than implementing a costly state-run plan. Additionally, a mandate for employers to participate in state plans and facilitate payroll deductions will be an administrative burden.

The bill also requires a study by the Legislative Reference Bureau on the feasibility of implementing a Hawaii retirement savings program for private sector employees. We appreciate that the House Labor Committee included studying other states like New Jersey and Washington that have enacted plans with a voluntary, market-based program focused on the real problems of education and outreach and establishes a web-based clearinghouse to connect employers and employees with appropriate private sector options. The implementation and staffing costs are much lower than what's called for in this measure.

On April 6, 2016, the U.S. Department of Labor issued its final fiduciary rule that affects financial advisors and their clients' retirement plans. Since the Trump administration the fiduciary rule is partially final with a transition period of eighteen months from January 1, 2018 to July 1, 2019. The "retirement savings board" must take into account this new fiduciary standard rule, the legal term for "putting customers' interest first" and be fully aware of the compliance requirements.

In August 2016 the U.S. Department of Labor under the Obama administration adopted a rule that would facilitate the enactment of state-run retirement plan legislation by exempting such plans from coverage under ERISA. Under this DOL rule, these state programs would not be considered a "employee pension benefit plan" under ERISA and participating employers would therefore not be subject to the duties and responsibilities required by ERISA.

However, **in early 2017 the Congress utilized the Congressional Review Act to override this DOL action and nullify this rule.** President Trump signed the repeal into law in May 2017. As a result, many open questions exist as to whether and to what extent these state-run plans will be subject to duties, responsibilities and potential liability under the federal ERISA law. **The "safe harbor" under the ERISA exemption is no longer in effect and now, participating employers may be subject to the duties and responsibilities currently required by ERISA and liability issues for the employer as a fiduciary.** The courts will probably have the final say.

Thank you for allowing us to share our views and respectfully **ask that this measure be deferred.**

Cynthia Takenaka, Executive Director
Phone: 394-3451

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION TO SB 2333, HD 1, RELATING TO RETIREMENT SAVINGS

April 4, 2018

Honorable Representative Sylvia Luke, Chair
Committee on Finance
State House of Representatives
Hawaii State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke and Committee Members:

Thank you for the opportunity to testify in opposition to SB 2333, HD 1, Relating to Retirement Savings.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C., based trade association with approximately 290 member companies operating in the United States and abroad. ACLI advocates in state, federal, and international forums for public policy that supports the industry marketplace and the policyholders that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing 95 percent of industry assets, 93 percent of life insurance premiums, and 98 percent of annuity considerations in the United States. Two hundred twenty-one (221) ACLI member companies currently do business in the State of Hawaii; and they represent 96% of the life insurance premiums and 100% of the annuity considerations in this State.

Section 1 of SB 2333, HD 1, states the purpose of the bill “is to require the legislative reference bureau to conduct a study on the feasibility of implementing a Hawaii retirement savings program for private sector employees . . . and . . . establish a Hawaii retirement savings board to administer the Hawaii retirement savings program for private sector employees.”

The proposed retirement savings plan is an AARP branded state-run retirement plan called “Work and Save.” This AARP plan has been introduced in approximately 30 states, most of which have rejected it. It is an expensive employer mandate that requires the business owner to offer the state plan and automatically enroll their workers. It also creates significant liabilities for the state.

By way of background, since 2012, five states have adopted state created and run retirement plans similar to that proposed in SB 2333, HD 1, namely, California, Connecticut, Illinois, Maryland and Oregon. At least 10 other states have passed legislation studying the AARP plan, and those states have not moved forward to implement the plan they studied.

While ACLI is strongly committed to promoting retirement security both at the state and federal levels, ACLI joins with many employer groups in opposing enactment of the proposed AARP plan set forth in this bill.

Of the five states who have adopted the plan only one, Oregon, has begun to implement its plan, though that plan has already been challenged in court. The remaining four states have not yet moved forward and for good reasons.

These plans are costly, complex and potentially in conflict with federal law.

The costs of implementing these plans have ranged from \$18M in Illinois to \$45M in Connecticut, and \$170M in California.

While the State of Hawaii should as a matter of policy encourage all of its residents to accumulate the savings they need to secure their own retirement, the wisdom of the State's spending its scarce resources to fund the cost of a state-run retirement plan may be questioned. Indeed, as this Committee is well aware, funding the state's own employees' retirement plan and other costly government funded programs has been and continues to be challenging.

Secondly, the legal status of the proposed retirement savings plan creates both conflicts and potentially large state liabilities.

The employer mandate in the state-run and administered retirement savings plan proposed by SB 2333, HD 1, is likely pre-empted by federal law. In addition, the auto-enrollment provisions in the bill will very likely subject business owners to liabilities under ERISA.

While in 2016 the Department of Labor (DOL) adopted ERISA safe harbor rules that could have allowed these plans, the rules also required the sponsoring state to meet certain requirements that would add even more costs. For example, the state had to take responsibility (i.e., assume liability) for the safety of the plan's investments and was required to provide a mechanism for enforcement of worker rights under the plan. In 2017, however, Congress determined that all private workers deserve the protection of ERISA and disapproved the DOL safe harbor in a resolution passed under the Congressional Review Act. Thus, there is no longer any ERISA safe harbor for these state-run plans.

The U.S. Chamber of Commerce has since received a definitive legal opinion that the AARP plan will likely be determined to be an employer-sponsored plan subject to and governed by ERISA. The opinion also concludes that the plan's provisions will most likely be found to be pre-empted by ERISA and therefore the plan could be challenged in court – in which case the state's money spent on implementing the plan will have been wasted. At the very least employers will be found to be the fiduciaries of the plan and become responsible for all of the obligations under ERISA that the sponsoring state refused to assume¹. The Courts will ultimately determine the legal status of these plans. The State's adoption of SB 2333, HD 1, will, therefore, force the small business owner, the owner's employees and the State of Hawaii to enter into a costly program that may create enormous liabilities for both.

¹ By its terms SB 2333, HD 1, states that the program, the board, each board member of the Hawaii Retirement Savings Board established under the program and the State of Hawaii "shall not guarantee any rate of return or any interest rate on any contribution; provided that the program, the board, each board member, and the State shall not be liable for any loss incurred by any person as a result of participating in the program." See page 13, lines 7 through 12, SB 2333, HD 1.

The flawed assumption underlying SB 2333's proposed State run retirement savings plan is that there is a lack of access to retirement plans in the private sector.

To the contrary, the current market place offers a wide variety of low cost and affordable vehicles that facilitate worker retirement savings. These include, for example, individual and payroll deduction IRAs, SIMPLE plans for small employers, and individual annuities

The need, therefore, for mandating a state-sponsored and state-run retirement plan that competes with the private sector and could cost millions of dollars to implement and run has not been shown by the bill's proponents.

ACLI submits that the focus of the state's efforts should not be creating a costly state-sponsored and run retirement plan but rather by addressing the real obstacles to retirement savings – job insecurity, debt and lack of funds to invest. ACLI is also prepared to support the alternative concept of a voluntary, private-sector based marketplace approach, such as the one adopted in the State of Washington.

In May 2015, Washington State enacted and funded the first voluntary small business retirement plan "Marketplace" in the nation, which establishes a web-portal structure to connect private sector employers with qualifying plan vendors. Additionally, the Washington State plan does mailings and outreach to eligible employers or other organizations that interact with these employers. A second-in-the-nation Marketplace was established in New Jersey shortly thereafter (January 2016) and was largely based on the Washington State law.

The Washington State plan provides a good model for small business private market place programs.

For the foregoing reasons ACLI must respectfully oppose SB 2333, HD 1, and urges this Committee to defer passage of this bill.

Again, thank you for the opportunity to testify in opposition to SB 2333, HD 1, Relating to Retirement Savings.

LAW OFFICES OF
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House of Representatives
Committee on Finance
4 April 2018
1:30 p.m., Conference Room 309

To: Representative Sylvia Luke, Chair
Re: SB2333, SD2, HD1, Relating to Retirement Savings

Dear Chair Luke, Vice-Chair Cullen, and Members of the Committee,

My name is Clementina Ceria-Ulep, and I am the Chairperson for the Long-Term Care Taskforce of Faith Action for Community Equity (FACE). FACE is a grassroots, interfaith 501(c)3 non-profit organization working to improve the quality of life for our members and all the people of Hawai'i. FACE is also an active member of the People Improving Communities (PICO) National Network.

FACE supports SB 2333, SD2, HD1 which establishes a program for private-sector workers in Hawai'i to have a retirement savings account. This bill is modeled after the OregonSaves program which is helping many Oregon workers to start to save for their retirement.

Many of our older citizens in Hawai'i who do not have retirement savings struggle to survive on social security payments. For some of them, it is too late to start a retirement savings program. Studies show that about half of Hawai'i workers ages 18 to 64 in the private sector (about 216,000 people) do not have access to a 401K or other retirement plan at work and are not able to save through payroll deduction. Nationwide studies show that people are 15 times more likely to save if they have access to a payroll deduction savings plan.

Help from government is needed to help private-sector employers to provide to their workers a retirement savings program. Other states have already passed legislation that improves workers' access to a retirement program. In Oregon, a state retirement program for private-sector employees was recently started and many of Oregon's workers now have a retirement savings program.

Hawai'i must take action now and join in the movement to find ways to help our future retirees. Please help our workers by providing a retirement savings opportunity similar to what Oregon has done for its workers. Thank you for the opportunity to testify in support of SB 2333, SD2, HD1.

Thank you for considering my testimony.

Sincerely,

Clementina D. Ceria-Ulep

Clementina D. Ceria-Ulep
211 Hoomalu Street; Pearl City, HI 96782

House of Representatives
Committee on Finance
Wednesday, April 4, 2018
1:30 p.m.
Conference Room 308

To: Representative Sylvia Luke, Chair
Re: S.B. No. 2333, S.D. 2, H.D. 1, Relating to Retirement Savings

Dear Chair Luke, Vice-Chair Cullen, and Members of the Committee,

My name is Grant Tabura, also known as "Lanai." I am a life-long resident of Hawai'i with experience as a small-business owner and entrepreneur and as a working employee for over 25 years.

I recently heard that Oregon has a new program to help its private-sector workers save for their retirement through a program called OregonSaves. S.B. No. 2333, S.D. 2, H.D. 1, establishes a similar program for private-sector workers in Hawai'i, and I support of this idea and the passage of S.B. No. 2333, S.D. 2, H.D. 1.

Recent studies show that about half of Hawai'i workers ages 18 to 64 in the private sector (about 216,000 workers) do not have access to a retirement plan at work and are not able to save through payroll deduction. Nationwide studies show that people are 15 times more likely to save if they have access to a payroll deduction savings plan.

As an employee, I wish I had a payroll deduction saving plan, but as a small business owner I understand why I can't offer it to workers. There are problems with high costs and fees and fiduciary duties that make it unaffordable to offer workers a retirement savings program.

The workers in Oregon have this opportunity because of OregonSaves, and I would like to have this opportunity here in Hawaii too. I support this bill which would help private-sector employers to provide to their workers a retirement savings program. I hear that other states have already passed legislation that takes action on this topic and I ask that this Legislature do the same.

Thank you for giving me the chance to express my views on this topic and to support the passage of S.B. No. 2333, S. D. 2, H.D. 1.

A handwritten signature in black ink, appearing to read "Grant Tabura". The signature is stylized and fluid, with a large initial "G" and "T".

Aloha Chair Luke, Vice Chair Cullen and committee members.

As a Kupuna advocate and volunteer with AARP, Kokua Council, the Hawaii Alliance of Retired Americans and the Legislative Committee of PABEA, I urge strong support of SB2333 regarding the promotion of an employer sponsored savings plan to help those employees (perhaps as many as 250,000 in Hawaii) who are not covered through such plans currently.

Statistics show that those who have access to employer-based retirement savings plans are 15 times more likely to put away money for their retirement. Given that most current workers are not covered by pensions makes this even more significant.

This bill would require the LRB to conduct a feasibility study and , if the results are positive, create a Hawaii Retirement Saving Board.

Please pass SB2333.

Barbara J. Service MSW

Child Welfare Social Worker (Retired)

House District 19

Senate District 9

To: Representative Sylvia Luke, Chair, Committee on Finance

Date: April 3, 2018

Re: SB 2333, SD 2, HD 1, Relating to Retirement Savings

Dear Chair Luke, Vice-Chair Cullen, and Members of the Committee:

Thank you for the opportunity to submit written testimony in **STRONG SUPPORT** of SB 2333, SD 2, HD 1, Relating to Retirement Savings.

My name is Chalintorn N. Burian, Ph.D. and I am a retiree. I live in Paauilo-Mauka on the Big Island. This Bill requires the Legislative Reference Bureau (LRB) to conduct a study on the feasibility of implementing a Hawaii retirement saving program for private-sector employees. After completing the study, LRB shall report its findings and proposals to the 2019 Legislature and, if the results of the study support it, a Hawaii retirement savings program shall be established and implemented.

When I conducted a research study for my doctoral dissertation on “Productive Aging” in 1972, saving was listed in the findings as one of the most important factors for people to age productively. Currently in Hawaii, many of employees of private-sector do not have an opportunity to set up savings. When people save for retirement, they are less likely to rely on public assistance. I urge you to vote **YES** on this Bill, so that private-sector employees can find an instrument to save, and will become less dependent on public assistance programs later in life.

I urge you to support small business employees by voting **YES** on SB 2333, SD 2, HD 1.
Mahalo!

Chalintorn N. Burian, Ph.D.

Positive and Productive Aging Consultant.
Paauilo-Mauka, Hawaii District

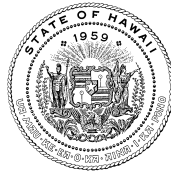
P.O. Box 366

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Phone: (808) 775-1064

DAVID Y. IGE
GOVERNOR



LAUREL A. JOHNSTON
DIRECTOR

KEN N. KITAMURA
ACTING DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**TESTIMONY BY LAUREL A. JOHNSTON
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2333, S.D. 2, H.D. 1**

LATE

**April 4, 2018
1:30 p.m.
Room 308**

RELATING TO RETIREMENT SAVINGS

Senate Bill No. 2333, S.D. 2, H.D. 1: requires the Legislative Reference Bureau (LRB) to conduct a study on the Hawai'i Retirement Savings Program concept and report its findings and recommendations to the Legislature; establishes the Hawai'i Retirement Savings Program; establishes a Hawai'i Retirement Savings Board to administer the plan; and sets operating requirements for the plan and the board. The bill also establishes a Hawai'i Retirement Savings Program Administrative Fund and appropriates unspecified amounts of general and special funds in FY 19 for the program's administrative and operating expenses and for the LRB to conduct the required study.

The Department of Budget and Finance appreciates the intent of this measure, but strongly believes it is premature to permanently establish in law the retirement savings program, governing board, and financing structure prior to the completion of a feasibility study as identified in Section 2 of this measure. The department also believes that Section 7 is not self-implementing and would require legislative action to determine whether or not the feasibility study's findings are positive. Therefore, we believe that it may be more appropriate to enact only Sections 2 and 6 at this time and to follow up with a separate measure in the future to enact the other sections after the study is completed.

Thank you for your consideration of our comments.

Charlotte A. Carter-Yamauchi
Director

Shawn K. Nakama
First Assistant

Research (808) 587-0666
Revisor (808) 587-0670
Fax (808) 587-0681



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

SB2333, SD2, HD1
RELATING TO RETIREMENT SAVINGS



Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the House Committee on Finance

Wednesday, April 4, 2018, 1:30 p.m.
Conference Room 308

Chair Luke and Members of the Committee:

Good afternoon Chair Luke and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on S.B. No. 2333, S.D. 2, H.D. 1, Relating to Retirement Savings.

The purpose of this measure is to:

- (1) Require the Legislative Reference Bureau to conduct a study on the feasibility of implementing a Hawaii retirement savings program for private sector employees and report to the Legislature with its findings and proposals, if any; and
- (2) Establish a Hawaii retirement savings board to administer the Hawaii retirement savings program for private sector employees, if the results of the Bureau's study support it.

More specifically with regard to the study required of the Bureau, the measure requires the Bureau to:

- (1) Conduct a market analysis to determine:

- (A) The feasibility of the program; and
 - (B) Whether and to what extent retirement savings plans or programs with characteristics described in the measure currently exist in the private market;
- (2) Obtain legal advice regarding the applicability of the Employee Retirement Income Security Act of 1974, as amended, and the Internal Revenue Code of 1986, as amended, to the program;
 - (3) Investigate whether employers that are not required to participate in the program can make the program available to their employees;
 - (4) Investigate methods to allow individuals who are not automatically enrolled in the program to opt in to the program and make contributions to an account, either through payroll contributions or another method of contribution;
 - (5) Conduct an analysis of the potential costs to employers, including administrative costs, and costs associated with providing automatic payroll deductions for participation in the program, as well as recommendations on how to eliminate or reduce those costs through incentives, tax credits, or other means;
 - (6) Examine the potential effects of a state-run retirement plan or program for private employees on the private market;
 - (7) Examine states with other voluntary, market-based plans or programs, including states such as New Jersey and Washington;
 - (8) Prepare a timeline for implementation of the Hawaii retirement savings program; and
 - (9) Make recommendations to the Legislature regarding ways to increase financial literacy in the State.

The measure also authorizes the Bureau to issue a request for proposals for a third party to conduct the market analysis, and appropriates an unspecified sum for that sole purpose. The Bureau is required to submit a preliminary report to the Legislature no later than twenty days prior to the convening of the 2019 Regular Session, and a final report no later than twenty days prior to the convening of the 2020 Regular Session.

The Bureau takes no position on the merits of this measure, but submits the following comments for your consideration.

As a general matter, the Bureau notes that it does not employ any experts in Employee Retirement Income Security Act (ERISA) compliance or the establishment or administration of retirement savings plans. Nor does it employ an actuary. Consequently, the Bureau would have to contract the services of such experts and probably have to do so without an exemption from the State Procurement Code in order to meet the measure's reporting deadlines.

If the Committee decides to recommend the passage of this measure and desires to have the Bureau conduct the study, regardless of the Bureau's lack of inherent subject matter expertise on the subject, we respectfully request that, in addition to the appropriation for the market analysis, we be provided with additional appropriations to contract the services of experts in the fields of ERISA compliance and retirement savings plans establishment and administration, as well as an exemption from the State Procurement Code (Chapter 103D, Hawaii Revised Statutes).

If the measure is amended to address the concerns noted above, the Bureau believes that the services requested under the measure would be manageable and that the Bureau will be able to provide the services in the time allotted; provided that the Bureau can find qualified contractors who are willing and able to complete the study for the amounts appropriated and within the required timeframe, and its interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting, writing, or finalizing other reports, drafting legislation, or both, for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for your consideration.



MAUI

CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
WEDNESDAY, APRIL 4, 2018 AT 1:30 P.M.**

To The Honorable Sylvia Luke, Chair;
The Honorable Ty J.K. Cullen, Vice Chair; and
Members of Committee on Finance;

TESTIMONY ON SB2333 RELATING TO RETIREMENT SAVINGS

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce. We would like to provide comments on SB2333 in its current form.

We appreciate the conscious decision to begin this bill with a study but feel the bill should end there. Savings accounts are very important to individuals and families and we support programs to help individuals and families create and build savings.

However, we question whether a retirement program is best run by government and feel that a study should assess this before guidelines and a board are put in place to implement the program. A case in point is the state-run retirement program for government employees, which is underfunded. Therefore, we must oppose this bill in its current form because it goes beyond a study. We would support the bill if it was amended to only require a study, at a reasonable cost, to analyze the feasibility and cost of a state-run retirement program and report to the legislature. Currently, there is no amount in the bill appropriated for this study, so we cannot assess if we would support the study as no amounts are being considered.

While many employers do offer retirement programs, for those who don't, there are many ways employees can still access plans and save for retirement. Aside from what the study may reveal, we feel that the legislature could also look to implement an educational program to help everyone in the state understand the importance of saving, fiscal responsibility and the various options for saving and investing.

Therefore, we could only support this bill if it is just a study, completed at a reasonable cost.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

LATE

SB-2333-HD-1

Submitted on: 4/3/2018 4:51:08 PM

Testimony for FIN on 4/4/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Randolph Hack	Individual	Support	No

Comments:

TO: Representative Sylvia Luke, Chair, House Finance Committee

Re: SB2333 SD2 HD1, Relating to Retirement Savings

Dear Chair Luke, Vice-Chair Cullen, and Members of the Committee

My name is Randolph Hack and I am an advocacy volunteer for AARP Hawaii, an organization described in previous testimony. I am in strong support of this measure which will require the Legislative Reference Bureau (LRB) to conduct a feasibility study on implementing a Hawaii retirement savings program for private sector employees. National studies have shown that many employees have not saved enough for retirement. After implementing this study, the LRB shall report its findings and proposals to the 2019 Legislature, If these findings support it, a Hawaii retirement savings program shall be established and implemented. This will help prevent individuals from relying on public assistance due to inadequate savings or lack of retirement plan.

Thank you graciously for this opportunity to testify.

LATE

SB-2333-HD-1

Submitted on: 4/3/2018 6:07:04 PM

Testimony for FIN on 4/4/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sylvia Ching	Individual	Support	No

Comments:

Please pass SB 2333. Many people do not have saving plans at work and need one to avoid needing public assistance in the future. Thank you

REX J Freitas
204 Koalele St
Honolulu, HI 96813

4/3/18

LATE

RE(SB 2333)

Dear Rep. Sylvia Luke,

I Think Bill 2333 is very important for people who does not have a privilege at there companies, To have like I do, I have a 457 and use it, Theres some Co-employees who dont put, and theres friends + family who wish they had a Retirement Savings account, I know people who worked 40 plus years that only get Social Security + Savings, This will Give people a little tax Break and does not matter how much they put, They will have something when they retire, Lot of companies dont offer 401 or 457's because it cost a lot and this Bill will make it easier for small business, please take this bill into consideration I Thank you
Rex J Freitas

4/3/13

P.S.,

one of my co-workers who had
25 years + never saved,
I made him put money into one
457 and when he retired with
40 plus years, he had 70,000.00
and could not believe it, he said
auto withdraw makes it easy
because he didn't really feel it
or see it, glad he did it for a
little over 5 years, imagine if he
did it 20 years, retirement life
would be greater - so these small
companies could offer this would be
Awesome -
Rex