



February 16, 2022

To: The Honorable Aaron Ling Johanson, Chair,  
The Honorable Lisa Kitagawa, Vice Chair, and  
Members of the House Committee on Consumer Protection & Commerce

Date: Wednesday, February 16, 2022

Time: 2:00 p.m.

Place: Conference Room 329, State Capitol and via Videoconference

From: Anne Perreira-Eustaquio, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. 2469 HD1 RELATING TO THE UNEMPLOYMENT  
COMPENSATION TRUST FUND**

**I. OVERVIEW OF PROPOSED LEGISLATION**

HB2469 HD1 establishes an “unemployment compensation insolvency special fund” to cover the State’s obligations to pay out Unemployment Insurance (UI) benefits when there are insufficient funds in the Unemployment Compensation Trust Fund (UCTF). The measure also authorizes the Governor to declare an “unemployment compensation trust fund insolvency emergency” and transfer monies from the special fund to the UCTF to pay UI benefits

The DLIR offers comments on this measure.

**II. CURRENT LAW**

The Federal Unemployment Tax Act (FUTA) and Social Security Act (SSA) operate in tandem and provide the framework for the Federal-State Unemployment Compensation Program. Title XII of the SSA provides for advances to the states to pay UI benefits when the state’s unemployment compensation trust funds are insolvent. When approved by the U.S. Labor Secretary, the funds are placed into the state account in monthly increments through daily draw downs. Effectively, the states have open lines of credit to the Treasury provided that they remain in conformance with above the federal law & regulations.

The FUTA imposes a 6.0% gross federal unemployment tax rate on the first \$7,000 paid annually and as long as the State remains in conformity with the UI law and regulations and does not carry an outstanding loan balance for certain periods of time FUTA provides a 5.4% credit reduction. If the State carries loan

loan balances for certain periods of time, then the FUTA reduction is reduced incrementally over time.

### **III. COMMENTS ON THE SENATE BILL**

This measure provides greater flexibility in operating the Federal-State Unemployment Compensation Program. The DLIR defers to the Department of Budget and Finance about the appropriation and technical aspects of the proposed provisions.



**TO: Chair Johanson, Vice Chair Kitagawa, and Members of the House Committee on Consumer Protection and Commerce**

**FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)**

**DATE/LOCATION: February 16, 2022; 2:00 p.m., Conference Room 329/Video Conference**

**RE: COMMENTS REGARDING HB 2469 HD 1– RELATING TO THE UNEMPLOYMENT TRUST FUND**

**We would like to provide comments related to HB 2469 which establishes an unemployment compensation insolvency special fund, permits the Governor to declare an unemployment compensation trust fund insolvency emergency, to expend moneys from the fund, and appropriates moneys into the unemployment compensation insolvency special fund.**

As you consider the creation of this fund for the benefit of unemployment compensation, we urge the State and the Department of Labor and Industrial Relations to also **support “reimbursing employers” who are not currently part of the State Tax Systems** and who currently are required to reimburse the State for the cost of unemployment claims they are liable for (including claims where an employee has previously left and then has been laid off by a new employer).

During the COVID-19 Pandemic, unemployment has risen exponentially. Unemployment costs for reimbursing employers in Hawaii have increased by 260% in 2020 from 2019 (data from the 501c Trust). With data from 59 Hawaii “reimbursing employers” in 2020, the average nonprofit paid *40% more than the worst year of the Great Recession*. The hardest hit 10% of employers saw an increase of 1600% compared to 2019. This is a detrimental consequence, primarily for nonprofits, **and it will have a devastating impact on service providers at the moment where services in our community are needed most.** “Reimbursing employers” had to scramble by pulling on lines of credit or leveraging assets to fund unemployment costs. Services like critical human and social solutions could continue to be deeply impacted, reduced or, in some cases, be completely eliminated due to the tremendous additional cost burden. Museums, community health care centers, educational programs, and many more are at risk.

<b>Taxpaying Nonprofits</b>	<b>Reimbursing Nonprofits</b>
Pay taxes based on a state tax schedule, which is based only in part on their historical charges.	Pay for 100% of the unemployment benefits received by their former employees -- never less.
Have received 100% relief from COVID-related claims in many states.	Have received 50% assistance from the federal government. A small number of states have provided extra assistance.
Do not have to pay for unemployment claims made by employees who quit to work for another employer before COVID-19.	Must pay for unemployment claims made by former employees who went to work for a different employer before COVID-19. For example, an employee who voluntarily quit to take another job could still end up costing the reimbursing nonprofit thousands of dollars in unemployment claims. This is called a base period claim.
Will pay nothing in the unemployment crisis. The cost of the unemployment crisis will be spread out over many years through higher taxes.	Will have to pay for the COVID-19 unemployment charges immediately. These expenses are occurring even if the nonprofit does not have any income with which to pay the bills.
Are not in danger of being forced out of business by the cost of unemployment charges in current year.	Are in imminent danger of being forced out of business due to prolonged unemployment charges.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii’s not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 17,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 20 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

Thank you for the opportunity to provide comments regarding **HB 2469 HD 1**, please contact me at (808) 847-3285 or [rkusumoto@pacthawaii.org](mailto:rkusumoto@pacthawaii.org) if you have any questions.



*Eric W. Gill, Financial Secretary-Treasurer*

*Gemma G. Weinstein, President*

*Godfrey Maeshiro, Senior Vice President*

February 15, 2022

Committee on Consumer Protection & Commerce  
Representative Aaron Ling Johanson, Chair  
Representative Lisa Kitagawa, Vice Chair

### **Testimony in opposition to HB1852, HB2469 and HB2471**

Chair Johanson, Vice Chair Kitagawa and members of the Committee,

Thank you for the opportunity to testify **in opposition to HB 1852, HB 2469 and HB 2471**. UNITE HERE Local 5 represents over 11,500 people working in the hotel, food service and health care industries throughout Hawaii. The COVID pandemic has been difficult for our members – many have had to suffer through illness, unemployment, and financial struggle. The unemployment system, overwhelmed, understaffed, and using ancient technology, left many of our members without financial help for months during the time they needed it most. Supplemental unemployment benefits were, however, an important lifeline until they ended last year.

Last year, the Legislature provided \$700 million in federal COVID relief funds to the unemployment system, to which was added another \$100 million appropriated by the Governor. This use of COVID funds to bail out employers (who would have otherwise faced a tax increase to replenish the fund) was a little incongruous with the Legislature's choice not to pass a bill that would have exempted unemployment benefits from state income tax.

This year, the Legislature is contemplating more bills that would bail out employers from their unemployment fund contribution responsibilities:

- HB1852 – would provide additional bailout money to the unemployment fund via appropriation from the General Fund. The amount is currently blank.
- HB2469 – creates a fund for future bailouts of employers' responsibilities to the unemployment fund. Of course the fund needs money so it doesn't run out; but this again would be paid for through appropriations.
- HB2471 – revises the formula for "adequate reserves" for the unemployment fund. Considering that the fund, under the previous definition, still ended up far short at the time when it was most needed, adopting a lower standard seems like something we should perhaps not do. It will, however, act as yet another sort of bailout for employers by deferring their responsibility while allowing the fund to remain underfunded for longer.

We are opposed to these measures.

Thank you for your consideration.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

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

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

**LATE**

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
ON  
HOUSE BILL NO. 2469, H.D. 1

**February 16, 2022**  
**2:00 p.m.**  
**Room 329 and Videoconference**

RELATING TO THE UNEMPLOYMENT COMPENSATION TRUST FUND

The Department of Budget and Finance (B&F) offers comments on House Bill (H.B.) No. 2469, H.D. 1.

H.B. No. 2469, H.D. 1, establishes an Unemployment Compensation Insolvency Special Fund (UCISF) to be administered by the Department of Labor and Industrial Relations (DLIR) and to be expended solely to resolve an Unemployment Compensation Trust Fund (UCTF) insolvency emergency declared by the Governor; permits the Governor to declare a UCTF insolvency emergency and to expend moneys from the fund if the Director of Finance (DOF) determines that the fund balance is insufficient to meet the State's obligations; and appropriates an unspecified amount of general funds in FY 23 for deposit into the UCISF.

B&F does not see the necessity for H.B. No. 2469, H.D. 1, because current State and federal statutes have provisions to address insolvency in the UCTF. B&F defers to DLIR on the specifics of such provisions.

However, if the Committee decides to pass this bill out, B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response

and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Additionally, regarding the establishment of the UCISF, as a matter of general policy, B&F does not support the creation of special funds which do not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program

cannot be implemented successfully under the general fund appropriation process;

2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue;

3) provide an appropriate means of financing for the program or activity; and

4) demonstrate the capacity to be financially self-sustaining. In regard to H.B. No. 2469, H.D. 1, it is difficult to determine whether the special fund meets the criteria to establish a special fund.

Thank you for your consideration of our comments.



LATE \*Testimony submitted late may not be considered by the Committee for decision making purposes.



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TO: Committee on Consumer Protection and Commerce  
Rep. Aaron Ling Johanson, Chair  
Rep. Lisa Kitagawa, Vice Chair

**LATE**

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: February 16, 2022  
TIME: 2pm  
PLACE: Via Videoconference

RE: HB2469 HD1 Relating to the Unemployment Compensation Trust Fund

Position: Support

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.

HFIA is in support of this measure to establish an unemployment compensation insolvency special fund to be expended solely to resolve an unemployment compensation trust fund insolvency emergency declared by the Governor. The Unemployment Compensation Trust Fund was not originally created or structured to handle the type economic turmoil we have seen over the past two years. We support putting a plan in place so that the fund is prepared if a similar situation arises in future. We encourage the Committee to pass this measure and we thank you for the opportunity to testify.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: UNEMPLOYMENT; Unemployment Compensation Trust Fund

BILL NUMBER: HB 2469 HD 1

INTRODUCED BY: House Committee on Labor & Tourism

**LATE**

EXECUTIVE SUMMARY: Establishes an unemployment compensation insolvency special fund to be expended solely to resolve an unemployment compensation trust fund insolvency emergency declared by the Governor. Permits the Governor to declare an unemployment compensation trust fund insolvency emergency and to expend moneys from the fund if the Director of Finance determines that the fund balance is insufficient to meet the State's obligations. Appropriates moneys into the unemployment compensation insolvency special fund. Our view is that we already have a rainy-day fund and don't need another one.

SYNOPSIS: Adds two new sections to chapter 383, HRS, that would establish an unemployment compensation special fund and define an unemployment compensation trust fund insolvency emergency that would trigger the ability to disburse from the special fund.

Makes technical and conforming amendments to other sections in chapter 383, HRS.

EFFECTIVE DATE: December 25, 2040.

STAFF COMMENTS: At present, we already have a fund in which we save up money for a rainy day. It's called the emergency and budget reserve fund, and it is governed by section 328L-3, HRS.

Do we really need a second rainy day fund? If we allow rainy day funds to proliferate, there will be that much more money sitting around and doing nothing, waiting for the next emergency to hit. With more of these beasts lounging in various places, it gets more difficult to keep track of them, and by the same token it is harder to figure out how much money the state really has.

Digested: 2/15/2022