

TO: Senator Rosalyn Baker, Chair  
and the Senate Committee on Ways and Means

April 1, 2008  
10:15 AM  
Room 211

FROM: Marilyn Lee

SUBJECT: Testimony in partial support of HB2520

I am in support of HB2520 but in its amended form as an HD3, which includes paid family leave legislation.

I do support the continuation of the existing working group which, in fact, has been working on the issues of family caregiving for more than two years. This group could refine the bill and deal with the myriad technicalities that have emerged.

I suggest the working group be incorporated into the House HD3 version so that paid family leave becomes a reality in the next two years rather than just the subject of a study.

For the last 2 years, the Joint Legislative Committee on Family Caregiving has met frequently on caregiver issues. A comprehensive report was delivered to the Legislature in December 2007. One of the major recommendations was paid family leave for caregivers.

As part of their work, the Joint Committee conducted a caregiver assessment and an employer assessment. The caregiver assessment gave strong indications that paid family leave would be a tremendous help to caregivers who are still in the workplace, and help retain valuable employees in the work force.

The employer survey was not returned by a number of companies; however, among those who responded, few indicated they offered any special benefits to family caregivers.

In consideration of the many technicalities involved in the bill, TDI paid family leave is not scheduled for implementation until 2010, giving plenty of time for amendments, changes and community input.

As to the imposition of additional costs to employers, it is well known that retention of employees is critical to business. This bill actually would save money in the end because it enables valuable employees to remain in the work force. A representative of employer advocates has said that to hire and train a new employee could cost up to one and one-half year's pay. In addition, the cost of the additional required insurance coverage would be passed on to the employee.

Paid family leave has become a reality in California, Washington State and soon in New Jersey. Let's follow their lead to help our family caregivers and business as well.

# **BIA-HAWAII**

**BUILDING INDUSTRY ASSOCIATION**

Committee on Ways and Means

April 1, 2008

10:15 a.m.

Conference Room 211

**RE: Decision- Making on HB 2520, HD3, SD1 "Relating to Caregivers"**

Chair Baker and Members of the Committee on Ways and Means:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

**BIA-Hawaii is strongly opposed to the original intent of HB 2520 "Relating to Caregivers" but would like to comment on SD1.**

BIA-Hawaii strongly opposed HB 2520, HD3 because it would have increased the cost of doing business in Hawaii and would have been a misuse of the TDI law. The use of TDI benefits other than for the disabled employee is inconsistent with the purpose of the existing TDI insurance policies underwritten by the authorized TDI carriers. The current TDI rate structure is based on benefits for eligible and insured employees who become disabled and do not reflect the extra costs of taking leave to care for a family member. This is certain to increase the costs of TDI premiums.

The application of TDI benefits to able employees who need to care for family members with serious health conditions is contrary to the TDI Law, which is to provide partial wage replacement to employees who become disabled due to non-work related injuries or illnesses.

There are other laws, such as the Hawaii Family Leave Act, that provide eligible employees up to four weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. Please do not confuse TDI and Family Leave.

**BIA-Hawaii supports the intent of HB 2520, SD1** that creates a working group to address issues concerning support of family caregivers. We appreciate the Senate's wisdom in backing their position of creating this working group. BIA-Hawaii supports the creation of a working group to further study other options to provide financial assistance to family caregivers.

Thank you for the opportunity to share our views.

*Karen Y. Nakamura*



***The Chamber of  
Commerce of Hawaii***  
*Since 1850*

**Testimony to the Senate Committee on Ways and Means  
Tuesday, April 1, 2008 at 10:15 a.m.  
Conference Room 211, State Capitol**

**RE: HOUSE BILL NO. 2520 HD3, SD1 RELATING TO CAREGIVERS**

Chair Baker, Vice Chair Tsutsui, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports HB 2520, HD3, SD1, as currently drafted.

The Chamber is the largest business organization in Hawaii, representing over 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

HB 2520, HD3, SD1 creates a working group to address issues concerning support of family caregivers.

The Chamber commends the Legislature for seeking ways to address the current situation of caregivers and supports a statewide effort to address the growing number of family caregivers especially those who work while providing care.

The Chamber believes, however, that employers and employees can balance work and caregiving through voluntary programs and/or incentives. Employers understand the hardships that some employees are experiencing and care about the well-being of their employees. Also, due to the low unemployment rate in Hawaii, employers realize the importance of taking care of their employees and offering benefits to retain their staff, so many are incentivized to voluntarily offer benefits that address caregiving responsibilities. Many businesses are already providing a level of flexibility for employees who are in difficult situations.

Nevertheless, businesses recognize the need to continue to explore the issue and seek solutions to support caregivers. Therefore, The Chamber supports the SD1 version, which creates a working group to address issues concerning support of family caregivers.

We believe that before the law is altered significantly especially when it changes the intent of the statute, a thorough and complete evaluation of the options should be conducted before enacting legislation. This will mitigate unintended consequences especially as the previous versions significantly changed the intent of TDI. We believe this is a more prudent approach at this time.

Thank you for the opportunity to testify and express our views.



Senator Rosalyn Baker, Chair  
Senator Shan Tsutsui, Vice Chair  
Committee on Ways & Means  
State Capitol, Honolulu, Hawaii 96813

HEARING      Tuesday, April 1, 2008  
                    10:15 am  
                    Conference Room 211

**RE:    HB2520, HD3, SD1, Relating to Caregivers**

Chair Baker, Vice Chairs Tsutsui, Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing about 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

**RMH supports HB2520, HD3, SD1**, which creates a working group to address issues concerning support of family caregivers.

Considering that employees are an employer's most valued asset, we concur that the caregiver issue must be addressed. Acknowledging the complexity of this subject, we believe that further dialogue between all stakeholders is warranted to resolve concerns and to craft a workable solution.

Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in cursive script, appearing to read 'Carol Prejile', is written in black ink.

President



CONSTRUCTION &amp; CONSULTANTS, INC.

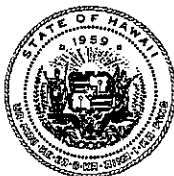
1602 AUIKI ST., BLDG. A • HONOLULU, HAWAII 96819  
PH: (808) 842-4454 • FAX: (808) 842-4455 • LIC. ABC-14283FACSIMILE TRANSMITTAL COVER SHEETDate: 3/31/08TO: WAYS & MEANS COMM. - SENATE  
FAX 586-6659ATTN: SENATOR BAKERFROM: RODNEY YAMAMOTO (B.I.A. MEMBER)SUBJECT: HB 2520, HD3, SD-1We are transmitting 1 pages(s) including this cover sheet.

Message: SENATOR BAKER: ALTHOUGH WE  
CONTINUE TO OPPOSE THE ORIGINAL VERSION  
OF THIS BILL WHICH GIVES TDI BENEFITS TO  
CAREGIVERS, WE SUPPORT THE CURRENT  
VERSION WHICH CREATES A WORKING GROUP  
TO STUDY THIS MATTER. SINCERELY

*Rodney Yamamoto*  
EXEC. VICE PRESIDENT

Original Mailed ( ) YES (X) NO

If you do not receive the specified number of pages or if the copies are illegible, please  
call RODNEY at 842-4454, ext. 206



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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March 31, 2008

To: The Honorable Rosalyn H. Baker, Chair  
and Members of the Senate Committee on Ways and Means

Date: April 1, 2008

Time: 10:15 a.m.

Place: Conference Room 211, State Capitol

From: Darwin L.D. Ching, Director  
Department of Labor and Industrial Relations

**Testimony In Support  
of  
RE: H.B. 2520, H.D. 3, S. D. 1 – Relating to Caregivers**

**I. OVERVIEW OF CURRENT PROPOSED LEGISLATION**

H.B. 2520, H.D. 3, S.D. 1, amended this measure by deleting its contents and inserting a provision to convene a working group to explore various funding mechanisms that could support family caregivers.

**II. CURRENT LAW**

**Hawaii Family Leave Act (“HFLA”)**

The Wage Standards Division (“WSD”) administers the Family Leave Law, Chapter 398, HRS, which applies to employers with 100 or more employees. Currently, the HFLA provides eligible employees up to four (4) weeks of family leave per year, which may consist of unpaid leave, paid leave, or a combination of paid and unpaid leave.

The HFLA currently provides that family leave may be used for the birth or adoption of a child or the care for the employee’s reciprocal beneficiary, child, spouse, or parent with a serious medical condition.

Moreover, under recent amendments to the HFLA, employers are (1) required to allow

eligible employees to use up to ten (10) days per year of their accrued sick leave for any purposes listed in the HFLA; and (2) allow employees the sole discretion of substituting any portion of their accrued vacation, personal, or paid leave for any part of the four weeks of family leave granted under the HFLA.

There are no caregiver benefits for employees who work for employers with less than 100 employees.

### **III. SENATE BILL**

The Department supports H.B. 2520, H.D. 3, SD 1 that brings together a working group to explore alternative means of providing financial support for family caregivers. The Department is willing to provide administrative support to the working group.



The Voice of Small Business®

Before the Senate Committee on Ways and Means

DATE: April 01, 2008

TIME: 10:15 a.m.

PLACE: Conference Room 211

## *HB 2520, HD3, SD1: Relating to Caregivers*

My name is Melissa Pavlicek and I am the state director for the National Federation of Independent Businesses (NFIB) in Hawaii. We oppose **HB 2520, HD3, SD1** in its current form and respectfully ask that you hold this measure.

NFIB is the largest advocacy organization representing small and independent businesses in Washington, D.C. and all 50 state capitols, with more than 1,000 members in Hawaii and 600,000 members nationally. NFIB members are a diverse group consisting of high-tech manufacturers, retailers, farmers, professional service providers and many more.

NFIB agrees that caregiving is an important issue, with the potential to affect many businesses as well as families, and that the public policy questions involved should be studied carefully. We are specifically concerned that because this bill proposes wage replacement for employees out to care for parents and/or children, it potentially places an administrative burden on employers, as well as a potentially unworkable burden to verify the legitimacy of the leave, given medical privacy laws. We are concerned about whether the employer will be forced to determine whether one of two spouses or both will be eligible for the paid leave. We have significant concerns about how this will impact small businesses.

With respect to developing creative solutions to promote workplace friendly policies, such as flextime, work-at-home options, job-sharing, counseling and employer-paid services of a care manager, NFIB generally favors empowering employers to offer their employees various options, without the potential unintended consequences that mandated benefits can sometimes entail. NFIB is a key stakeholder regarding small business issues and appreciates the opportunity to be included in this very important public policy discussion. Please do not advance this measure.

1099 Alakea Street, Suite 2140, Honolulu, Hawaii 96813



**PAMELA J. FERGUSON-BREY**

Post Office Box 22572  
Honolulu, Hawaii 96823  
808-265-2093

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TESTIMONY ON HOUSE BILL 2520 HD3 SD1  
RELATING TO CAREGIVERS

Senate Committee on Ways and Means  
Senator Rosalyn H. Baker, Chair  
Senator Shan S. Tsutsui, Vice Chair

Tuesday, April 1, 2008; 10:15 AM  
State Capitol, Conference Room 211

Good morning Chair Baker, Vice Chair Tsutsui, and Members of the Senate Committee on Ways and Means. Thank you for providing me with an opportunity to testify in **support of House Bill 2520 HD3 SD1 with an amendment to restore the paid leave provisions contained in HB 2520 HD3.** House Bill 2520 HD3 SD1 creates a working group to address issues concerning the support of family caregivers.

In 1993, the federal Family and Medical Leave Act (FMLA) was enacted by Congress to ensure that employees who needed to take time off from work to care for a seriously ill family member, a newborn, or to address their own serious health condition, did not risk losing their jobs. The FMLA provides that employees can take up to twelve (12) weeks per year of unpaid leave after the birth or adoption of a child, or if they have a serious health condition, or to care for a family member with a serious health condition.

While the FMLA ensures that caregivers do not lose their jobs or seniority in order to care for a loved one, many eligible employees simply cannot afford to take unpaid FLMA leave. According to the U.S. Department of Labor eight (8) out of ten (10), or eighty percent (80%), of the three and one-half million (3,500,000) workers who were eligible for FMLA benefits in 2000 did not take available unpaid leave because they could not afford to do so.

California passed legislation in 2002 to address this problem. Qualified employees in California receive up to six (6) weeks of paid family leave. Qualified employees receive

about fifty five percent (55%) of their salary for up six (6) weeks in order to care for a newborn child or a seriously ill relative. In June, 2007, U.S. Senators Chris Dodd and Ted Stevens introduced federal legislation to provide eight (8) weeks of paid leave to workers who take time off under the FMLA.

I urge the Committee to restore the paid leave provisions contained in House Bill 2520 HD3. Many caregivers in Hawaii will not have the financial support they need to take time off to care for a loved one if they do not have paid leave. Members of our community should not have to choose between caring for a seriously ill family member and their job.

This measure will benefit employers by reducing the cost of staff member turnover and ease the labor shortage in the Hawaii marketplace, since many caregivers must retire, or resign, in order to address their family caregiving responsibilities.

Thank you for providing me with an opportunity to speak in support of HB 2520 HD3 SD1 with an amendment to restore the paid leave provisions contained in HD3.

Janet Hyrne, MS  
240 Kilea Place  
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Telephone: (808) 291-5321  
Fax: (808) 623-9778  
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**JANET HYRNE, M.S.**

March 31, 2008

Senator Rosalyn Baker, Senator Shan Tsutsui  
And Members of the Ways and Means Committee  
Hawaii State Capitol  
Honolulu, HI 96813

RE: HB2520, HD3, SD1, Relating to Caregivers

Dear Chairman Baker, Chairman Tsutsui, and Ways and Means Committee Members:

I am writing testimony in support of HB2520, Relating to Caregivers, because it is extremely important that as our population ages, those tasked to care for loved ones be provided as much support as possible. Allowing them access to Temporary Disability Insurance benefit payments would help defray the financial hardship placed upon caregivers.

In my work experience as a mental health counselor, I have counseled many people on the frustrations that come from caring for aging and/or disabled family members. Personally, I have five friends who care for aging parents and one who cares for a disabled brother. I have seen firsthand the hardships imposed upon them as they sacrifice a substantial amount of personal and financial resources to take on this responsibility.

As our population continues to age, we will see more people within the workforce tasked with the responsibility of caring for aging parents and relatives. Allowing TDI benefits for these people will help stabilize their income, reduce forced early retirement or unemployment, and protect those being cared for by allowing their caretakers the needed time off without financial repercussions.

I support HB2520, HD3, SDi and ask the members of the Ways and Means Committee to support this bill. If you would like to speak to me regarding my testimony, please feel free to contact me at any of the numbers listed above.

Aloha,

Janet Hyrne, MS  
Marriage & Family Therapist-Intern



888 Millilani Street, Suite 601  
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000  
Facsimile: 808.528.4059

[www.hgea.org](http://www.hgea.org)

The Twenty-Fourth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Ways and Means

Testimony by  
Hawaii Government Employees Association  
April 1, 2008

H.B. 2520, H.D. 3, S.D. 1 –  
RELATING TO CAREGIVERS

The Hawaii Government Employees Association supports the purpose and intent of H.B. 2520, H.D. 3 before it was amended by the Committees on Human Services and Housing and Judiciary and Labor. The S.D. 1 version calls for a working group to study changing the TDI and other policies such as unemployment insurance and income tax credits to assist family caregivers.

The H.D. 3 version proposed changing the Temporary Disability Insurance (TDI) law (Chapter 392, HRS) to allow an employee to receive a maximum of four weeks of TDI benefit payments if they care for a family member who suffers a "serious health condition," as defined in Section 398-1 HRS (family leave law). Providing wage replacement benefits are an appropriate and productive means of supporting family caregivers. Thank you for the opportunity to present testimony in support of H.B. 2520, H.D. 3.

Respectfully submitted,

Nora A. Nomura  
Deputy Executive Director