Long-Term Services & Supports Feasibility Policy Note

Frequently Asked Questions on SB 2478, HB 1885

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These FAQs were presented in large part as testimony before the Hawaii Senate Consumer Protection and Health Committee and the Human Services Committee on February 10, 2016.

The program proposed by SB2478 and HB1885 is a response to the 2012 Long Term Care Commission's recommendation for a study to examine the feasibility of a limited benefit, mandatory social insurance program for long-term care in Hawaii. The program is designed to reach out to Hawaii's families with assistance for the care of their kupuna, at a time when care is critical. It is targeted at helping with care for kupuna when they begin to most urgently need long-term assistance.   The care criteria are based on need for assistance with two or more activities of daily living (ADLs) or cognitive impairment.

The Program in a Nutshell

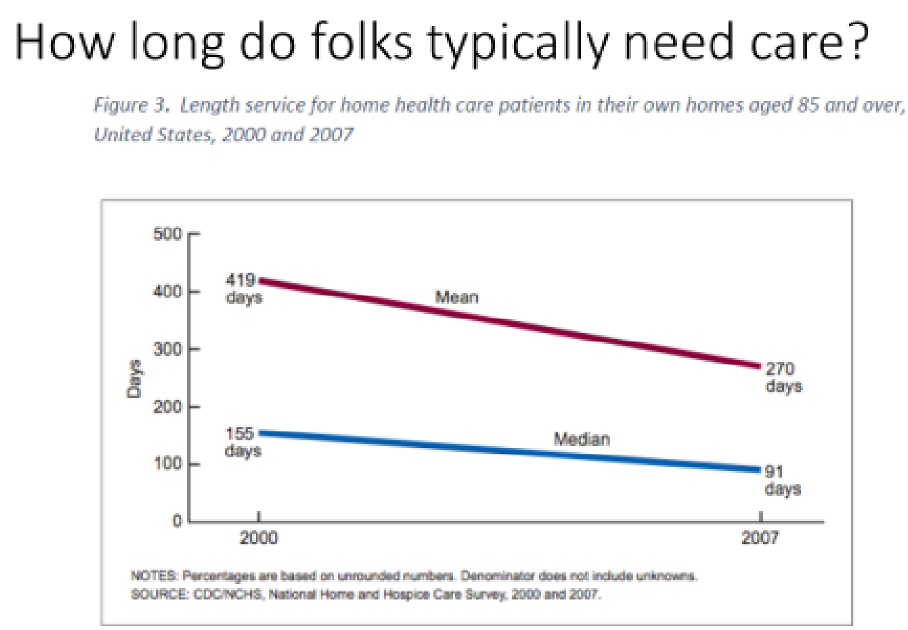
- Eligibility—vested with regular filing of Hawaii Resident Income Tax Returns
  - 1/10 of face value of benefit earned per consecutive year filed
  - After one year grace period, 1/10 of face value lost for
- Benefit of up to 365 days service, stretched out as needed
  - "Trigger" of needing assistance with 2 or more ADLs or cognitive impairment
  - No age restriction
  - Secondary to Medicare, Primary to Medicaid, Private LTCI may be used at any time
- Funded by ½ % addition to the Hawaii GET
  - Funds deposited into dedicated Trust Fund Account
  - Trust Fund managed by Trustees with fiduciary responsibility
    - Requires annual public actuarial report
    - Obligated to show Trust Fund solvency for 75 years
  - Initial benefit of $70/day may be adjusted by Trustees to deal with inflation

Frequently Asked Questions: Benefits[1]

What will be the criterion for awarding benefits? What does "2 or more ADLs"mean? ADLs --, activities of daily living, are the activities without which we cannot go through the day—getting out of bed, getting dressed, taking a shower or bath, getting to the toilet, and eating. It is clear that if we cannot get out of bed without help, or cannot get dressed, or cannot manage continence, we cannot do very much in this world any more. In Hawaii's families, you and I may not be the focus of care; it will be our mothers and fathers, grandparents and other close relatives. When a family's kupuna need care most middle-aged folks will still be in the labor force. Few will have golden parachutes. Many will have to leave work to provide care.

Why is there only a 365 day benefit, rather than lifetime? The program created by this bill will provide assistance in the early months of the need for care. With a 365 service day benefit, families will be able to hire part-time care givers to get the day off to a good start, or to help with the tasks that family members cannot do. They can arrange for a kupuna to visit an Adult Day Care Center, and cover much of the center daily cost. They can spread these benefits out—using services as the family schedule requires them. Realistically, it is likely very difficult to get a care worker to come for just an hour—so a little bit longer service visit may be necessary—typically in the 4 hour range.

Most people who need some long term care may not use benefits for very long. The program benefits exceed both the average and median length of care found in the CDC National Home and Hospice Care Surveys.

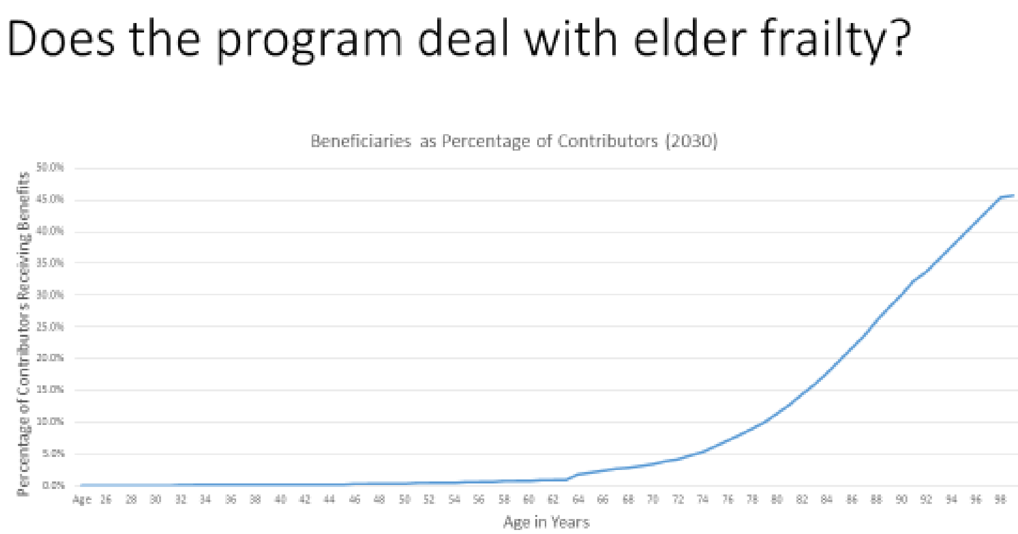


[1] Most figures in the following sections are drawn from the LTSS Report, http://www.hawaiiadrc.org/Portals/_AgencySite/LTSS/LTSS_2.pdf. Additional figures are taken from the Policy Notes listed on the Hawaii ADRC publications page, http://www.hawaiiadrc.org/site/439/reports___publications.aspx.

What about benefits after 365 days of service? The mean number of days of home and community care in the US is less than 300. The median is about 90. Relatively few people will need more than 365 separate days of care. Families use extra care givers so they can get to work on time, so they do not have to have someone take early retirement, or similar job changes in order to provide care for Mom or Dad. If a family used a caregiver 5 days a week for 50 weeks, which would use 250 care days—115 days would be left in the allotment to use in the future. Any plan to extend the number of benefit days would require recalculation of the program financing with data on actual utilization. Trustees could not authorize an adjustment that exceeded the proposed financial package.

Is anybody really likely to get benefits? The amount of money needed to pay benefits was determined by an actuarial model that estimated the number of people in the state who are likely to be disabled in each age group over a 75 year time horizon.[2] Under the actuarial model, by about 2025, nearly 30,000 people will be getting benefits annually.

Will young as well as older people be able to receive benefits? The program benefits are not restricted by age. Younger adults who encounter disabling events that affect activities of daily living (ADLs) may also draw benefits. But they will be a small portion of beneficiaries, as shown by computations from the actuarial model. In the following figure, we see that only by age 75 are 5% of the contributors receiving benefits. By age 84, 15 % of the contributors will be in benefit status; by age 95, about 35%.



[2] The actuarial model was developed initially for the State of Hawaii Executive Office on Aging in 1991-1993, and revised in 2002-2003 and again in 2014-2015. The Annandale, VA, firm of Actuarial Research Corporation developed the underlying statistical tables from the best available sources and procedures that had been tested in work for the Social Security Administration and the Department of Health and Human Services, Assistant Secretary for Planning and Evaluation. Guidelines for reading the model are given in: http://www.hawaiiadrc.org/Portals/_AgencySite/LTSS/Workbook_t.pdf . Sample output for various prospective

***Why the complicated vesting and de-vesting system*?** Medical migration has become a concern for any states in the South of the U.S.—Florida, Arizona, New Mexico, and so forth. It could become a concern for Hawaii also if we establish a program that does not in effect ask folks to contribute to the pot. There is a constitutional issue here, since states must treat the citizens of other states equitably.

American states have occasionally attempted to restrict rights and benefits to their own residents. A famous Montana case held that a state could restrict inessential services, such as the right to get a hunting or fishing license, but not essential services needed to sustain life or health. Access to college at in-state tuition in another state has been regulated by establishing a very clear set of residency rules. Virtually all other point of time residency restrictions have been found unconstitutional under Article 4 of the Constitution or the 14th Amendment. The vesting program which credits 1/10 of the face benefit for each consecutive year a person has filed a Hawaii Resident Income Tax return avoids a point-in-time residency clause. Everyone is subject to exactly the same rule. The effect of this is that the program does not restrict folks who come from a no-income tax state, such as Alaska, Texas, and Wyoming but it invites these folks to move their tax home to Hawaii. They will then join the program on the same basis as current residents. Thus, the program treats all persons the same.

Why do the benefits start five years after the initiation of the program? This is a one-time adjustment. It will be necessary to have the disbursement system up and running to pay benefits. In addition, while the program is very new, it is probably not good to encourage people to make a claim in the second year or so for just 20% of the face value of the benefit.

What if people leave the state to stay with their children? People do travel, and in many cases they must leave the state to be with their children living on the mainland. The slow de-vesting process allows them to be absent for a while, but not lose all benefits?

What about people not required to file a tax return? One of the tasks set for the Board of Trustees in the bill is to write rules to cover citizens not required to file a tax return (persons with very low incomes and no defined benefit plan retirement benefits, for example.) Because these circumstances may be both detailed and change over time, the rule-making process is probably a better place to make procedural decisions than in enabling legislation.

Why doesn't the program pay for nursing home care? The program does not bar nursing home or institutional services, but we must realize that the benefit will pay only a small part of the daily bill in an institutional setting. For much of the time our kupuna are disabled and need assistance with ADLs, they really want to stay in their homes—to age in place.

Why not just double or triple the benefit so that we are sure that nursing home care will be fully covered? The cost scales pretty directly—triple the benefit would require triple the collections. We must also keep in mind that Hawaii has about half the LTC institutional beds of most other states, thus spaces may be in short supply even with larger benefits.

Can you use the program if you have private long-term care insurance? Yes. You may want to call on the program first because the exclusion period is only 30 days, as opposed to 90 or 100 days typical with private long-term care insurance.

Does it matter if I am a dependent when filing taxes? Hawaii Resident Income Tax form N-11 provides for listing both head of household and spouse. In the event a couple files separate returns, or the partners later file as single persons, the same tax identification number will be carried on all returns filed. Questions about eligibility for persons not obligated to file a Hawaii N-11 return must be addressed by the Trustees, under language of the bill.

How do you receive benefits? The benefit is intended to cover a portion of the cost of services. It is designed to allow hiring additional caregivers in order to protect the careers and retirement rights of family. For fiscal integrity, the payments for services must be documented by receipts, payroll records, care services contracts or the like.

How will I submit a claim? The Trustees will establish working relationships with agencies capable of processing claims from eligible residents. To allow time to set up working payment mechanisms, no claims will be accepted during the first five years of the program. Thereafter, payments will be available according to the vesting schedule.

Can I spread payments over time, depending on when I need services? Yes, the intent of the program is to provide 365 days of services, not 365 calendar days. If you need services only for three days a week, you would use only 156 days of services in a calendar year, and have over 200 days left to use later.

If there are many disabled people in a household isn't there a chance for abuse? The estimates of the need for services come from the distribution of disability across the population. It does not matter where eligible beneficiaries live—the pricing model took their needs into account. The target disability level of 2+ ADLs or cognitive deficit governs determination of need. Some households with two elder members may have two folks receiving care at one time, but usually care will not start for both partners in a marriage at the same time.

Frequently Asked Questions: Funding

How will program funds stack up against program benefit payments? The key factor in planning for solvency in uncertain times is to assure that the funds paid out of the program do not exceed the funds taken in. Dr. Wayne Liou provided an analysis of the effects of optimistic and pessimistic conditions on the solvency of payroll tax and GET financed programs:

Figure 1: "Solvent" Economic Assumptions

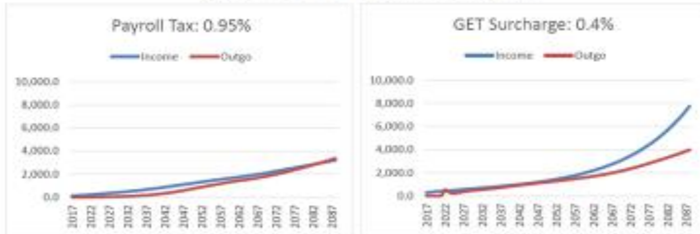
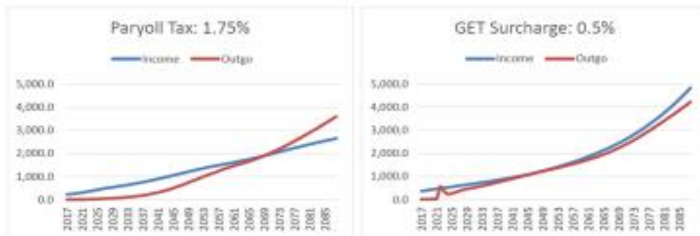


Figure 2: "Pessimistic" Economic Assumptions



The two critical issues illustrated in the graphs above are the size of the tax and the solvency—never paying out more than is taken in. Under optimistic financial assumptions, the payroll tax is solvent for many years at 0.95%, but insolvent under more pessimistic assumptions. The GET based program is more than adequately solvent under optimistic assumptions at 0.4%, and still fully solvent under pessimistic assumptions at a 0.5% GET increment. The lower-right hand illustrations shows the expenditures and income to the find tracking, with the income always slightly in excess of the expenditures. At all times the fund balance is at least three times the amount needed for the next year's benefit payments.

***How does the program provide for stability and solvency*?** The keys to a stable, sustainable social insurance package lie in the design of the financing mechanism and the fiduciary management of the program.

1. A social insurance program needs a dedicated source of funding—it cannot be funded on an occasional basis from anticipated surpluses.
2. The size of the funding source has to be regarded for a long period of time as *fixed.* Program managers must not be able to return to the legislature for additional funding on a regular, frequent basis.
3. Investment assumptions for a Trust Fund must be pegged to quite pessimistic expectations. To project a 7% real interest rate over time would be a case of uncontrolled optimism. Returns must be assumed to be very modest, similar to the long term expectations for US Treasury bond interest rates (2% to 2.7%).
4. In planning, actuaries must assume a relatively high benefit use estimate among the whole population, not just older citizens.
5. Adjustments of benefits cannot be mandated in advance. Financing must plan for inflation adjustments, but they cannot be written into law without threatening fund solvency.

6. Trustees must be fiduciaries in their management of the fund. They must act wholly in the interest of the fund beneficiaries. There must be a standard of solvency which the Trustees are obligated to maintain.
7. Administration of both money coming in and membership in the fund must be manageable. The GET is relatively easy to collect—and over 25% of it is paid by retail purchases of visitors to Hawaii. Establishing a record of residency be virtue of filing a tax return is simple, and an aggregate record of filings can be posted for every person identified on a tax return.

How can we know whether the fund is healthy? Will we be able to see that it is solvent? The Trustees must present a public annual report of the actuary to the legislature. The report must demonstrate that any recent actions of the Trustees in setting benefits, assuming fund earnings in the future, and assessing the growth of the population will result in solvency for the next 75 years.

How will we know that the Trustees will not make ill-considered investment decisions? The investment criteria for the Trustees are defined in the bill. Fund investments must be appropriate for public investments, issued by reliable sources, and sufficiently liquid to allow the fund to meet is benefit payments without substantial loss on sale of such securities.

How can you assure that the Trustees will act as "fiduciaries" rather than as simply disinterested administrators? Detailed technical language in the bill sets out standards of performance and responsibility for the Trustees and standards of reporting for the actuary. This protective language is intended to provide a form of insulation of the tax funding from the stream of benefits. As we know, in the U.S. Social Security system, we have had a string of more or less automatic inflationary adjustments, yet have experienced little or no adjustment by the Congress of the tax rate, the cap on incomes not adjusted, even in the face of increasing life expectancy and thus longer benefit claims.

Why can't we do this with private insurance? We mean, why can't we insure the society with private insurance? Private insurers have obligations to their subscribers to avoid unplanned losses. Thus the private insurer must "underwrite," that is, make a judgement about whether a person can be insured without taking a risk on someone very likely to use benefits. The whole society then cannot be covered by private insurance—High risk applicants cannot be insured and still protect the assets required to cover claims on the folks now holding insurance coverage. There are a couple of very restrictive limits:

a. Applicants have to be healthy and look like they present a small risk of making claims.
b. Private insurance buyers may have to buy when young, then hold for many years.
c. The company must present an attractive price—and to do so may assume very good investment returns for a long time or very low rates of use—which could be wrong.
d. People often try to buy LTCI to fill highest possible lifetime needs—then after retirement may find that they do not have sufficient income or reserves to handle an increase in premiums.

Wouldn't the public/private partnership program to make Medicaid available to folks who carry LTC insurance help out here? The public/private partnership programs may waive an asset test for Medicaid, but the applicants must still meet Medicaid income requirements. Under most circumstances, the limit on income for eligible couples is about $34,000 a year. But at this income level, very few older people can afford to purchase the long term care insurance.

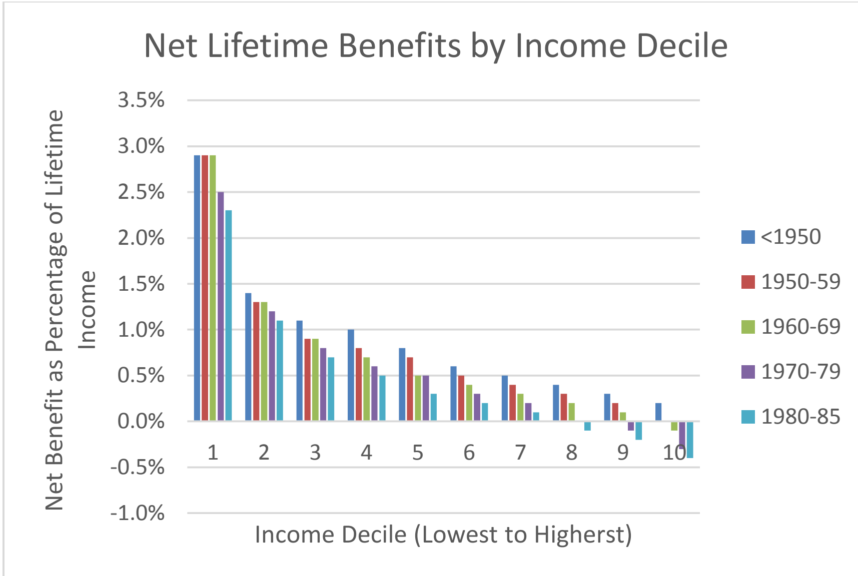
Won't tax credits for long term care insurance do the job of getting people to cover themselves? For tax credits to work, people must be able to qualify for a policy on health grounds, be able to afford the initial premiums, and to continue paying them long after retirement. Any lapse in this stream of premium payments pretty much defeats the benefit of the tax subsidy.

Why not simply use general funds? Using general funds is efficient—it does not tie up much money in advance. But a general fund benefit must be available to all—both residents and visitors. A dedicated Trust Fund with a dedicated source of funding permits creation of an open benefit qualification that nevertheless slows initial demand for services. The program vests the right to benefits at 1/10 of the face value for each year a Hawaii Resident Income Tax Return is filed. Thus it is possible to offer everyone exactly the same path to benefits, whether they were born in Hawaii or moved here as adults later in life. Everyone is welcome to come—but they must make Hawaii their tax home.

Why not a payroll tax? The payroll tax has a few obvious constraints if used to finance a long-term care program:

a. Beneficiaries have to be on a payroll—they have to be working.
b. Employers or their payroll agents must adapt payroll disbursing software.
c. The Tax Department must keep track of funds paid in, in a manner similar to keeping track of payroll deductions for state income taxes.
d. People not working are excluded from the start; people with irregular work will have a difficult time showing consistent commitment.
e. All of the tax is paid by working people in Hawaii. None is exported.
f. To include retirees would mean converting the payroll tax to an income tax and taxing retiree incomes.
g. A payroll-tax based program would be supported only by working people—they would not contribute after leaving the workforce. The number of workers per retired beneficiary would then become a critical financial ratio.

Isn't a sales or general excise tax regressive? Won't the program hurt the poorest residents? The assertion is commonly made that VAT and General Excise Tax programs are regressive, because poorer people pay a larger share of their income, since they spend more of it. For a social insurance program with benefits available to nearly all of the population, it is necessary to look at expected lifetime benefits and expected lifetime tax. Using the Urban Institute's *DYNASIM* income simulation model for Hawaii, we can show that relative to their lifetime income, lower income residents will receive higher net lifetime benefits than upper income residents. This is shown in the following figure.



Why a special board of trustees? Why not manage through an agency providing services? The ethical standards for service delivery professions such as social work, public health, community nursing, and the like are very different from those of a fiduciary trustee. The social delivery professions focus on assuring claimants that they receive the services and assistance they need, have access to financing for which they qualify, and to do so fairly without gender, ethnicity, age, or other bias. The fiduciary trustee is obligated to keep program solvent, to monitor the reliability of investment advisors, the control the rate at which benefits may be increased to meet inflation and the like. The fiduciary trustee must be the proverbial "green eyeshade accountant." Since the trustees are required to keep the program solvent for 75 years, they will possibly be at odds with the vision of the social service professionals who are obligated to help people get services.

Won't a tax program take money out of the state and slow the economy? My colleague Dr. Wayne Liou, our health economist, examined the flow of funds going into the GET increment, and the flow going out in services purchased by the benefit. After the startup of the project, the program is projected to create more jobs and greater additional net benefits than lost by taking the tax out of the expenditure stream. The benefit is intended to secure additional care for a family kupuna. It is paying mostly for labor, and occasionally for other means of assistance to the beneficiary. These are jobs that would not have been generated if the family had been to finance them for cash out of "lunch money." The family would generally not hire the assistance needed to care for their member needing help.

Haven't medical costs escalated in recent years? How can the program cover that? LTC home and community services are really not medical costs—they involve no magical equipment and no brand-new drugs. Home and community services are people providing hands-on care to a person with limitations in activities of daily living. This is labor. The inflation rate for basic wages has been low for a decade or more.

Frequently Asked Questions: Urgency and Risks

Won't the program encourage medical migration to Hawaii? The program actually mandates moving one's tax home to Hawaii and credits benefit eligibility at only 1/10 of the face value for each successive year tax return filed. It is pretty expensive to live in Hawaii. The very poor have a tough time coming here—and may not file income tax returns. When a benefit criterion is set at failing 2 or more ADLs (activities of daily living) or cognitive deficit—we are describing a group which is really not very mobile.

How do we know we will have enough money? The first calculation for the actuary is to determine the population size, age, and likely growth. Then the actuaries can calculate the cost of providing services to everyone in the eligible population who meets the required disability level. This projection involves looking at the target disability level across the whole population. This level of service, and the population projection over time, generates the estimate of the cash needed each year into the future. The tax collection rate is set only after the cost picture has been determined. The collection rate is designed to provide a limited cushion in the fund balance to accommodate minor year-to-year fluctuations in demand, and to allow for but not mandate benefit increases to compensate for inflation.

Isn't there cross-subsidization from the young to the old? After all, current elders become eligible for full benefits in 10 years. Yes, there is some. The alternatives, however, are not very appealing:

a. The program starts with a cohort of young people and reserves the fund assets for each cohort for the benefit of only its members. The model will build potentially large balances, which are themselves a political temptation. It must also use an age-based collection system.
b. The program takes all age groups, but sets different prices for each age group. This would result in effectively a private insurance system without the possibility of underwriting applicants' risks. Avoidance of payment by older cohorts would imperil the program solvency.
c. All of the person-based collection systems fail to capture contributions by visitors to Hawaii.

Can't we depend on our kids to take care of us? Sometimes. But about 21,000 people between the ages of 30 and 64 leave the state every year[3]. This number excludes the young military personnel on short rotations, and students who have gone away to school. The number in prime working years who have left since 2007 is on the order of 185,000.[4]

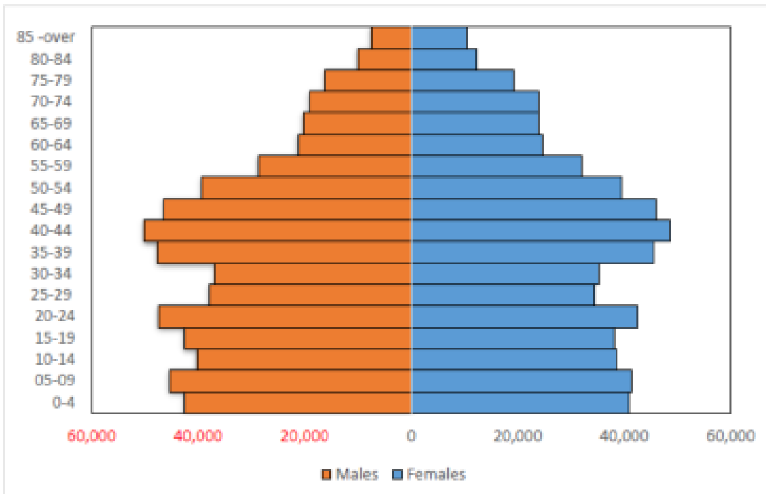
[3] American FactFinder. B07401. Geographical Mobility in the Past Year by Age for Residence 1 Year Ago in the United States. 2008-2012 American Community Survey 5 –Year Estimates

[4] Computed from the American Community Survey. Tabulation of residents in all other states who had lived in Hawaii in the previous year, over the years 2007-2014. Sourced from IPUMS-USA, University of Minnesota, www.ipums.org

Why not wait to see how the problem develops over time? Hawaii's population grows from both birth and migration. Two age profile charts illustrate this effect from 2000 through 2040.[5] Hawaii's population grows as much by addition of adults coming to Hawaii as it does from births.

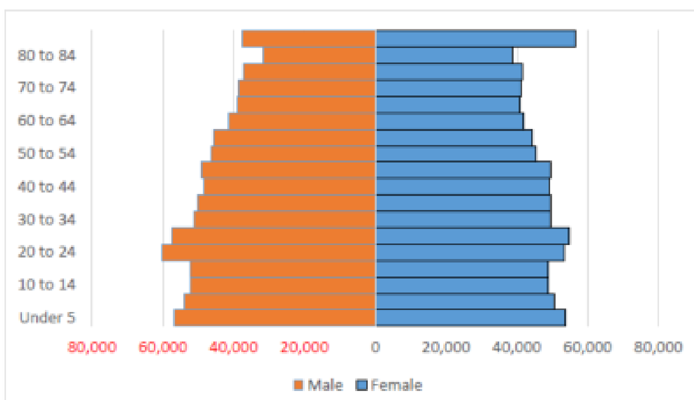
How old are we now?

Figure 1. Age Distribution for the Resident Population of Hawaii, 2000



How old will we be?

Figure 2. Age Distribution for the Resident Population of Hawaii, 2040



Frequently Asked Questions: Additional Questions Raised in the Community

[5]Table A-8. Hawaii State Male Resident Population by 5-year Age Group, 1980-2040
Table A-9. Hawaii State Female Resident Population by 5-year Age Group, 1980-2040, found in http://files.hawaii.gov/dbedt/economic/data_reports/2040-long-range-forecast/2040-long-range-forecast-appendices.xlsx

I am pretty sure we won't need any help. Can't I still manage my job and put in some good time caring for mom. A study by Ettner in 1995 sound that U.S. women who provided more than 10 hours of care a week lost four hours of labor market work per week.[6]

My daughter's (son's) job is a bit spotty anyway. Couldn't she/he leave the job to become a full-time caregiver under this program? There is some research on this question from a study called the 'Cash and Counseling Program.' Lilly, Laporte and Coyte (cited in the note above) report studies showing that people who leave their jobs or reduce their work hours to give care are unlikely to get back to their old work patterns after caregiving ends. These authors argue:

> "Given that these payment programs create economic incentives for caregivers receiving low wages to leave the labor market in favor of receiving cash payments, this approach may place the most economically vulnerable caregivers at risk of long-term financial losses and even poverty when the caregiving period and its associated income stop."

My employer has always been good about accommodating employee needs. Won't the fact that we have some short term leaves available help a lot? When employers provide short-term accommodation, it is always helpful. But a MetLife study in 1997 found that the most expensive cost was replacing workers who quit work because of their caregiving responsibilities. This suggests that leaving work can have effects far beyond the employee who quits.

As long as I have some kind of retirement plan in place, will it make much difference if I take off a while for care giving? Johnson and Lo Sasso demonstrate that even small reductions in work hours to provide unpaid care can have long-term consequences for caregivers' future pensions and retirement savings.[7]

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[6] Ettner, S. The impact of "Parent Care" on Female Labour Supply Decisions." Demography, 32(1): 189-205. Cited in Lilly, Laport and Coyte. Labor Market Work and Home Care's Unpaid Caregivers: A Systematic Review of Labor Force Participation Rates, Predictors of Labor Market Withdrawal, and Hours of Work. The Milbank Quarterly, Vol 85, No. 4 (*Dec 2007): pp. 641-690.

[7] Johnson, R.W , and A. T. Lo Sasso. 2000. The Trade-Off between Hours of Paid Employment and Time Assistance to Elderly parents at Midlife. http:''www.urban.org/UploadedPDF/elderly..parents.pdf.

____. 2002. Balancing Retirement Security with the Needs of Frail Parents: Caregiving, Financial Transfers and Work by Women at Midlife. North American Actuarial Journal 5(1): 104-8.