

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO UNIVERSAL HEALTH INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§235-    Part-time employee prepaid health care tax  
5 credit. (a) Each individual and corporate resident taxpayer  
6 subject to the tax imposed by this chapter, who is an employer  
7 as defined in this section, and who files an individual or  
8 corporate net income tax return for a taxable year, regardless  
9 of adjusted gross income, may claim a part-time employee prepaid  
10 health care credit against the taxpayer's individual or  
11 corporate net income tax liability for the taxable year in which  
12 the credit is claimed and for which the income tax return is  
13 being filed. The tax credit under this section, may be claimed  
14 by any employer who provides health care coverage for part-time  
15 employees by a prepaid group health care plan pursuant to  
16 chapter 393 and may be claimed only once in the taxable year



1 regardless of the number of owners or the number of partners or  
2 corporate officers.

3 (b) The amount of the tax credit shall be an amount equal  
4 to fifty per cent of any costs of providing prepaid group health  
5 plan coverage for the taxable year in which the payments are  
6 made.

7 (c) All claims, including any amended claims, for tax  
8 credits under this section shall be filed on or before the end  
9 of the twelfth month following the close of the taxable year for  
10 which the credit may be claimed. Failure to comply with the  
11 foregoing provision shall constitute a waiver of the right to  
12 claim the credit.

13 (d) If the tax credit under this section exceeds the  
14 taxpayer's income tax liability for any year that the credit is  
15 taken, the excess of the tax credit over liability may be used  
16 as a credit against the taxpayer's income tax liability in  
17 subsequent years until exhausted.

18 (e) The director of taxation shall prepare any forms that  
19 may be necessary to claim a credit under this section. The  
20 director may also require the taxpayer to furnish information to  
21 ascertain the validity of the claims for credits made under this



1 section and may adopt rules necessary to effectuate the purposes  
2 of this section pursuant to chapter 91.

3 (f) For the purposes of this section:

4 "Employer" means any individual or type of organization,  
5 including any partnership, association, trust, estate, joint  
6 stock company, insurance company, or corporation, whether  
7 domestic or foreign, a debtor in possession or receiver or  
8 trustee in bankruptcy, or the legal representative of a deceased  
9 person, who has one or more regular employees in the employer's  
10 employment. "Employer" does not include:

11 (1) The State, any of its political subdivisions, or any  
12 instrumentality of the State or its political  
13 subdivisions;

14 (2) The United States government or any instrumentality of  
15 the United States;

16 (3) Any other state or its political subdivisions or  
17 instrumentality of the state or its political  
18 subdivisions;

19 (4) Any foreign government or instrumentality wholly owned  
20 by a foreign government, if:

21 (A) The service performed in its employ is of a  
22 character similar to that performed in foreign





1 HAWAII HEALTH INSURANCE PURCHASING POOL

2 § -1 Definitions. Whenever used in this chapter, unless  
3 the context otherwise requires:

4 "Commissioner" means the state insurance commissioner.

5 "Creditable health care coverage" means an insurance policy  
6 against bodily injury, disablement, or death by accident, or  
7 accidental means, or the expense thereof; against disablement or  
8 expense resulting from sickness; and every insurance  
9 appertaining thereto, including health and medical insurance  
10 that meets minimum coverage requirements as determined by the  
11 commissioner. Creditable health care coverage includes an  
12 individual or group health insurance plan, medicare part B,  
13 United States Veterans Administration benefits, medicaid, or  
14 other state or federal public assistance benefit so long as that  
15 benefit meets the minimum coverage requirements as determined by  
16 the commissioner.

17 "Eligible enrollee" means a person who is not eligible for  
18 coverage under chapter 393 and is not eligible to receive  
19 medical assistance that meets the minimum coverage requirements  
20 as determined by the commissioner under a medical assistance  
21 program administered by the department of human services, the



1 Social Security Administration, or the United States Veterans  
2 Administration.

3 "Health care plan" means any agreement by which any health  
4 care plan carrier, in consideration of a stipulated premium,  
5 undertakes to either:

6 (1) Furnish health care, including hospitalization,  
7 surgery, medical or nursing care, drugs or other  
8 restorative appliances, subject to, if at all, only a  
9 nominal per service charge; or

10 (2) Defray or reimburse, in whole or in part, the expenses  
11 of health care.

12 "Health care plan carrier" or "carrier" means:

13 (1) Any medical group or organization that undertakes  
14 under a health care plan to provide health care;

15 (2) Any nonprofit organization that undertakes under a  
16 health care plan to defray or reimburse in whole or in  
17 part the expenses of health care; or

18 (3) Any insurer who undertakes under a health care plan to  
19 defray or reimburse in whole or in part the expenses  
20 of health care.

21 "Program" means the Hawaii health insurance purchasing  
22 pool.



1 "Resident" means a person whose primary place of habitation  
2 is situated within this State and who, when absent from that  
3 primary place of habitation, intends to return to it. The  
4 following shall be prima facie evidence of residency within this  
5 State:

- 6 (1) Filing a Hawaii resident income tax return;
- 7 (2) Declaring in a home mortgage document that the  
8 mortgaged property located in this State shall be  
9 occupied as a primary residence;
- 10 (3) Signing a residential rental or lease agreement that  
11 declares that the rented or leased property shall be  
12 occupied as a residence for not less than ninety days;
- 13 (4) Registering to vote in any precinct within this State;
- 14 (5) Paying, on one's own behalf or on behalf of a  
15 dependent child or spouse, resident tuition fees for  
16 regular courses of instruction at any University of  
17 Hawaii system campus, including any community college;
- 18 (6) Having physical custody of a dependent child who is  
19 enrolled in a public school or charter school in this  
20 State;
- 21 (7) Receipt of public assistance from any program  
22 administered by the department of human services on



1           behalf of one's self or on behalf of a dependent  
2           child;

3           (8) Obtaining any benefit, exemption, deduction,  
4           entitlement, license, permit, or privilege by claiming  
5           principle residency within this State.

6           § -2 **Hawaii health insurance purchasing pool;**  
7 **established.** (a) The Hawaii health insurance purchasing pool  
8 is hereby established. The commissioner shall administer the  
9 program as provided by this chapter.

10          § -3 **Creditable health coverage mandatory.** (a) Every  
11 resident of this State shall obtain and maintain creditable  
12 health care coverage no later than October 1, 2009.

13          (b) Residents who do not obtain and maintain creditable  
14 health care coverage on or before October 1, 2009, or who do not  
15 obtain replacement creditable health care coverage within ninety  
16 days of losing creditable health care coverage, shall be  
17 enrolled in the Hawaii health insurance purchasing pool.

18          (c) Residents who are enrolled in the Hawaii health  
19 insurance purchasing pool shall be assessed a fee to cover a  
20 portion of the cost to the program of purchasing group health  
21 care coverage. This fee shall be not less than \$30 and not more



1 than \$200 per person per month as determined by the commissioner  
2 based on the resident's household income.

3 (d) This section shall not apply to any individual who,  
4 pursuant to the teachings, faith, or belief of any group,  
5 depends for healing upon prayer or other spiritual means.

6 § -4 Powers of the commissioner. The commissioner may:

- 7 (1) Enter into contracts with carriers to provide health  
8 care coverage to eligible enrollees and their  
9 dependents. Any contract entered into pursuant to  
10 this chapter shall be exempt from chapter 103D. The  
11 commissioner shall not be required to specify the  
12 amounts encumbered for each contract, but may allocate  
13 funds to each contract based on projected and actual  
14 subscriber enrollments;
- 15 (2) Enter into other contracts as are necessary or proper  
16 to carry out this chapter;
- 17 (3) Employ necessary staff;
- 18 (4) Sue or be sued, including taking any legal actions  
19 necessary or proper for recovering any penalties for,  
20 on behalf of, or against, the Hawaii health insurance  
21 purchasing pool or the commissioner;



- 1           (5) Define the health care coverage that the program will  
2           purchase from carriers;
- 3           (6) Appoint committees as necessary to provide technical  
4           assistance in the operation of the program;
- 5           (7) Assess participating enrollees a reasonable fee not  
6           less than \$30 and not more than \$200 for necessary  
7           costs in connection with the program;
- 8           (8) Undertake activities necessary to administer the  
9           program, including the establishment of rules,  
10           conditions, and procedures for participation;  
11           marketing and publicizing the program; and assuring  
12           carrier and enrollee compliance with program  
13           requirements;
- 14           (9) Establish a financial relationship directly with  
15           producers or insurance brokers to provide services  
16           pursuant to the program;
- 17           (10) Approve the health care plans of carriers  
18           participating in the pool;
- 19           (11) Adopt rules pursuant to chapter 91 to administer the  
20           program; and



1           (12) Exercise all powers reasonably necessary to carry out  
2           the commissioner's responsibilities under this  
3           chapter.

4           § -5 **Contracts with carriers.** On or after the effective  
5           date of this chapter, the commissioner shall enter into  
6           contracts with carriers for the purpose of providing health care  
7           coverage to eligible enrollees. Operating characteristics of  
8           participating carriers shall include:

- 9           (1) Strong financial condition, including the ability to  
10           assume the risk of providing and paying for covered  
11           services. A participating carrier may utilize  
12           reinsurance, provider risk sharing, and other  
13           appropriate mechanisms to share a portion of the risk;
- 14           (2) Adequate administrative management;
- 15           (3) A system for identifying in a simple and clear fashion  
16           both in its own records and in the medical records of  
17           subscribers and enrollees of the health care plan that  
18           the services provided are provided under the program;
- 19           (4) A satisfactory grievance procedure; and
- 20           (5) Where carriers contract with or employ health care  
21           providers, adequate mechanisms to:
- 22           (A) Review the quality of care provided;



1 (B) Review the appropriateness of care provided; and

2 (C) Ensure that health care services are accessible.

3 § -6 **Carrier selection.** The commissioner shall contract  
4 with a broad range of carriers, if available, to ensure that  
5 eligible enrollees have a choice among a reasonable number and  
6 reasonable types of competing carriers. The commissioner shall  
7 develop and make available objective criteria for carrier  
8 selection and provide adequate notice of the application process  
9 to permit all carriers a reasonable and fair opportunity to  
10 participate. The criteria and application process shall allow  
11 participating carriers to comply with their state and federal  
12 licensing and regulatory obligations, except as otherwise  
13 provided in this chapter. Carrier selection shall be based on  
14 criteria developed by the commissioner. The administrator shall  
15 not eliminate any carrier from selection solely because of the  
16 carrier's size or limited service area.

17 § -7 **Marketing and servicing contracts allowed.**

18 Participating carriers may contract with producers or insurance  
19 brokers to provide marketing and servicing of health care  
20 coverage offered through the program. Any commissions shall be  
21 determined by the participating carrier and the producer or  
22 insurance broker.



1           §   -8   **Conditions of participation; enforcement.**   The  
2 commissioner shall set and enforce conditions of participation  
3 in the program for eligible enrollees that shall conform with  
4 the requirements of this chapter.

5           §   -9   **Fee collections.**   The commissioner shall establish  
6 a mechanism to collect fees from enrollees.

7           §   -10   **Reenrollment restrictions.**   The commissioner may  
8 assess a reasonable reenrollment fee against eligible enrollees  
9 who drop coverage after enrolling in the pool without obtaining  
10 other creditable coverage.

11          §   -11   **Rates offered.**   Premiums shall not exceed one  
12 hundred and ten per cent of the median price of health insurance  
13 offered within the State calculated on an annual basis.

14          §   -12   **Right to appeal.**   (a)   A resident claiming status  
15 as an eligible enrollee may appeal decisions on eligibility for  
16 or enrollment in the program to the commissioner, and shall be  
17 accorded an opportunity for a fair hearing.

18               (b)   An eligible enrollee may appeal decisions on scope of  
19 coverage or service provision under the program to the  
20 commissioner, and shall be awarded an opportunity for a fair  
21 hearing.



1           §   -13   Hawaii health insurance purchasing pool special  
2 fund.  There is created a Hawaii health insurance purchasing  
3 pool special fund.  The fund shall consist of moneys collected  
4 pursuant to this chapter, legislative appropriations for the  
5 commissioner's operating expenses, and any interest or earnings  
6 on moneys deposited into the fund.  Moneys within the fund shall  
7 be utilized for the purposes of this chapter; provided that the  
8 commissioner's operating expenses shall not be paid with moneys  
9 other than those appropriated by the legislature for that  
10 purpose."

11           SECTION 3.  Section 393-3, Hawaii Revised Statutes, is  
12 amended by amending the definition of "regular employee" to read  
13 as follows:

14           ""Regular employee" means a person [~~employed in the~~  
15 ~~employment of any one employer for at least twenty hours per~~  
16 ~~week]~~ who engages in service, including service in interstate  
17 commerce, performed for wages under any contract of hire,  
18 written or oral, expressed or implied, with an employer, but  
19 does not include a person employed in seasonal employment.

20 "Seasonal employment" for the purposes of this paragraph means  
21 employment in a seasonal pursuit as defined in section 387-1 by  
22 a seasonal employer during a seasonal period or seasonal periods



1 for the employer in the seasonal pursuit or employment by an  
2 employer engaged in the cultivating, harvesting, processing,  
3 canning, and warehousing of pineapple during its seasonal  
4 periods. The director by rule and regulation may determine the  
5 kind of employment that constitutes seasonal employment."

6 SECTION 4. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$ or so  
8 much thereof as may be necessary for fiscal year 2009-2010 and  
9 the sum of \$ or so much thereof as may be necessary  
10 for fiscal year 2010-2011 to be deposited into the Hawaii health  
11 insurance purchasing pool special fund.

12 SECTION 5. There is appropriated out of the Hawaii health  
13 insurance purchasing pool special fund the sum of \$ or  
14 so much thereof as may be necessary for fiscal year 2009-2010  
15 and the sum of \$ or so much thereof as may be  
16 necessary for fiscal year 2010-2011 for the Hawaii health  
17 insurance purchasing pool program.

18 SECTION 6. The sums appropriated shall be expended by the  
19 department of commerce and consumer affairs for the purposes of  
20 this Act.

21 SECTION 7. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.







LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

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LAWRENCE M. REIFURTH  
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TO THE SENATE COMMITTEES ON HEALTH  
AND COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Tuesday, February 10, 2009  
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 173 – RELATING TO UNIVERSAL HEALTH  
INSURANCE.**

TO THE HONORABLE DAVID Y. IGE AND ROSALYN H. BAKER, CHAIRS, AND  
MEMBERS OF THE COMMITTEES:

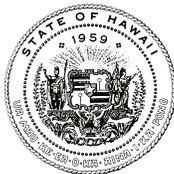
My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”),  
testifying on behalf of the Department of Commerce and Consumer Affairs  
(“Department”). The Department strongly opposes this bill.

This bill expands the scope of employee subject to the Prepaid Health Care Act.  
This may be the kind of amendment that would cause Hawaii to lose the exemption  
from ERISA for the Prepaid Health Care Act that was established by Congress. If that  
happens, then the entire Prepaid Health Care Act would be preempted by ERISA and  
we would lose the many benefits that it provides to the public.

The Department also objects to the creation of a purchasing pool. The Insurance  
Commissioner cannot administer a purchasing pool at the same time that he is  
responsible for reviewing premium rate filings because this creates a clear conflict of  
interest. Purchasing pools have been tried in some States and they have not produced  
a clear benefit in terms of rate reduction. In fact, these pools have presented very  
difficult problems due to the natural tendency to concentrate high risks and to

continually grow bigger and expand. The primary driver of increased premium rates is healthcare costs and we cannot push rates below costs or we will disable the insurers and the healthcare system. Since the Insurance Division already reviews health insurance premiums to determine whether they are excessive, we do not believe a purchasing pool will be of much practical benefit and may present intractable problems. Given the budget situation the State faces, the kinds of subsidies necessary to make a purchasing mandate work will adversely affect the State's financial plan.

We thank these Committees for the opportunity to present testimony on this matter and ask that this bill be held.



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

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February 9, 2009

To: The Honorable David Y. Ige, Chair  
and Members of the Senate Committee on Health

The Honorable Rosalyn H. Baker, Chair  
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Tuesday, February 10, 2009

Time: 8:30 a.m.

Place: Conference Room 229, State Capitol

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

**Testimony in STRONG OPPOSITION**  
**of**  
**S.B. 173 – Relating to Universal Health Insurance**

**I. OVERVIEW OF CURRENT PROPOSED LEGISLATION**

Senate Bill 173 proposes to add a new section to Chapter 235, Hawaii Revised Statutes (“HRS”), to allow employers, who provide health care coverage for part-time employees pursuant to Chapter 393, HRS, to claim a tax credit under this section. A part-time employee is defined as one who works twenty or less hours.

Consequently, Section 3 of this proposal amends the definition of a regular employee under section 393-3 of Chapter 393, HRS, by removing the requirement of being in the employ of an employer for at least twenty hours per week.

**II. CURRENT LAW**

Chapter 393, HRS, currently requires employers to provide health care coverage for employees who work twenty or more hours per week after four consecutive weeks of employment. Employees must continue to work at least twenty hours per week to maintain their coverage. Employers are not required to provide coverage to employees who work less than twenty hours per week.

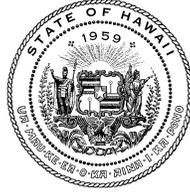
### **III. SENATE BILL**

The Department of Labor and Industrial Relations (“Department”) strongly opposes S.B. 173.

1. This proposed change may jeopardize the Department's ERISA exemption. (Please see testimony submitted by Mr. J.P. Schmidt, State Insurance Commissioner, which the DLIR concurs.)
2. Requiring employers to pay for prepaid health care cost during these difficult economic times will result in higher cost of services and products.
3. The Department opposes the creation of a purchasing pool. Purchasing pools create problems by concentrating high risks and continually growing bigger and expanding.

LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
DIRECTOR OF TAXATION

SANDRA L. YAHIRO  
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STATE OF HAWAII  
DEPARTMENT OF TAXATION  
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**JOINT SENATE COMMITTEES ON HEALTH AND COMMERCE & CONSUMER  
PROTECTION  
TESTIMONY REGARDING SB 173  
RELATING TO UNIVERSAL HEALTH INSURANCE**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: FEBRUARY 10, 2009**

**TIME: 8:30AM**

**ROOM: 229**

**LATE TESTIMONY**

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This bill would, among other things, allow employers an income tax credit for amounts spent providing health care coverage for part-time employees. This bill takes effect July 1, 2009.

The Department of Taxation ("Department") **opposes** this bill.

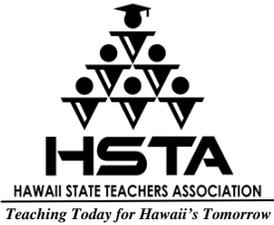
**EMPLOYERS ALREADY RECEIVE A DEDUCTION FOR PROVIDING HEALTH CARE COVERAGE** – There already exists some incentive for employers to provide health care coverage for part-time employees in the form of an income tax deduction.

**THE TAX CREDIT INCENTIVIZES REQUIRED BEHAVIOR** – Section 3 of this bill amends the current HRS § 393-3 definition of "regular employee" by removing the requirement that the employee work more than 20 hours per week. This would include certain highly-paid employees who work low weekly hours in the definition of "regular employee." HRS § 393-11 requires employers to provide health care coverage for regular employees.

If Section 3 of the bill makes it mandatory for employers to provide health care coverage for some part-time employees, then there is no need for a tax credit to incentivize such behavior. The Department believes that providing a tax incentive for required behavior is unnecessary and counterproductive. Tax incentives are utilized to encourage behavior that is not mandated.

**REVENUE IMPACT** - The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

The Department estimates this bill would result in a revenue loss of \$37.5 million per year.



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**Roger K. Takabayashi**  
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**Wil Okabe**  
Vice President

**Karolyn Mossman**  
Secretary-Treasurer

**Mike McCartney**  
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEES ON  
HEALTH AND COMMERCE & CONSUMER PROTECTION

RE: SB 173 – RELATING TO UNIVERSAL HEALTH INSURANCE.

February 10, 2009

ROGER TAKABAYASHI, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Ige, Chair Baker, and Members of the Committees:

The Hawaii State Teachers Association supports SB 173 that creates a tax credit for employers to provide prepaid health insurance to part-time employees, and requires employers to provide prepaid health insurance to all regular employees. It also mandates creditable health insurance coverage for all residents, and creates state health insurance purchasing pool for individuals who do not otherwise have access to creditable coverage.

Thank you for the opportunity to testify.



**Testimony to the Senate Committees on Health and Commerce and Consumer Protection  
Tuesday, February 10, 2009 at 8:30 a.m.  
Conference Room 229, State Capitol**

**RE: SENATE BILL NO. 173 RELATING TO UNIVERSAL HEALTH  
INSURANCE**

Chairs Ige and Baker, Vice Chair Green, and Members of the Committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber opposes Senate Bill 173 relating to Universal Health Insurance.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 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 its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure creates a tax credit for employers to provide prepaid health insurance to part-time employees. The bill also requires employers to provide prepaid health insurance to all regular employees, including part-time, mandates creditable health insurance coverage for all residents, and creates state health insurance purchasing pool for individuals who do not otherwise have access to creditable coverage.

According to a survey of our membership, one of the highest cost pressures in running a business is pre-paid healthcare. Although the Chamber supports the creation of a tax credit for employers to provide prepaid health insurance to part-time employees, we cannot support a bill that will require employers to provide pre-paid health insurance to all regular employees.

Many of our local establishments operate on limited resources, and struggle on a daily basis to keep up with costly regulations. We ask that in these difficult economic times further costs not be imposed on Hawaii's businesses, particularly those affected by the proposed legislation. Implementing laws that will inflict further regulatory requirements will undermine efforts to keep businesses viable or even open during this volatile economic period. We should be promoting incentives rather than mandates.

Also, The Chamber believes that this measure may be preempted by ERISA and a surer course of action is to cooperate with our federal elected officials toward fashioning a national health insurance program that incorporates the best of what Hawaii has developed.<sup>1</sup> .

Hawaii should be cultivating the soil to help our local establishments thrive, so that jobs can be saved and created. This bill will drive businesses toward a direction that we cannot afford.

In light of the above, The Chamber of Commerce of Hawaii opposes SB 173. Thank you for the opportunity to testify.

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<sup>1</sup> See Council of Hawaii Hotels v. Aghsalud, 594 F.Supp. 449, 455 (D. Hawaii 1984). See also "**THE FEASIBILITY OF ESTABLISHING A COMMON MEDICAL FEE SCHEDULE FOR WORKERS' COMPENSATION, MOTOR VEHICLE INSURANCE, AND PREPAID HEALTH CARE**," DEAN SUGANO, Research Attorney, Report No. 3, 2000, Legislative Reference Bureau and Snider v. Crimson Enterprises, Inc., 768 F.Supp. 734, 740 (D.Hawaii 1991).



**Before the Senate Committee on Health and  
Senate Committee on Commerce and Consumer Protection**

DATE: February 10, 2009

TIME: 8:30 a.m.

PLACE: Conference Room 229

**Re: SB 173  
Relating to Universal Health Insurance  
Testimony of Melissa Pavlicek for NFIB Hawaii**

Thank you for the opportunity to testify. On behalf of the business owners who make up the membership of the National Federation of Independent Business in Hawaii, we ask that you reject SB 173. NFIB opposes this measure in its current form.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

We are concerned about the possible unintended consequences of mandating pre-paid health insurance paid by employers for all regular employees in these challenging economic times.

TESTIMONY ON SB 173  
Submitted by Marilyn Seely for Kokua Council of Hawaii

THE SENATE  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

COMMITTEE ON HEALTH  
Senator David Y. Ige, Chair  
Senator Josh Green, M.D., Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator David Y. Ige, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, February 10, 2009  
TIME: 8:30 a.m.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

Chairs Ige and Baker and members of the Committees:

We respectfully submit our testimony for your consideration of SB 173.

**KOKUA COUNCIL'S POSITION**

Kokua Council believes that the time is now to capture the remaining uninsured 10% of the state's uninsured. To do so, Kokua Council advocates for pragmatic and incremental approaches that are feasible and equitable so that the responsibility is shared and results obtained as quickly as possible. Any equitable approach must assure:

- that all of Hawaii's children must be covered.
- that present caps must be raised or removed to expand adult coverage and
- that uncovered adults must have affordable coverage options. Part time, seasonal and temporary governmental appointees should be offered a reasonably priced benefit package.

For this reason Kokua Council supports bills that:

- Control rising and irrational costs.
- Provide comprehensive, high-quality health care to all.
- Give every family the opportunity and the responsibility for preventive care.
- Preserve the right to choose and use your own doctor.
- Ask our government to play a strong role in restoring balance to the system--curbing greed and incompetence and ensuring more fairness and efficiency.
- Lower employer costs and, in return, asks them to pay their fair share, along with government and individuals.

-- Build on what's best about American health care while drawing from what works in other countries.

This bill appears to expand coverage to those currently without health care coverage in the state. To the extent that SB 173 provides for the measures listed above, we offer our support for SB 173.

Thank you for your consideration of this message.

Name: Marilyn Seely

marseel@aol.com



Organization: Kokua Council of Hawaii



Individual

Phone Number:

Street:

City, State:



Support



Oppose



Comments Only

Testifier Position



Yes

Will you be present at the hearing?



No

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Health care insurance tax credit for part-time employees

BILL NUMBER: SB 173

INTRODUCED BY: Green and 4 Democrats

**BRIEF SUMMARY:** Adds a new section to HRS chapter 235 to allow an employer to claim a part-time employee prepaid health care tax credit if the employer provides health care coverage for a part-time employee. The credit shall be 50% of any costs of providing prepaid group health care plan coverage in the year the health care coverage payments are made. The credit may be claimed only once in the taxable year regardless of the number of owners or numbers of partners or corporate officers.

Credits in excess of a taxpayer's income tax liability may be applied to subsequent liability. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit.

Defines "employer" and "part-time employee" for purposes of the measure.

Also adds a new chapter to establish a health care purchasing pool to allow individuals to purchase creditable health care coverage.

EFFECTIVE DATE: July 1, 2009

**STAFF COMMENTS:** This measure provides an incentive to employers to provide health care coverage for part-time employees in the form of a tax credit for a portion of the health care premium. As proposed, there is absolutely no relationship between the cost of the health care coverage and the burden that the tax system imposes on the employer. It should be remembered that unlike deductions or exemptions, credits are a direct dollar-for-dollar offset and therefore amount to nothing more than a subsidy or indirect payment by government and cannot be justified.

The requirements of the prepaid health care law apply only to full time employees working 20 or more hours a week. As a consequence, in the face of rising costs, employers have tended to hire more part-time employees to avoid providing that coverage. The problem lies not in the universal coverage, but the comprehensiveness of the coverage. Thus, what was created as means to access health care has become a Cadillac of health care with a commensurate price tag. An independent project has tried to discover a way to address the large population of uninsured but to no avail.

The measure also ignores the fact that in order for these businesses to be able to purchase those policies, they will need to have a sufficient margin of profit. In order to secure that margin of profit, businesses will have to raise prices which in the end will require their customers to pay more or in the alternative, pay part-time employees less or at the very least, the minimum wage. Given the laws of market economics, that will not happen without seriously impairing the prospects for success in any business. Businesses must remain competitive in order to stay in business which means that pricing of their products or services has to match or better their competitors.

Digested 2/9/09



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February 4, 2009

To: SENATE COMMITTEE ON HEALTH  
Senator David Y. Ige, Chair  
Senator Josh Green, MD, Vice Chair

**PLEASE DELIVER:**  
2/10/09  
8:30 am  
CR 229

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator David Y. Ige, Vice Chair

From: Hawaii Medical Association  
Gary A. Okamoto, MD, President  
Philip Hellreich, MD, Legislative Co-Chair  
Linda Rasmussen, MD, Legislative Co-Chair  
April Donahue, Executive Director  
Richard C. Botti, Government Affairs  
Lauren Zirbel, Government Affairs

Re: SB173 RELATING TO UNIVERSAL HEALTH INSURANCE.

**Chairs & Committee Members:**

Hawaii Medical Association supports this measure, and recommends that the tax credit be amended to apply for every employee.

Thank you for the opportunity to provide this testimony.

Hawaii Medical Association  
1360 S. Beretania St.  
Suite 200  
Honolulu, HI 96814  
(808) 536-7702  
(808) 528-2376 fax  
www.hmaonline.net

# ACCESS TO SPIRITUAL CARE

Recommendations for  
Health Care Reform Legislation

As the Hawaii legislature considers health care reform, it is important that any new framework include spiritual care. Prayer-based healing has been a mainstay in American life for years. Despite the progress in medical science, many Americans continue to rely on prayer as their primary means of health care for one simple reason: they trust its effectiveness, its completeness and its reliability. For millions of other Americans, the issue at hand is, in some ways, more fundamental: having the option to choose the method of health care that is most effective for them.

Everyone deserves access to reliable and cost-effective health care. This should be one of the primary goals of health care reform. Because spiritual care is reliable and cost-effective, it should be part of the solution in addressing the health care challenges facing our nation.

Christian Science is a method of spiritual care that is available to everyone. For over a century, individuals from many different faith traditions have found Christian Science to be reliable and effective in addressing the challenges posed by injury, illness, and disease. For this reason, they will often choose religious nonmedical health care in lieu of medical care. The practice of Christian Science includes assistance from Christian Science practitioners (individuals who have been recognized as having demonstrated the ability to help others achieve healing through prayer), as well as from Christian Science nurses (individuals who provide physical assistance for the patient's daily needs while the patient prays for healing).

We have identified two areas where statutory provisions may be needed to achieve public access to spiritual care within the context of health care reform legislation, and make the following two recommendations:

## **Recommendation # 1: Provide Public Access to Spiritual Care.**

Health care reform legislation should provide the public with access to spiritual care. Existing law contains numerous examples of programs that offer benefits for spiritual care, including:

- ◆ Four plans under the Federal Employees Health Benefits Program (FEHBP) cover religious nonmedical nursing care and/or Christian Science practitioner services:
  - Government Employees' Health Association (GEHA)
  - Mail Handlers Benefit Plan
  - Special Agents Mutual Benefit Association
  - Association Benefit Plan
- ◆ Religious nonmedical nursing services are covered under the Medicare and Medicaid programs (see 42 U.S.C. §§ 1395x(ss) and 1395i-5).
- ◆ TRICARE (for military dependents) – Covers care in Christian Science nursing facilities, Christian Science nursing services, and Christian Science practitioner services.
- ◆ Under Section 223 of the Internal Revenue Code (“IRC”), funds contained in a Health Savings Account may be used to pay for spiritual care. Section 223 references the definition of

“medical expenses” in Section 213(d) of the IRC, which has been interpreted to include Christian Science practitioner services and Christian Science nursing care.

- ◆ A number of States (e.g., California, Colorado, Illinois, Kansas, Missouri, Oklahoma, Oregon, Texas) include coverage of spiritual treatment through prayer in their governmental employees’ health insurance plans.

### **Recommendation # 2: Application of Nonmedical Requirements for Quality Assurance**

Statutory provisions that require insurers to make determinations of “medical necessity” and to provide medical oversight for services rendered serve as important patient protections in the context of medical care. However, patients choosing spiritual care in lieu of medical care do not want medical requirements applied to the services they receive. In addition, spiritual care providers do not diagnose disease or provide any form of medical intervention or treatment. For these reasons, the application of medical requirements to spiritual care providers can limit patient access to care. While accommodation from medical criteria may be necessary, we support the application of nonmedical safeguards to ensure that funds are spent appropriately. Some examples of existing laws that contain this type of accommodation are:

- ◆ The federal Medicare law accommodates patients in religious nonmedical health care institutions from being required to have a medical diagnosis and from the activities of peer review organizations, but requires religious nonmedical health care institutions (RNHCIs) to meet detailed requirements designed to protect patient health and safety. 42 U.S.C. §§ 1395x(ss)(3)(A); 42 U.S.C. § 1320c-11; and (B); 42 C.F.R. § 403.700, et seq.
- ◆ Some states’ insurance laws specifically accommodate health plans that include religious nonmedical providers by allowing the plans not to apply medical requirements that would limit patient access to religious nonmedical care. (see, e.g., Alaska Stat. Ann. § 21.07.080 and Me. Rev. Stat. tit. 24-A, § 4307(4)); Mass. Gen. Laws Ann. 176O, § 11; Wash. Rev. Code Ann. § 48.43.520

Thank you for considering these important issues. We offer to act as a resource regarding spiritual care, and would appreciate being included in future health care reform discussions and stakeholder meetings.

Contact: Virginia Aycock  
Christian Science Committee on Publication for Hawaii  
Hawaii@compub.org • (808) 521-7178

**For more information about Christian Science visit [www.christianscience.com](http://www.christianscience.com)**

**From:** HTHTestimony  
**Sent:** Monday, February 09, 2009 10:13 AM  
**To:** CPN Testimony  
**Subject:** FW: Testimony for SB173 on 2/10/2009 8:30:00 AM

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]  
Sent: Saturday, February 07, 2009 12:42 PM  
To: HTHTestimony  
Cc: thirr33@gmail.com  
Subject: Testimony for SB173 on 2/10/2009 8:30:00 AM

Testimony for HTH-CPN 2/10/2009 8:30:00 AM SB173

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Arvid Tadao Youngquist  
Organization: The Mestizo Association  
Address:  
Phone:  
E-mail: [thirr33@gmail.com](mailto:thirr33@gmail.com)  
Submitted on: 2/7/2009

Comments:  
Chair David Y. Ige  
Chair Rosalyn H. Baker  
Vice Chair Josh Green, M.D.  
Vice Chair David Y. Ige  
The Right Honorable Members  
Hawaii Senate Health/Commerce and Consumer Protection

This is a brief testimony in support of SB 173 Relating to Universal Health Insurance.

I thank the five Senators who have co-sponsored this legislation which has been long-time in the making over the last 20 years.

The time is ripe for such a measure, albeit a modest step to assist the Part-time employees of Hawaii. A tax credit will promote a wider safety net and assist the Health State in reducing the tax burden for treatment of uninsured workers.

The measure provides for the creation of a Hawaii Health Insurance Purchasing Pool, and further expands the powers of the Commissioner.

Using this pilot program, with an effective date of July 1, 2009, this could well prove as one solution to the VEBA/EUTF dilemma experienced by the administration and the legislature.

If the intent of SB 173 is fully realized, a similar proposal can logically be made for the Regular Employees, including the public sector workers. Recommend that a modest realistic level of funding be cited in the Joint-Committee Report to the WAM.

It is also suggested that an amendment be considered to affix a defective effective date of Oct. 1, 2009, or June 1, 2011.

Mahalo for offering this SB 173 & the support from 7 key Senate Committee Chairs/Vice Chairs. I ask that you prevail upon your colleagues serving on the Senate Ways & Means Committee to move this along to the House.

Best wishes & good luck!  
("1 of 16,588 local voices")

**From:** Joel Fischer [jfischer@hawaii.edu]  
**Sent:** Thursday, February 05, 2009 2:13 PM  
**To:** CPN Testimony  
**Subject:** SB173;CPN;2/10/09;8:30AM;Rm229

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

SB173, Relating to Universal Health Insurance  
CPN; Chair, Sen Baker

**PLEASE PASS THIS BILL! There is no more important bill this session!**

I want to thank you for introducing it and holding this hearing. Our failure to require insurance for ALL workers regardless of hours worked is nothing short of scandalous. It has allowed unscrupulous companies and institutions -*even my beloved UH!*- to deprive people of what must be a right in this country, health care for their families, just so these companies can save a little money!

HEWA!!

This bill is one of the clearest examples of a compassionate Legislature doing whatever is possible to preserve the safety net. We are going to see a huge outpouring of need over the next 2 years, and we should do everything possible to help our people with their most basic needs, especially health care.

Thank you so much.

Aloha, joel

Dr. Joel Fischer, ACSW  
President, 19-3, Democratic Party

Professor  
University of Hawai'i, School of Social Work  
Henke Hall  
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."  
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."  
Dr. Martin Luther King, Jr.

"Never, never, never quit."  
Winston Churchill