July 6, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB690 HD2 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB690 HD2 SD2 CD1

A BILL FOR AN ACT
RELATING TO INSURANCE.

Sincerely,

LINDA LINGLE
STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 690

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 690, entitled "A Bill for an Act Relating to Insurance."

The purpose of this bill is to require all health insurers and employers who provide coverage to any regular employees in any group or association to offer the same coverage to part-time employees (persons working at least fifteen but less than twenty hours per week for at least eighteen months) of that employer.

This bill is objectionable because portions of the bill are preempted by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001, et seq.; because they relate to an employee welfare benefit plan regulated by ERISA. ERISA supersedes state laws that relate to employee benefit plans.

Portions of this measure reference family coverage offered to regular workers by a group or association, i.e., an employer. This bill provides that the group or association "shall offer the same family coverage to part-time employees." The coverage offered to the regular employees is an employee welfare benefit plan per ERISA. The bill also imposes certain duties upon the employer regarding enrollment, premiums, and payments.

The health insurance coverage that the bill requires employers to provide for part-time employees is measured by
reference to the existing health insurance coverage for regular employees and would be equivalent thereto. Employer-sponsored health insurance programs are subject to ERISA regulation and any state law imposing requirements by reference to such covered programs is preempted by ERISA.

For the foregoing reasons, I am returning House Bill No. 690 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii
A BILL FOR AN ACT

RELATING TO INSURANCE.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10A to be appropriately designated and to read as follows:

§431:10A- Group health care coverage; part-time employees. (a) An insurer that provides health care coverage in this state to the regular employees of any group or association shall offer the same coverage to part-time employees of that group or association. If the group or association offers family coverage as defined in section 431:10A-103 to its regular employees, it shall offer the same family coverage to part-time employees. The group or association shall not be required by this section to pay any part of the premium for coverage of part-time employees. The group or association shall be responsible for any administrative duties required for the enrollment of part-time employees such as monitoring eligibility, collecting premiums, and transmitting payment to the insurer.
(b) A group health insurer may limit periods of enrollment for part-time employees to a minimum of thirty calendar days; provided that:

(1) Part-time employees who experience a qualifying event shall enroll with a group health insurer within thirty days of the qualifying event; and

(2) Group health insurers shall be allowed to impose a one-year waiting period against part-time employees who terminate coverage for any reason. If a part-time employee terminates coverage and a one-year waiting period is imposed against the employee, a group health insurer need not reenroll the employee until the period of enrollment following the one-year waiting period.

For the purposes of this section:

"Group or association" shall not include any state or political subdivision of any state, or instrumentality thereof.

"Health care" includes hospitalization, surgery, medical or nursing care, drugs, or restorative appliances.

"Part-time employee" means a person employed by a single employer for at least fifteen, but less than twenty hours per week and for a continuous period of at least eighteen months.
"Qualifying event" means the date on which the part-time employee has been continuously employed by a single employer for a period of eighteen months or the date on which a dependent of the part-time employee becomes eligible for coverage through loss of other health care coverage, marriage, birth, or adoption.

"Regular employee" means a person employed by a single employer for at least twenty hours per week."

SECTION 2. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

"§432:1- Group health care coverage; part-time employees. (a) A mutual benefit society in this state whose hospital and medical service corporation contract provides health care coverage for the regular employees of any group or association shall offer the same coverage to part-time employees of that group or association. If the group or association offers family coverage as defined in section 431:10A-103 to its regular employees, it shall offer the same family coverage to part-time employees. The group or association shall not be required by this section to pay any part of the premium for coverage of part-time employees. The group or association shall
be responsible for any administrative duties required for the 
enrollment of part-time employees such as monitoring 
eligibility, collecting premiums, and transmitting payment to 
the insurer.

(b) A group health insurer may limit periods of enrollment 
for part-time employees to a minimum of thirty calendar days; 
provided that:

(1) Part-time employees who experience a qualifying event 
shall enroll with a group health insurer within thirty 
days of the qualifying event; and

(2) Group health insurers shall be allowed to impose a 
one-year waiting period against part-time employees 
who terminate coverage for any reason. If a part-time 
employee terminates coverage and a one-year waiting 
period is imposed against the employee, a group health 
insurer need not reenroll the employee until the 
period of enrollment following the one-year waiting 
period.

For the purposes of this section:

"Group or association" shall not include any state or 
political subdivision of any state, or instrumentality thereof.
"Health care" includes hospitalization, surgery, medical or nursing care, drugs, or restorative appliances.

"Part-time employee" means a person employed by a single employer for at least fifteen, but less than twenty hours per week and for a continuous period of at least eighteen months.

"Qualifying event" means the date on which the part-time employee has been continuously employed by a single employer for a period of eighteen months or the date on which a dependent of the part-time employee becomes eligible for coverage through loss of other health care coverage, marriage, birth, or adoption.

"Regular employee" means a person employed by a single employer for at least twenty hours per week."

SECTION 3. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§432D- Group health care coverage; part-time employees.

(a) A health maintenance organization that issues a policy, contract, plan, or agreement in this state that provides health care coverage for the regular employees of any group or association shall offer the same coverage to part-time employees of that group or association. If the group or association
offers family coverage as defined in section 431:10A-103 to its regular employees, it shall offer the same family coverage to part-time employees. The group or association shall not be required by this section to pay any part of the premium for coverage of part-time employees. The group or association shall be responsible for any administrative duties required for the enrollment of part-time employees such as monitoring eligibility, collecting premiums, and transmitting payment to the insurer.

(b) A group health insurer may limit periods of enrollment for part-time employees to a minimum of thirty calendar days; provided that:

(1) Part-time employees who experience a qualifying event shall enroll with a group health insurer within thirty days of the qualifying event; and

(2) Group health insurers shall be allowed to impose a one-year waiting period against part-time employees who terminate coverage for any reason. If a part-time employee terminates coverage and a one-year waiting period is imposed against the employee, a group health insurer need not reenroll the employee until the
period of enrollment following the one-year waiting

period.

For the purposes of this section:

"Group or association" shall not include any state or
political subdivision of any state, or instrumentality thereof.

"Health care" includes hospitalization, surgery, medical or
nursing care, drugs, or restorative appliances.

"Part-time employee" means a person employed by a single
employer for at least fifteen, but less than twenty hours per
week and for a continuous period of at least eighteen months.

"Qualifying event" means the date on which the part-time
employee has been continuously employed by a single employer for
a period of eighteen months or the date on which a dependent of
the part-time employee becomes eligible for coverage through
loss of other health care coverage, marriage, birth, or
adoption.

"Regular employee" means a person employed by a single
employer for at least twenty hours per week."

SECTION 4. (a) The insurance commissioner shall prepare a
report of the costs and benefits of this Act. The report shall
be prepared with the cooperation and assistance of the
disability compensation division of the department of labor and industrial relations. The report shall include:

1. An evaluation of the success of this Act in providing part-time employees with access to health care coverage;
2. An evaluation of the costs to employees, employers, and insurers of providing that coverage;
3. Any recommendations concerning this Act; and
4. Any other information necessary for a reasonable assessment of the costs and benefits of this Act to be made, and to allow health care coverage to be made available to part-time employees at the lowest possible cost.

(b) Each insurer subject to this Act shall submit, at the time and in the form prescribed by the insurance commissioner, the information deemed necessary by the insurance commissioner to complete the report required by this section. In obtaining this information, the insurance commissioner shall seek to minimize an insurer's cost of compliance.

(c) The insurance commissioner shall report its findings, recommendations, and any proposed legislation to the legislature
no later than twenty days prior to the convening of the regular session of 2011.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2009, and shall be repealed on July 1, 2014.