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# A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE.

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

1           SECTION 1. This Act shall be known and may be cited as the  
2 "Hawaii Health Insurance Exchange Act".

3           SECTION 2. The federal Patient Protection and Affordable  
4 Care Act of 2010 provides for the establishment by January 1,  
5 2014, of health insurance exchanges in every state to connect  
6 buyers and sellers of health insurance and to facilitate the  
7 purchase and sale of federally-qualified health insurance plans.  
8 The intent of the health insurance exchange is to reduce the  
9 number of uninsured individuals, provide a transparent  
10 marketplace, conduct consumer education, and assist individuals  
11 in gaining access to assistance programs, premium assistance tax  
12 credits, and cost-share reductions.

13           The legislature finds that, largely because of Hawaii's  
14 current prepaid health care act, chapter 393, Hawaii Revised  
15 Statutes, the State already enjoys an overall healthier  
16 population, lower uninsured rates, and lower premium costs than  
17 mainland states. The prepaid health care act has been and  
18 continues to be successful; it is imperative that Hawaii's



1 health insurance exchange work in tandem with the prepaid health  
2 care act to preserve its existing benefits for the people of the  
3 State.

4 The legislature further finds that the people of Hawaii  
5 will be best served by a health insurance exchange that is  
6 operated locally in Hawaii. Therefore, this Act provides the  
7 framework for a private, nonprofit health exchange that conforms  
8 to the requirements of the federal law and is responsive to the  
9 unique needs and circumstances of the State.

10 The legislature notes that the State is already in receipt  
11 of a federal grant to plan for the design and implementation of  
12 a Hawaii-based health insurance exchange and, pursuant to  
13 federal domestic assistance grant number 93:525, a task force  
14 has been convened for this purpose. This Act formally  
15 authorizes the task force to work collaboratively with  
16 stakeholders and within the policy framework of this Act to  
17 propose legislation to the 2012 legislature implementing a  
18 Hawaii health insurance exchange, to be known as the Hawaii  
19 health connector, to ensure the State's compliance with the  
20 federal act. Pursuant to recommendations of the task force, the  
21 legislature is committed to providing policy direction and  
22 operational guidelines as the State works toward implementing a



1 fully functional health insurance exchange to meet the  
2 federally-mandated 2014 implementation deadline.

3 Recently the United States Department of Health and Human  
4 Services issued a request for proposals from states for  
5 assistance in establishing state health insurance exchanges.  
6 The legislature finds that moving forward now with an enabling  
7 statute is the prudent course of action to maximize  
8 opportunities to take advantage of forthcoming federal moneys.  
9 The framework established by this Act will allow future  
10 legislatures to follow the most appropriate course in  
11 implementing the health insurance exchange.

12 SECTION 3. Chapter 431, Hawaii Revised Statutes, is  
13 amended by adding a new article to be appropriately designated  
14 and to read as follows:

15 **"ARTICLE**

16 **HAWAII HEALTH INSURANCE EXCHANGE**

17 **§431: --101 Definitions.** As used in this article:

18 "Board" means the board of directors of the Hawaii health  
19 connector.

20 "Commissioner" means the insurance commissioner of the  
21 State.



1 "Connector" means the Hawaii health insurance exchange,  
2 known as the Hawaii health connector, established by section  
3 431: -102.

4 "Federal act" means the federal Patient Protection and  
5 Affordable Care Act, Public Law 111-148, as amended by the  
6 federal Health Care and Education Reconciliation Act of 2010,  
7 Public Law 111-152, and any amendments to, or regulations or  
8 guidance issued under, those Acts.

9 "Insurer" means any person or entity that issues a policy  
10 of accident and health or sickness insurance subject to article  
11 10A of chapter 431, or chapters 432 or 432D, or dental benefits  
12 subject to chapter 423.

13 "Qualified health plan" means a health benefit plan offered  
14 by an insurer that meets the criteria for certification  
15 described in Section 1311(c) of the federal act and a dental  
16 benefit plan as described in Section 1311(d)(2)(B)(ii) of the  
17 federal act.

18 "Secretary" means the Secretary of the United States  
19 Department of Health and Human Services.

20 "Task force" means the state health insurance exchange task  
21 force established within the department of commerce and consumer



1 affairs in compliance with federal domestic assistance grant  
2 number 93:525.

3       **§431: -102 Establishment of the Hawaii health insurance**  
4 **exchange; purpose.** (a) There is established the Hawaii health  
5 insurance exchange, a Hawaii nonprofit organization, to be known  
6 as the Hawaii health connector. The connector is not an entity  
7 of the State and shall not be subject to laws or rules  
8 regulating rulemaking, public employment, or public procurement.

9       (b) The purposes of the connector shall include:

- 10       (1) Facilitating the purchase and sale of qualified health  
11           plans in compliance with the federal act;
- 12       (2) Connecting consumers to the information necessary to  
13           make informed health care choices; and
- 14       (3) Enabling consumers to purchase coverage and manage  
15           health plans electronically.

16       (c) The connector shall serve as a clearinghouse for  
17 information on all qualified health plans listed or included in  
18 the connector. The connector shall determine eligibility for  
19 the inclusion of health plans according to the recommendation of  
20 the insurance commissioner; provided that all qualified health  
21 plans that apply for inclusion shall be included in the  
22 connector.



1 (d) The connector shall be audited annually by the state  
2 auditor and shall submit the results of each annual audit to the  
3 insurance commissioner no later than thirty days after the  
4 connector receives the results. The connector shall retain all  
5 annual audits on file, along with any documents, papers, books,  
6 records, and other evidence that is pertinent to its budget and  
7 operations for a period of three years and shall permit the  
8 state auditor, the insurance commissioner, the legislature, or  
9 their authorized representatives to have access to, inspect, and  
10 make copies of any documents retained pursuant to this  
11 subsection.

12 (e) The board of directors of the connector shall submit  
13 an annual report to the legislature that shall include the most  
14 recent audit report received pursuant to subsection (d) no later  
15 than twenty days prior to the convening of each regular session  
16 of the legislature.

17 **§431: -103 Funding.** The connector may receive  
18 contributions, grants, endowments, fees, or gifts in cash or  
19 otherwise from public and private sources including  
20 corporations, businesses, foundations, governments, individuals,  
21 and other sources subject to rules adopted by the board. The  
22 State may appropriate moneys to the connector. As required by



1 Section 1311(d)(5)(A) of the federal act, the exchange shall be  
2 self-sustaining by January 1, 2015, and may charge assessments  
3 or user fees to participating health carriers, or may otherwise  
4 generate funding to support its operations. Moneys received by  
5 or under the supervision of the connector shall not be placed  
6 into the state treasury and the State shall not administer any  
7 moneys of the connector nor be responsible for the financial  
8 operations or solvency of the connector.

9 **§431: -104 Board of directors; composition; operation.**

10 (a) The Hawaii health connector shall be a nonprofit entity  
11 governed by a board of directors that shall be comprised of  
12 fifteen members appointed subject to section 26-34. The Hawaii  
13 health connector task force shall recommend qualifications and  
14 requirements for board members, which shall include high ethical  
15 standards and knowledge or experience in the fields of health  
16 care, health insurance, business, or finance.

17 (b) The membership of the board shall reflect geographic  
18 diversity and the diverse interests of stakeholders including  
19 consumers, employers, health care providers, insurers, and  
20 government entities; provided that if representatives of  
21 government or public bodies are appointed to the board in other



1 than an ex officio capacity, the majority of board members shall  
2 represent the interests of the private sector.

3 (c) Board members shall serve staggered terms and the task  
4 force shall recommend an appropriate schedule for staggered  
5 terms.

6 (d) The task force shall recommend policies prohibiting  
7 conflicts of interest and procedures for recusal of a member in  
8 the case of an actual or potential conflict of interest,  
9 including policies prohibiting a member from taking part in  
10 official action on any matter in which the member had any  
11 financial involvement or interest prior to the commencement of  
12 service on the board. Members of the board may retain private  
13 counsel for matters relating to service on the board according  
14 to rules recommended by the task force.

15 (e) The board shall manage the budget of the connector  
16 according to generally accepted accounting principles and a plan  
17 for financial organization adopted by the legislature based on  
18 recommendations of the task force.

19 (f) The board shall maintain transparency of board  
20 actions, including public disclosure and posting of board  
21 minutes on the connector's website according to provisions





1 adopted by the legislature based on recommendations of the task  
2 force.

3       **§431: -105 Officers and employees of the Hawaii health**  
4 **connector.** (a) The board shall appoint and employ officers and  
5 employees, including an executive director who shall be  
6 responsible for the day-to-day operations and management of the  
7 exchange, according to a staffing plan recommended by the task  
8 force and adopted by the legislature. Officers and employees of  
9 the board shall not be employees of the State and shall serve at  
10 the pleasure of the board.

11       (b) Subject to approval of the staffing plan by the 2012  
12 legislature based on recommendations of the task force, the  
13 board may hire consultants, outside experts, and professional  
14 specialists as needed for its efficient operations.

15       **§431: -106 Oversight; rate regulation.** (a) The  
16 insurance commissioner shall retain full regulatory jurisdiction  
17 pursuant to the authority granted to the commissioner by part II  
18 of article 2 of chapter 431 over all insurers and qualified  
19 health plans included in the Hawaii health connector.

20       (b) Rate regulation for qualified health plans included in  
21 the Hawaii health connector shall be pursuant to applicable  
22 state and federal law.



1           **§431: -107 Effect on the prepaid health care act.**

2 Nothing in this article shall in any manner diminish or limit  
3 the consumer protections contained in or alter the provisions of  
4 chapter 393.

5           **§431: -108 Rules.** The board shall adopt rules to  
6 implement the provisions of this article. Rules adopted  
7 pursuant to this section shall not conflict with or prevent the  
8 application of regulations promulgated by the Secretary under  
9 the federal act."

10           SECTION 4. (a) The state health insurance exchange task  
11 force established pursuant to federal domestic assistance grant  
12 number 93:525 in the department of commerce and consumer affairs  
13 for administrative purposes shall recommend to the legislature  
14 policies and procedures to further define and operate the Hawaii  
15 health connector.

16           (b) The task force shall make recommendations to the  
17 legislature for:

18           (1) Qualifications of the members of the board of  
19 directors of the Hawaii health connector, which shall  
20 include requirements for equitable representation  
21 across the stakeholder community, including consumers,  
22 employers, insurers, and government entities, as well



- 1 as requirements for knowledge and experience in the  
2 fields of health care, insurance, or finance;
- 3 (2) A sustainable, fee-based financing mechanism that may  
4 incorporate private and public funding for initial  
5 start-up costs, but that shall achieve financial  
6 self-sustainability by January 1, 2015, as required by  
7 federal law;
- 8 (3) Measures to ensure transparency of the Hawaii health  
9 connector's finances and for public disclosure of  
10 funding sources and expenditures;
- 11 (4) Procedures for the application for inclusion by  
12 insurers in the Hawaii health connector; provided that  
13 all applicant health plans that are qualified  
14 according to the requirements of federal law and  
15 regulations and national quality measures shall be  
16 included;
- 17 (5) A phased process of including qualified plans, which  
18 may include initially prioritizing qualified plans  
19 that target individuals and small businesses over  
20 large group plans;
- 21 (6) Policies and procedures to ensure continuity of care  
22 for consumers transitioning between carriers,



1 including between publicly funded coverage and private  
2 qualified health plans; provided that the task force  
3 shall form a subgroup to make recommendations for the  
4 integration of state subsidized plans with the Hawaii  
5 health connector to ensure that consumers who move  
6 between publicly funded coverage and unsubsidized  
7 private coverage are able to maintain continuity of  
8 coverage and continuity of care;

9 (7) Measures to increase transparency and opportunities  
10 for public participation in determinations of insurer  
11 eligibility for inclusion in the Hawaii health  
12 connector and the regulation of insurers and qualified  
13 health plans;

14 (8) Criteria for determining whether a conflict of  
15 interest exists for a board member and policies and  
16 procedures for avoiding or mitigating conflicts of  
17 interest, including when recusal of the board member  
18 is appropriate and when a board member shall be  
19 entitled to private counsel for a matter relating to  
20 the board;

21 (9) A schedule of the terms of board members including  
22 provisions for staggering terms to ensure continuity;



- 1 (10) A staffing plan including organization, duties, wages,  
2 and responsibilities of employees of the board of  
3 directors of the Hawaii health connector and criteria  
4 for hiring contractors, consultants, and outside  
5 experts;
- 6 (11) A plan of financial organization of the board of the  
7 Hawaii health connector and requirements for financial  
8 management by its board; and
- 9 (12) Policies for the use of electronic media to publicly  
10 disseminate information, increase transparency, and  
11 allow members of the public to manage their health  
12 plans, including by the online purchase of a qualified  
13 health plan.
- 14 (c) The task force shall submit a report of its findings  
15 and recommendations, including any proposed legislation, to the  
16 legislature, no later than twenty days prior to the convening of  
17 the 2012 regular session, and shall participate in joint  
18 informational sessions upon the request of the legislature.
- 19 (d) At the request of the task force, the department of  
20 commerce and consumer affairs may employ temporary staff not  
21 subject to chapter 76, Hawaii Revised Statutes, to assist in  
22 carrying out the requirements of this section including:



- 1 (1) A facilitator for task force meetings;
- 2 (2) Information technology professionals to begin  
3 construction of the Internet-based Hawaii health  
4 connector system;
- 5 (3) A grant writer to pursue additional sources of federal  
6 or private funding to assist the operations of the  
7 task force; and
- 8 (4) Any other staff that the task force or the insurance  
9 commissioner deems necessary to carry out the duties  
10 of the task force.
- 11 (e) The legislative reference bureau shall assist the task  
12 force in preparing its findings, recommendations, and proposed  
13 legislation; provided that the chairperson of the task force  
14 shall submit the task force's proposals to the legislative  
15 reference bureau for drafting no later than November 1, 2011,  
16 for the report to the 2012 regular session of the legislature.
- 17 (f) The task force shall cease to exist on December 31,  
18 2012.
- 19 SECTION 5. There is appropriated out of federal funds  
20 received pursuant to federal domestic assistance grant number  
21 93:525 the sum of \$ or so much thereof as may be



1 necessary for fiscal year 2011-2012 to support the operations of  
2 the state health insurance exchange task force.

3 The sum appropriated shall be expended by the department of  
4 commerce and consumer affairs for the purposes of this Act.

5 SECTION 6. This Act shall take effect on July 1, 2040.



**Report Title:**

Hawaii Health Insurance Exchange

**Description:**

Establishes the Hawaii health connector to create a health insurance exchange pursuant to the federal Patient Protection and Affordable Care Act of 2010; creates Hawaii Health Insurance Exchange Council under a board of directors; creates board of directors; creates task force to recommend policies and procedures to implement the governance of the health insurance exchange. Effective July 1, 2040. (SB1348 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

