



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 8, 2014

**GOV. MSG. NO. 1343**

The Honorable Donna Mercado Kim,  
President and Members  
of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,  
Speaker and Members of  
the House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

Re: SB2470 SD1 HD1 CD1

SB2470 SD1 HD1 CD1, entitled "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH CONNECTOR" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to provide greater transparency, stakeholder engagement, and legislative involvement in the Hawaii Health Connector. The bill also appropriates \$1.5 million in general funds for the Connector's operations.

The State and Hawaii Health Connector continue to work collaboratively toward the goal of providing universal health care for the people of Hawaii. This bill does not resolve all the issues needed to have a sustainable state health exchange and cover the uninsured. I encourage the parties to address these issues in the 2015 legislative session.

For the foregoing reasons, SB2470 SD1 HD1 CD1 will become law as ACT 233, Session Laws of Hawaii 2014, effective July 8, 2014, without my signature.

~~Signature~~  
Neil Abercrombie

NEIL ABERCROMBIE  
Governor, State of Hawaii

# A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH CONNECTOR.

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

1           SECTION 1. Health insurance exchanges are a central  
2 component of the federal Patient Protection and Affordable Care  
3 Act, and the federal act gives states broad discretion in  
4 establishing the structure and governance of their own  
5 exchanges. The legislature finds that the Hawaii health  
6 connector was established by Act 205, Session Laws of Hawaii  
7 2011, as Hawaii's health insurance exchange and was charged with  
8 the responsibility of implementing applicable parts of the  
9 federal act.

10           The successful and efficient operation of the Hawaii health  
11 connector is essential for the State, health insurers, and  
12 insured persons in Hawaii to comply with the new requirements of  
13 the federal act. The legislature also finds that the Hawaii  
14 health connector was established as a private nonprofit entity,  
15 rather than a state agency, to provide the connector with a  
16 certain degree of freedom and autonomy in establishing and  
17 operating the State's health insurance exchange.



1           However, the legislature believes that evolving federal  
2 health care regulations and the need for greater transparency  
3 and oversight over Hawaii's health insurance exchange  
4 necessitate that the State revise the structure of the Hawaii  
5 health connector's board of directors. The legislature also  
6 believes that it should take a proactive oversight role to  
7 monitor the connector and review its financial and operational  
8 plans.

9           The legislature finds that the Hawaii health connector is  
10 the health insurance exchange for the State. The legislature  
11 also finds and declares that financial support of the Hawaii  
12 health connector as a state exchange to preserve the Hawaii  
13 Prepaid Health Care Act of 1974 is a compelling interest for the  
14 public health, safety, and general welfare of the State. It is,  
15 therefore, the desire of the legislature that the Hawaii health  
16 connector be officially designated as the State of Hawaii health  
17 insurance exchange.

18           The designation shall not impinge on the autonomy of the  
19 Hawaii health connector, nor imply state control over its  
20 programs or policies, except as specifically provided.

21           The purpose of this Act is to:



- 1 (1) Provide for greater transparency, stakeholder
- 2 engagement, and legislative involvement in the
- 3 activities of the Hawaii health connector; and
- 4 (2) Appropriate general funds to provide for the
- 5 sustainability of the Hawaii health connector.

6 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is  
 7 amended by adding five new sections to be appropriately  
 8 designated and to read as follows:

9 **§435H-A Hawaii health connector.** The official  
 10 designation of the Hawaii health connector shall be the State of  
 11 Hawaii health insurance exchange. The qualifying standards and  
 12 conditions relating to the receipt of funds contained in chapter  
 13 42F shall apply to the funds received by the State of Hawaii  
 14 health insurance exchange.

15 **§435H-B Connector legislative oversight committee.** (a)  
 16 There is established the connector legislative oversight  
 17 committee.

18 (b) The oversight committee shall consist of eight members  
 19 who shall include:

- 20 (1) The chair of the house standing committee on consumer
- 21 protection and commerce;
- 22 (2) The chair of the house standing committee on health;



- 1        (3) The chair of the house standing committee on finance;
- 2        (4) The chair of the senate standing committee on commerce
- 3                and consumer protection;
- 4        (5) The chair of the senate standing committee on health;
- 5        (6) The chair of the senate standing committee on ways and
- 6                means;
- 7        (7) One member of the minority party of the house, to be
- 8                selected by the minority party leader; and
- 9        (8) One member of the minority party of the senate, to be
- 10               selected by the minority party leader.
- 11        (c) The chairs of the house committee on consumer
- 12 protection and commerce and the senate committee on commerce and
- 13 consumer protection shall serve as the co-chairs of the
- 14 committee.
- 15        (d) The committee shall meet at least annually as agreed
- 16 upon by the co-chairs; provided that the committee shall meet no
- 17 later than December 1 of each year.
- 18        (e) The committee shall annually review the report
- 19 pursuant to section 435H-C and the sustainability plan pursuant
- 20 to section 435H-D that are submitted by the board and shall make
- 21 recommendations as needed to the house committee on finance and
- 22 the senate committee on ways and means.



1 S435H-C Reports; submission to the connector legislative

2 oversight committee. (a) No later than twenty days prior to  
3 the convening of the regular session of 2015, the board shall  
4 prepare and submit a report to the connector legislative  
5 oversight committee with updates on the sustainability plan of  
6 the connector, including specific efforts to reduce costs  
7 related to contracted services and other actions.

8 (b) No later than twenty days prior to the convening of  
9 the regular session of 2016 and the convening of each regular  
10 session thereafter, the board shall prepare and submit a report  
11 to the connector legislative oversight committee updating the  
12 committee on the connector's sustainability plan and the results  
13 of efforts to reduce costs related to contracted services and  
14 other actions.

15 (c) No later than twenty days prior to the start of each  
16 fiscal year of the connector, the board shall submit a copy of  
17 any federal audit reports to the connector legislative oversight  
18 committee; provided that if a federal audit report cannot be  
19 provided by this date, the board shall submit a copy of the  
20 federal audit report as soon as the federal audit report is  
21 complete.

1        (d) No later than twenty days prior to the start of each  
2 fiscal year of the connector, the board shall submit a copy of  
3 the annual financial statements of the connector to the  
4 connector legislative oversight committee.

5        **§435H-D Hawaii health connector annual sustainability**  
6 **plan.** (a) Until June 30, 2018, the board shall submit a  
7 sustainability plan to the connector legislative oversight  
8 committee no later than ninety days prior to the start of each  
9 fiscal year of the connector. The sustainability plan shall  
10 specify the amount of funding required to finance the operations  
11 and cash reserve of the connector for each ensuing fiscal year  
12 beginning on July 1; provided that the balance of the cash  
13 reserves shall not exceed the value of the cost of six months of  
14 administering and operating the connector.

15        (b) The sustainability plan submitted pursuant to  
16 subsection (a) shall include:

- 17        (1) A detailed itemized budget based upon zero-based  
18 budgeting principles for the upcoming fiscal year; and  
19        (2) A detailed sustainability plan that includes a three-  
20 year budget projection for the upcoming three fiscal  
21 years.





1        For the purposes of formulating the budget, "zero-based  
2 budgeting principles" means that the Hawaii health connector  
3 shall justify all projected allocations and expenditures,  
4 starting with an initial balance of zero dollars to spend.

5        (c) After June 30, 2018, the board shall not be required  
6 to file a sustainability plan pursuant to subsection (a).

7        **§435H-E Agents and brokers.** (a) Connector-certified  
8 insurance agents and brokers may enroll individuals and  
9 employers in qualified plans through the connector and assist  
10 individuals and employers in applying for applicable premium tax  
11 credits and cost-sharing reductions for which they may be  
12 eligible.

13        (b) If a health insurance plan utilizes and compensates an  
14 insurance agent or broker, the Hawaii health connector shall not  
15 be responsible for any compensation to that agent or broker that  
16 sells a qualified health plan through the connector. The issuer  
17 of the qualified health plan shall bear all compensation to an  
18 agent or broker that sells a qualified health plan through the  
19 connector."

20        SECTION 3. Section 435H-2, Hawaii Revised Statutes, is  
21 amended as follows:

22        1. By amending subsections (a) and (b) to read:



1           "(a) There is established the Hawaii health insurance  
2 exchange to be known as the Hawaii health connector. The  
3 connector shall not be an agency of the State and shall not be  
4 subject to laws or rules regulating rulemaking, public  
5 employment, or public procurement. The connector shall be a  
6 Hawaii nonprofit corporation organized and governed pursuant to  
7 chapter 414D, the Hawaii nonprofit corporations act. The debts  
8 and liabilities of the connector shall not constitute the debts  
9 and liabilities of the State.

- 10           (b) The purposes of the connector shall include:
- 11           (1) Facilitating the purchase and sale of qualified plans  
12           and qualified dental plans;
  - 13           (2) Connecting consumers to the information necessary to  
14           make informed health care choices; ~~and~~
  - 15           (3) Enabling consumers to purchase coverage and manage  
16           health and dental plans electronically[-]; and
  - 17           (4) Performing any and all other duties required of a  
18           health insurance exchange pursuant to the Federal  
19           Act.

20           2. By amending subsection (d) to read:

21           "(d) The connector shall be audited annually by the state  
22 auditor who shall submit the results of each annual audit to the

1 commissioner and the legislature no later than thirty days after  
2 the connector receives the results. The audit shall comply with  
3 standard accounting practices for reviewing nonprofit  
4 corporations. The connector shall provide the state auditor  
5 with the opportunity to inspect and make copies of documents for  
6 the purposes of providing a financial audit for the legislature.  
7 The connector shall retain all annual audits on file, along with  
8 any documents, papers, books, records, and other evidence that  
9 is pertinent to its budget and operations for a period of ten  
10 years and shall permit the state auditor, the commissioner, the  
11 state legislature, or their authorized representatives to have  
12 access to, inspect, and make copies of any documents retained  
13 pursuant to this subsection."

14 SECTION 4. Section 435H-3, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[+]§435H-3[+] **Funding.** (a) The connector may receive  
17 contributions, grants, endowments, fees, or gifts in cash or  
18 otherwise from public and private sources including  
19 corporations, businesses, foundations, governments, individuals,  
20 and other sources subject to rules adopted by the board. The  
21 State may appropriate moneys to the connector. As required by  
22 section 1311(d)(5)(A) of the Federal Act, the connector shall be



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

9 (b) In addition to any other means of generating revenue  
10 pursuant to subsections (a) and (c), the connector may sell or  
11 lease its information technology infrastructure and services to  
12 other separate non-connector programs; provided that the sale or  
13 lease is in compliance with federal regulations.

14 (c) In addition to any other means of generating revenue  
15 pursuant to subsections (a) and (b), the connector may also  
16 charge fees for displaying advertisements for ancillary services  
17 on the connector's website.

18 (d) All plans to generate revenue for the connector shall  
19 be in compliance with federal law."

20 SECTION 5. Section 435H-4, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           **"§435H-4 Board of directors; composition; operation. (a)**

2   The Hawaii health connector shall be a nonprofit entity governed  
3   by a board of directors that shall [~~comprise fifteen members~~  
4   ~~appointed by the governor and with the advice and consent of the~~  
5   ~~senate pursuant to section 26-34, provided that the governor~~  
6   ~~shall submit nominations to the senate for advice and consent no~~  
7   ~~later than February 1, 2012, and provided further that the~~  
8   ~~senate shall timely advise and consent to nominations for terms~~  
9   ~~to begin July 1, 2012. Members of the interim board shall be~~  
10  ~~eligible for appointment to the board.] be composed of nine  
11  voting members and five ex officio members. There shall be no  
12  board members representing insurers or dental benefit providers;  
13  provided that the board may establish a subcommittee of  
14  representatives from all providers of health care insurance and  
15  dental benefits to provide technical assistance and other  
16  information to the connector on relevant insurance matters. The  
17  board may establish other subcommittees to assist the connector  
18  with implementation of the Federal Act, as appropriate.~~

19           (b) For each vacant position on the board, the board,  
20  speaker of the house of representatives, and the president of  
21  the senate shall each submit to the governor the names of two  
22  qualified nominees. The governor shall appoint members of the



1 board, subject to the advice and consent of the senate and  
2 pursuant to section 26-34, from this list of qualified nominees.  
3 Board members whose terms are expiring may be reappointed for an  
4 additional term to assist with continuity of the board.

5 ~~[(b)]~~ (c) The membership of the board shall reflect  
6 geographic diversity and the diverse interests of stakeholders  
7 ~~[including consumers, employers, insurers, and dental benefit~~  
8 ~~providers]~~. Each person appointed to the board shall have  
9 education, training, or professional experience in at least one  
10 of the following areas:

- 11 (1) Health care policy;
- 12 (2) Health benefits plan administration, including  
13 medicaid administration;
- 14 (3) Health insurance; provided that no employee of an  
15 insurer shall be appointed to the board;
- 16 (4) Health care financing and purchasing;
- 17 (5) Labor-management committee organization;
- 18 (6) Information technology;
- 19 (7) Native Hawaiian health care organizations;
- 20 (8) Public health; or
- 21 (9) Health care policy issues related to the small group  
22 and individual markets and the uninsured.



1       In making appointments, the appointing authorities shall  
2 consider the background and expertise of all members of the  
3 board and the geographic, socioeconomic, and other  
4 characteristics of the State, so that the board's composition  
5 reflects a diversity of expertise, skills, and backgrounds  
6 relevant to the State; provided that the representative  
7 designated by the governor pursuant to subsection (d) shall be  
8 the only state employee to serve as a voting member of the  
9 board.

10       (d) The governor shall designate one representative to  
11 serve as the State's official representative on the board from  
12 among the following: the director of commerce and consumer  
13 affairs [~~or the director's designee~~], the director of health [~~or~~  
14 ~~the director's designee~~], the director of human services [~~or the~~  
15 ~~director's designee~~], [~~and~~] the director of labor and industrial  
16 relations [~~or the director's designee~~], a representative from  
17 the office of healthcare transformation, or a representative  
18 from the office of information management and technology.

19       The governor's designated representative shall be an ex  
20 officio voting member of the board. The remaining state  
21 officials shall be ex officio[~~, voting~~] nonvoting members of the  
22 board. The governor shall notify the chair of the connector



1 regarding the selection of the designated voting and nonvoting  
2 state members of the board.

3 The director of commerce and consumer affairs, the director  
4 of health, the director of human services, and the director of  
5 labor and industrial relations may select a designee for a  
6 specified meeting or meetings. Such selection of the designee  
7 shall be submitted in writing to the board of directors prior to  
8 or at the meeting in which the designee will serve.

9 [~~e~~] (e) Board members shall serve staggered terms and  
10 the interim board shall recommend an appropriate schedule for  
11 staggered terms; provided that this subsection shall not apply  
12 to ex officio members, who shall serve during their entire term  
13 of office~~[-]~~ or until the governor names a replacement.

14 (f) Any changes to the board structure and governance  
15 shall be in compliance with federal law.

16 [~~d~~] (g) The board shall adopt policies prohibiting  
17 conflicts of interest and procedures for recusal of a member in  
18 the case of an actual or potential conflict of interest,  
19 including policies prohibiting a member from taking part in  
20 official action on any matter in which the member had any  
21 financial involvement or interest prior to the commencement of  
22 service on the board. Members of the board may retain private





1 counsel for matters relating to service on the board according  
2 to rules recommended by the board.

3 ~~(+e)~~ (h) The board shall manage the budget of the  
4 connector according to generally accepted accounting principles  
5 and a plan for financial organization adopted by the legislature  
6 based on recommendations of the interim board.

7 ~~(+f)~~ (i) The board shall maintain transparency of board  
8 actions, including public disclosure and posting of board  
9 minutes on the connector's website according to provisions  
10 adopted by the legislature based on recommendations of the  
11 interim board."

12 SECTION 6. Section 435H-7, Hawaii Revised Statutes, is  
13 repealed.

14 ~~["§435H-7] Eligibility determination for applicants in~~  
15 ~~medicaid adult and children's health insurance program. The~~  
16 ~~department of human services shall be the agency to determine~~  
17 ~~qualifications and eligibility of individuals to participate in~~  
18 ~~medicaid adult or children's health insurance programs. The~~  
19 ~~agency's determination of eligibility shall enable qualified~~  
20 ~~individuals and authorized adults on behalf of qualified~~  
21 ~~children to purchase qualified plans and qualified dental plans~~  
22 ~~from the connector. The department of human services shall~~



1 ~~verify for the connector individuals and children able to~~  
2 ~~participate in subsidized plans purchased through the~~  
3 ~~connector." ]~~

4 SECTION 7. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$1,500,000 or so much  
6 thereof as may be necessary for fiscal year 2014-2015 for the  
7 operations of the Hawaii health connector.

8 The sum appropriated shall be expended by the department of  
9 commerce and consumer affairs for the purposes of this Act;  
10 provided that the department of commerce and consumer affairs  
11 shall only expend the appropriated sum subsequent to the  
12 department of commerce and consumer affairs' receipt and  
13 approval of all of the Hawaii health connector's amended  
14 articles of incorporation or amended bylaws and necessary  
15 corporate resolutions and resignations, each of which shall  
16 bring the Hawaii health connector into full compliance with  
17 section 435H-4, Hawaii Revised Statutes.

18 SECTION 8. In codifying the new sections added by section  
19 2 of this Act, the revisor of statutes shall substitute  
20 appropriate section numbers for the letters used in designating  
21 the new sections in this Act.



1 SECTION 9. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2014;  
4 provided that section 5 shall take effect on October 1, 2014.

APPROVED this                      day of                      , 2014

GOVERNOR OF THE STATE OF HAWAII