
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that health insurance
2 exchanges are a central component of the federal Patient
3 Protection and Affordable Care Act of 2010 (Affordable Care
4 Act). The Affordable Care Act also gives states broad
5 discretion in establishing the structure and governance of their
6 own exchanges. The legislature further finds and declares that
7 the Hawaii health connector, codified under chapter 435H, Hawaii
8 Revised Statutes, is the designated health insurance exchange
9 for the State of Hawaii and is charged with the responsibility
10 of implementing applicable parts of the Affordable Care Act.

11 The successful and efficient operation of the Hawaii health
12 connector is essential for the State, health insurers, and
13 insured persons in Hawaii to comply with the new requirements of
14 the Affordable Care Act. The legislature also finds that the
15 Hawaii health connector was established as a private nonprofit
16 entity, rather than a state agency, to provide the connector
17 with a certain degree of freedom and autonomy in establishing
18 and 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 Affordable Care Act mandates health insurance exchanges
10 to be self-sustaining beginning in January 2015. The
11 legislature recognizes that the financial sustainability of the
12 Hawaii health connector must be facilitated in a way that
13 promotes competition and ensures equity among the competitors.
14 The legislature finds that a sustainability fee on insurers is
15 an appropriate financing method that will strike a proper
16 balance by promoting competition, facilitating a self-sustaining
17 health insurance exchange market, and maintaining reasonable
18 health insurance rates.

19 The legislature further finds that the financial support of
20 the Hawaii health connector is in the public interest and for
21 the public health, safety, and general welfare of the State.



1 Therefore, the purpose of this Act is to clarify the status
2 of the Hawaii health connector as the official health insurance
3 exchange for the State, provide for greater transparency and
4 legislative oversight in the Hawaii health connector, ensure the
5 sustainability of the Hawaii health connector, and ensure
6 competition amongst health plans by:

7 (1) Establishing the connector legislative oversight
8 committee to review the financial and operational
9 plans of the connector;

10 (2) Establishing the Hawaii health insurance exchange
11 special fund, to be administered by the department of
12 commerce and consumer affairs;

13 (3) Beginning January 1, 2015, assessing a Hawaii health
14 insurance exchange sustainability fee of no more than
15 .345 per cent of the premiums derived from the sale of
16 comprehensive medical insurance plans, including
17 dental plans, in the State, to be deposited into the
18 Hawaii health insurance exchange special fund;

19 (4) Noting that the current two percent surcharge
20 authorized by the connector on plans sold through the
21 connector shall cease to be collected once the Hawaii



- 1 health insurance exchange sustainability fee is
2 instituted;
- 3 (5) Requiring the board of directors of the Hawaii health
4 connector to prepare and submit to the connector
5 legislative oversight committee a fully documented
6 biennial sustainability plan budget request for the
7 connector;
- 8 (6) Requiring the connector legislative oversight
9 committee to recommend the amount of the Hawaii health
10 insurance exchange sustainability fee;
- 11 (7) Annually appropriating the funds collected from the
12 Hawaii health insurance exchange sustainability fee to
13 the Hawaii health insurance exchange, pursuant to a
14 documented budget request demonstrating the need for
15 and use of the sustainability fee;
- 16 (8) Clarifying that the Hawaii health connector must
17 submit the results of the connector's annual audit to
18 the legislature;
- 19 (9) Amending the composition and procedures of the board
20 of directors of the Hawaii health connector; and
- 21 (10) Appropriating funds from the general fund to the
22 Hawaii health insurance exchange special fund, but



1 requiring the Hawaii health insurance exchange special
2 fund to reimburse the general fund over a five-year
3 period once the sustainability fees are instituted and
4 collected and the sustainability plan is adopted.

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

8 **§435H-A Connector legislative oversight committee.** (a)

9 There is established the connector legislative oversight
10 committee. The committee shall promote and protect the
11 interests of the residents of Hawaii by reviewing the financial
12 and operational plans of the connector and providing input and
13 recommendations to the board.

14 (b) The oversight committee shall consist of eight members
15 who shall include:

16 (1) The chair of the house standing committee on consumer
17 protection and commerce;

18 (2) The chair of the house standing committee on health;

19 (3) The chair of the house standing committee on finance;

20 (4) The chair of the senate standing committee on commerce
21 and consumer protection;

22 (5) The chair of the senate standing committee on health;



1 (6) The chair of the senate standing committee on ways and
2 means;

3 (7) One member of the minority party of the house, to be
4 selected by the minority party leader; and

5 (8) One member of the minority party of the senate, to be
6 selected by the minority party leader.

7 (c) The chairs of the house committee on consumer
8 protection and commerce and the senate committee on commerce and
9 consumer affairs shall serve as the co-chairs of the committee.

10 (d) The committee shall meet annually as agreed upon by
11 the co-chairs; provided that the committee shall meet no later
12 than December 1 of each year.

13 (e) The committee shall annually review the sustainability
14 plan budget request that is submitted by the board pursuant to
15 section 435H-D and shall make a recommendation to the house
16 committee on finance and the senate committee on ways and means
17 of the amount of the Hawaii health insurance exchange
18 sustainability fee. The legislative appropriation authorized
19 under section 435H-D(b) shall be based on the information
20 received and recommendations made pursuant to this section.

21 **§435H-B Hawaii health insurance exchange special fund;**
22 **establishment; budget request; appropriation.** (a) There is

1 established, as a separate account within the compliance
2 resolution fund, the Hawaii health insurance exchange special
3 fund, into which shall be deposited:

4 (1) All revenues from the assessment of the Hawaii health
5 insurance exchange sustainability fee established
6 pursuant to section 435H-C; and

7 (2) Appropriations made by the legislature to the special
8 fund.

9 (b) Moneys in the Hawaii health insurance exchange special
10 fund shall be used for the following purposes:

11 (1) Financial support to the Hawaii health insurance
12 exchange, also known as the Hawaii health connector,
13 to ensure the sustainability of the Hawaii health
14 insurance exchange; and

15 (2) Central service expenses and administrative expenses
16 of the special fund.

17 (c) The department of commerce and consumer affairs shall
18 administer the special fund.

19 **§435H-C Hawaii health insurance exchange sustainability**

20 **fee; establishment.** (a) Beginning January 1, 2015, and each

21 January 1 thereafter, the commissioner shall assess a Hawaii

22 health insurance exchange sustainability fee of no greater than



1 .345 per cent of the premiums derived from the sale of
2 comprehensive medical insurance plans, including dental plans,
3 in the State; provided that the final amount of the Hawaii
4 health insurance exchange sustainability fee shall be based on
5 the sustainability plan budget request submitted to the
6 connector legislative oversight committee pursuant to section
7 435H-D.

8 (b) Every insurer shall remit to the commissioner the
9 Hawaii health insurance exchange sustainability fee in such form
10 as the commissioner prescribes.

11 (c) The commissioner shall deposit the sustainability fees
12 received into the Hawaii health insurance exchange special fund.

13 (d) The commissioner shall transfer the accumulated
14 sustainability fees deposited into the Hawaii health insurance
15 exchange special fund to the Hawaii health insurance exchange
16 pursuant to the legislative appropriation authorized under
17 section 435H-D(b).

18 (e) No more than \$15,000,000 shall be allocated to the
19 Hawaii health insurance exchange in any calendar year. This
20 ceiling may be increased by action of the legislature through
21 adoption of a subsequent sustainability plan budget request from
22 the connector.



1 §435H-D Budget requests; annual appropriations. (a) The
2 board shall prepare a fully documented biennial sustainability
3 plan budget request for the connector, detailing the amount of
4 funding required to be appropriated to the connector to finance
5 the operations and ensure the sustainability of the connector.
6 The board shall submit the sustainability plan budget request to
7 the connector legislative oversight committee no later than
8 ninety days prior to the start of each fiscal year of the
9 connector.

10 (b) The legislature shall authorize an appropriation,
11 based on the recommendations of the connector legislative
12 oversight committee pursuant to section 435H-A, to the connector
13 out of the proceeds of the Hawaii health insurance exchange
14 special fund."

15 SECTION 3. Section 435H-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "insurer" to read as
17 follows:

18 ""Insurer" means any person or entity that issues a policy
19 of accident and health or sickness insurance subject to article
20 10A of chapter 431, or chapters 432 or 432D[-] other than an
21 accident-only, specified disease, hospital indemnity, medicare



1 supplement, disability income, or other limited benefit health
2 insurance policies."

3 SECTION 4. Section 435H-2, Hawaii Revised Statutes, is
4 amended as follows:

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

6 "(a) There is established the Hawaii health insurance
7 exchange to be known as the Hawaii health connector. The
8 connector shall be the designated health insurance exchange for
9 the State. The qualifying standards and conditions relating to
10 the receipt of funds contained in chapter 42F shall apply to the
11 funds received by the Hawaii health insurance exchange. The
12 connector shall be a nonprofit incorporated entity. The
13 connector shall not be an agency of the State and shall not be
14 subject to laws or rules regulating rulemaking, public
15 employment, or public procurement. [~~The connector shall be a~~
16 ~~Hawaii nonprofit corporation organized and governed pursuant to~~
17 ~~chapter 414D, the Hawaii nonprofit corporations act.~~] The debts
18 and liabilities of the connector shall not constitute the debts
19 and liabilities of the State.

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

21 (1) Facilitating the purchase and sale of qualified plans
22 and qualified dental plans;



- 1 (2) Connecting consumers to the information necessary to
- 2 make informed health care choices; [~~and~~]
- 3 (3) Enabling consumers to purchase coverage and manage
- 4 health and dental plans electronically[~~-~~]; and
- 5 (4) Performing any and all other duties required of a
- 6 health insurance exchange pursuant to the federal
- 7 act."

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

9 "(d) The connector shall be audited annually by the state
 10 auditor who shall submit the results of each annual audit to the
 11 commissioner and the legislature no later than thirty days after
 12 the connector receives the results. The connector shall retain
 13 all annual audits on file, along with any documents, papers,
 14 books, records, and other evidence that is pertinent to its
 15 budget and operations for a period of ten years and shall permit
 16 the state auditor, the commissioner, the state legislature, or
 17 their authorized representatives to have access to, inspect, and
 18 make copies of any documents retained pursuant to this
 19 subsection."

20 SECTION 5. Section 435H-3, Hawaii Revised Statutes, is
 21 amended to read as follows:



1 "~~+~~§435H-3~~+~~ **Funding.** (a) The connector may receive
2 contributions, grants, endowments, fees, or gifts in cash or
3 otherwise from public and private sources including
4 corporations, businesses, foundations, governments, individuals,
5 and other sources subject to rules adopted by the board. The
6 State may appropriate moneys to the connector~~-~~ via the
7 sustainability fee collected pursuant to section 435H-C. As
8 required by section 1311(d)(5)(A) of the Federal Act, the
9 connector shall be self-sustaining by January 1, 2015, and may
10 charge assessments or user fees to participating health and
11 dental carriers, or may otherwise generate funding to support
12 its operations. Moneys received by or under the supervision of
13 the connector shall not be placed into the state treasury and
14 the State shall not administer any moneys of the connector nor
15 be responsible for the financial operations or solvency of the
16 connector. The existing surcharge authorized by the connector
17 on plans sold through the connector shall cease to be collected
18 once the sustainability fee authorized pursuant to section 435H-
19 C is instituted.

20 (b) In addition to any other means of generating revenue
21 pursuant to subsection (a), the connector may charge fees for



1 displaying advertisements for ancillary services on the
2 connector's website.

3 (c) All plans to generate revenue for the connector shall
4 be in compliance with federal law."

5 SECTION 6. Section 435H-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§435H-4 Board of directors; composition; operation. (a)**

8 The Hawaii health connector shall be a nonprofit entity governed
9 by a board of directors that shall comprise [~~fifteen members~~
10 ~~appointed by the governor and with the advice and consent of the~~
11 ~~senate pursuant to section 26-34; provided that the governor~~
12 ~~shall submit nominations to the senate for advice and consent no~~
13 ~~later than February 1, 2012; and provided further that the~~
14 ~~senate shall timely advise and consent to nominations for terms~~
15 ~~to begin July 1, 2012. Members of the interim board shall be~~
16 ~~eligible for appointment to the board.] twelve members. The
17 total number of voting members on the board shall not exceed
18 nine members. There shall be no board members representing
19 insurers or dental benefit providers; provided that the board
20 may establish a subcommittee of representatives from all
21 providers of health care insurance and dental benefits to~~



1 provide technical assistance and other information to the
2 connector on macro insurance matters.

3 (b) Appointments to fill vacancies on the board shall be
4 as follows:

5 (1) The board shall recommend to the governor the skill
6 sets that are needed on the board to facilitate
7 implementation of the connector;

8 (2) The board shall submit to the governor a list of
9 qualified nominees that meet the required skill sets;
10 and

11 (3) The governor shall appoint members of the board,
12 subject to the advice and consent of the senate and
13 pursuant to section 26-34, from this list of qualified
14 nominees provided by the board.

15 [~~(b)~~] (c) The membership of the board shall reflect
16 geographic diversity and the diverse interests of stakeholders
17 including consumers[~~7~~] and employers[~~7, insurers, and dental~~
18 benefit providers].

19 (d) The governor shall designate one representative to
20 serve as the State's official representative on the board from
21 among the following state representatives: the director of
22 commerce and consumer affairs or the director's designee, the



1 director of health or the director's designee, the director of
2 human services or the director's designee, [~~and~~] the director of
3 labor and industrial relations or the director's designee, a
4 representative from the office of healthcare transformation, or
5 a representative from the office of information management and
6 technology.

7 The governor's designated state representative shall be an
8 ex officio voting member of the board. The remaining state
9 representatives shall be ex officio[~~, voting~~] nonvoting members
10 of the board. The governor shall notify the chair of the
11 connector regarding the selection of the designated voting and
12 nonvoting state representative members of the board.

13 The director of commerce and consumer affairs, the director
14 of health, the director of human services, and the director of
15 labor and industrial relations may select a designee for a
16 specified meeting or meetings. Such selection of the designee
17 shall be submitted in writing to the board of directors prior to
18 or at the meeting in which the designee will serve.

19 No state agency shall impede the efficient operation of the
20 connector.

21 [~~(e)~~] (e) Board members shall serve staggered terms and
22 the interim board shall recommend an appropriate schedule for



1 staggered terms; provided that this subsection shall not apply
2 to ex officio members, who shall serve during their entire term
3 of office[-] or until the governor names a replacement.

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

13 [~~(e)~~] (g) The board shall manage the budget of the
14 connector according to generally accepted accounting principles
15 and a plan for financial organization adopted by the legislature
16 based on recommendations of the interim board.

17 [~~(f)~~] (h) The board shall maintain transparency of board
18 actions, including public disclosure and posting of board
19 minutes on the connector's website according to provisions
20 adopted by the legislature based on recommendations of the
21 interim board."



1 SECTION 7. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2014-2015 to be
4 deposited into the Hawaii health insurance exchange special
5 fund.

6 SECTION 8. There is appropriated out of the Hawaii health
7 insurance exchange special fund the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2014-2015 for
9 the Hawaii health connector; provided that once the Hawaii
10 health insurance exchange sustainability fee authorized pursuant
11 to section 435H-C, Hawaii Revised Statutes, is instituted and
12 collected and the sustainability plan is adopted, the general
13 fund shall be reimbursed over a five-year period for the amount
14 originally expended in section 7 of this Act.

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

17 SECTION 9. In codifying the new sections added by section
18 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.

21 SECTION 10. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 11. This Act shall take effect on July 1, 2112.



Report Title:

Health; Hawaii Health Connector; Hawaii Health Insurance Exchange Special Fund; Connector Legislative Oversight Committee; Hawaii Health Insurance Exchange Sustainability Fee; Sustainability Plan Budget Request; Board of Directors; Appropriation

Description:

Establishes the connector legislative oversight committee. Establishes the Hawaii health insurance exchange special fund. Beginning January 1, 2015, assesses a Hawaii health insurance exchange sustainability fee of no more than .345 per cent of the premiums derived from the sale of comprehensive medical insurance plans, including dental plans, in the State, to be deposited into the Hawaii health insurance exchange special fund. Notes that the current two percent surcharge authorized by the connector on plans sold through the connector shall cease to be collected once the Hawaii health insurance exchange sustainability fee is instituted. Requires the board of directors of the connector to prepare and submit to the legislative oversight committee a fully documented biennial sustainability plan budget request for the connector. Permits the legislature to annually appropriate funds collected from the sustainability fee to the Hawaii health insurance exchange. Clarifies that the connector must submit the results of the connector's annual audit to the legislature. Amends the composition and procedures of the board of directors of the Hawaii health connector. Appropriates funds to the Hawaii health insurance exchange special fund. Requires the Hawaii health insurance exchange special fund to reimburse the general fund over a five-year period once the sustainability fee is instituted and collected and the sustainability plan is adopted. Effective 7/1/2112. (SD1)

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