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# 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. In addition, the  
6 legislature finds that the Hawaii health connector should engage  
7 with advisory groups that represent various stakeholder  
8 interests and allow for their input and recommendations for the  
9 activities of the connector. The legislature also believes that  
10 it should take a proactive oversight role to monitor the  
11 connector and review its financial and operational plans.

12           The Patient Protection and Affordable Care Act mandates  
13 health insurance exchanges to be self-sustaining beginning in  
14 January 2015. The legislature further recognizes that the  
15 financial sustainability of the Hawaii health connector must be  
16 facilitated in a way that promotes competition and ensures  
17 equity among the competitors. The legislature finds that a  
18 sustainability fee on insurers is an appropriate financing  
19 method that will strike a proper balance by promoting  
20 competition, facilitating a self-sustaining health insurance  
21 exchange market, and maintaining reasonable health insurance  
22 rates.



1 The purpose of this Act is to:

- 2 (1) Provide for greater transparency, stakeholder  
3 engagement, and legislative involvement in the  
4 activities of the Hawaii health connector; and  
5 (2) Provide for the sustainability of the Hawaii health  
6 connector by authorizing the insurance commissioner to  
7 assess a fee on all issuers selling plans, both inside  
8 and outside of the connector, until June 30, 2018.

9 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is  
10 amended by adding seven new sections to be appropriately  
11 designated and to read as follows:

12 **"§435H-A Consumer, patient, business, and health care**  
13 **advisory group.** The board shall establish a consumer, patient,  
14 business, and health care advisory group to provide input and  
15 recommendations to the board. The advisory group shall reflect  
16 geographic diversity and a diversity of interests. Members  
17 shall include individuals with education, training, or  
18 professional experience in the fields of consumer advocacy,  
19 patient advocacy, public health, health care provision,  
20 economics, financial management, risk management, and small  
21 business. Members of the advisory group shall serve in an  
22 advisory capacity only and shall not be considered members of



1 the board. Members shall not be compensated but may be  
2 reimbursed for necessary expenses incurred in the performance of  
3 their duties.

4 **§435H-B Health insurers advisory group.** The board shall  
5 establish a health insurers advisory group to provide input and  
6 recommendations to the board. Members shall consist of  
7 representatives of the insurers that offer qualified plans or  
8 qualified dental plans through the connector. Members of the  
9 advisory group shall serve in an advisory capacity only and  
10 shall not be considered members of the board. Members of the  
11 advisory group shall not be compensated but may be reimbursed  
12 for necessary expenses incurred in the performance of their  
13 duties.

14 **§435H-C Insurance producers advisory group.** The board  
15 shall establish an insurance producers advisory group to provide  
16 input and recommendations to the board. The advisory group  
17 shall reflect geographic diversity and members shall include  
18 insurance agents and brokers that sell qualified plans through  
19 the connector. Members of the advisory group shall serve in an  
20 advisory capacity only and shall not be considered members of  
21 the board. Members shall not be compensated but may be



1 reimbursed for necessary expenses incurred in the performance of  
2 their duties.

3 §435H-D Connector oversight council. (a) There is  
4 established the Hawaii health connector oversight council which  
5 shall meet at least once annually. For administrative purposes  
6 only, the council shall be assigned to the department of  
7 commerce and consumer affairs. The council shall oversee the  
8 activities of the company to ensure that the company fulfills  
9 its purpose as set forth in this article.

10 (b) The council shall consist of five members, who shall  
11 include:

12 (1) A member of the senate appointed by the president of  
13 the senate;

14 (2) A member of the house of representatives appointed by  
15 the speaker of the house of representatives;

16 (3) The director of the department of labor and industrial  
17 relations;

18 (4) The director of the department of commerce and  
19 consumer affairs; and

20 (5) An at-large member appointed by the governor.

21 Section 26-34 shall not apply to appointments under this  
22 section.



1       (c) The council shall promote and protect the interests of  
2 the residents of Hawaii by reviewing the financial and  
3 operational plans of the connector and providing input and  
4 recommendations to the board.

5       (d) Members of the council shall serve without  
6 compensation, but shall be reimbursed for reasonable expenses  
7 necessary for the performance of their duties.

8       (e) The council shall annually review the sustainability  
9 plan that is submitted by the board pursuant to section 435H-F  
10 and shall recommend promptly to the commissioner the amount of  
11 the Hawaii health connector universal federally mandated  
12 sustainability fee, but in no event later than forty-five days  
13 prior to July 1, 2015, and every year thereafter until June 30,  
14 2018.

15       (f) The connector oversight council shall be dissolved on  
16 June 30, 2018.

17       **§435H-E Agents and brokers.** (a) Certified insurance  
18 agents and brokers may enroll individuals and employers in  
19 qualified plans through the connector and assist individuals and  
20 employers in applying for applicable premium tax credits and  
21 cost-sharing reductions for which they may be eligible. The  
22 commissioner shall adopt rules for certifying insurance agents



1 and brokers pursuant to this section; provided that the rules  
2 shall include qualifications and educational requirements for  
3 agents and brokers that comply with the federal act.

4 (b) Certified insurance agents and brokers shall be  
5 compensated for these activities in a manner to be determined by  
6 the board.

7 **§435H-F Hawaii health connector universal federally**  
8 **mandated sustainability fee; annual sustainability plan.** (a)  
9 Until June 30, 2018, the board shall submit a sustainability  
10 plan to the connector oversight council and the commissioner no  
11 later than ninety days prior to the start of each fiscal year of  
12 the connector. The sustainability plan shall specify the amount  
13 of funding required to finance the operations and cash reserve  
14 of the connector for each ensuing fiscal year beginning on July  
15 1; provided that the balance of the cash reserve does not exceed  
16 the value of the cost of six months of administering and  
17 operating the connector.

18 (b) The sustainability plan submitted pursuant to  
19 subsection (a) shall include:

20 (1) A detailed itemized budget based upon zero-based  
21 budgeting principles for the upcoming fiscal year;



- 1       (2) A detailed justification for the release of moneys  
2       from the Hawaii health connector sustainability  
3       special fund pursuant to section 435H-G; and  
4       (3) Minutes of meetings of the consumer, patient,  
5       business, and health care advisory group, the health  
6       insurers advisory group, and the insurance producers  
7       advisory group, including the results of any votes  
8       taken, and any recommendations made by those advisory  
9       groups.

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

14       (c) Any other provision notwithstanding, beginning on July  
15 1, 2015, and on each July 1 thereafter until June 30, 2018, the  
16 commissioner, taking into account the recommendation of the  
17 connector oversight council pursuant to section 435H-D, shall  
18 assess upon and collect from each insurer the Hawaii health  
19 connector universal federally mandated sustainability fee. At  
20 the discretion of the commissioner, the fee or a percentage  
21 thereof may be assessed upon and collected from each dental  
22 insurer subject to chapter 432G. The fee shall be assessed upon





1 a pro rata basis, based upon the number of individuals covered  
2 by each insurer, or dental insurer, as appropriate, on the  
3 preceding December 31, excluding individuals covered under a  
4 medicaid plan pursuant to Title XIX of the Social Security Act,  
5 42 U.S.C. section 1396 et seq. The total of all revenues  
6 collected from the fee shall not exceed the amount of funding  
7 required to finance the operations and cash reserve of the  
8 connector as specified in subsection (a).

9 (d) Before July 1, 2018, any fee that is assessed upon an  
10 insurer or a dental insurer for the purpose of funding the  
11 operations and cash reserve of the connector shall be void,  
12 except as follows:

13 (1) The Hawaii health connector universal federally  
14 mandated sustainability fee assessed pursuant to  
15 subsection (c); or

16 (2) Any fee imposed pursuant to section 435H-3(b).

17 (e) After June 30, 2018, the board shall not be required  
18 to file a sustainability plan pursuant to subsection (a) and the  
19 insurance commissioner shall not assess or collect the Hawaii  
20 health connector universal federally mandated sustainability fee  
21 pursuant to subsection (c).



1        (f) Until June 30, 2018, the board may recommend to the  
2 governor legislative action, if necessary, for the Hawaii health  
3 connector.

4        **§435H-G Hawaii health connector sustainability special**

5 **fund.** (a) There is established the Hawaii health connector  
6 sustainability special fund, into which shall be deposited:

7        (1) Hawaii health connector universal federally mandated  
8 sustainability fee revenues collected pursuant to  
9 section 435H-F; and

10       (2) Any appropriations that may be made by the legislature  
11 to the fund.

12       Moneys in the Hawaii health connector sustainability  
13 special fund shall not be considered part of the general fund.

14       (b) Moneys in the Hawaii health connector sustainability  
15 special fund are to be expended by the commissioner only as  
16 provided in this subsection. Moneys in the special fund shall  
17 be transferred to the connector according to procedures  
18 established by the commissioner and shall only be used for the  
19 administration, operations, and prudent cash management of the  
20 connector.

21       (c) The Hawaii health connector sustainability special  
22 fund shall be audited annually by an independent auditor



1 retained by the connector. The auditor's report of each annual  
2 audit shall be submitted to the commissioner and the connector  
3 oversight council not later than thirty days from the date the  
4 audit report is received by the connector.

5 (d) The Hawaii health connector sustainability special  
6 fund shall be dissolved on June 30, 2018, and all unencumbered  
7 and unexpended moneys remaining on balance in the special fund  
8 on that date shall lapse to the credit of the general fund."

9 SECTION 3. Section 435H-2, Hawaii Revised Statutes, is  
10 amended by amending subsections (a) and (b) to read as follows:

11 "(a) There is established the Hawaii health insurance  
12 exchange to be known as the Hawaii health connector. The  
13 connector shall be a nonprofit incorporated entity. The  
14 connector shall not be an agency of the State and shall not be  
15 subject to laws or rules regulating rulemaking, public  
16 employment, or public procurement. [~~The connector shall be a~~  
17 ~~Hawaii nonprofit corporation organized and governed pursuant to~~  
18 ~~chapter 414D, the Hawaii nonprofit corporations act.~~] The debts  
19 and liabilities of the connector shall not constitute the debts  
20 and liabilities of the State.

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



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

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

12 "[~~§~~435H-3[~~§~~] **Funding.** (a) The connector may receive

13 contributions, grants, endowments, fees, or gifts in cash or

14 otherwise from public and private sources including

15 corporations, businesses, foundations, governments, individuals,

16 and other sources subject to rules adopted by the board. The

17 State may appropriate moneys to the connector. As required by

18 section 1311(d)(5)(A) of the Federal Act, the connector shall be

19 self-sustaining by January 1, 2015, and may charge assessments

20 or user fees to participating health and dental carriers, or may

21 otherwise generate funding to support its operations. Moneys

22 received by or under the supervision of the connector shall not



1 be placed into the state treasury and the State shall not  
2 administer any moneys of the connector nor be responsible for  
3 the financial operations or solvency of the connector[~~-~~] except  
4 as provided in section 435H-G.

5 (b) In addition to any other means of generating revenue  
6 pursuant to subsection (a), the connector may charge fees for  
7 displaying advertisements for ancillary services on the  
8 connector's website."

9 SECTION 5. Section 435H-4, Hawaii Revised Statutes, is  
10 amended by amending subsections (a) through (c) to read as  
11 follows:

12 "(a) The [~~Hawaii health~~] connector shall be [~~a nonprofit~~  
13 ~~entity~~] governed by a board of directors that shall comprise  
14 [~~fifteen~~] ten members as follows:

15 (1) The director of commerce and consumer affairs or the  
16 director's designee, who shall be an ex officio,  
17 nonvoting member;

18 (2) The director of human services or the director's  
19 designee, who shall be an ex officio, nonvoting  
20 member;

21 (3) The healthcare transformation coordinator, who shall  
22 be an ex officio, nonvoting member;



1        (4) Three members who shall be appointed by the governor  
2            ~~[and with the advice and consent of the senate~~  
3            ~~pursuant to section 26-34; provided that the governor~~  
4            ~~shall submit nominations to the senate for advice and~~  
5            ~~consent no later than February 1, 2012; and provided~~  
6            ~~further that the senate shall timely advise and~~  
7            ~~consent to nominations for terms to begin July 1,~~  
8            ~~2012. Members of the interim board shall be eligible~~  
9            ~~for appointment to the board.];~~

10        (5) Two members who shall be appointed by the president of  
11            the senate; and

12        (6) Two members who shall be appointed by the speaker of  
13            the house of representatives.

14        The board shall elect one of its members as the chairperson of  
15        the board. The board, by majority vote, may remove or suspend  
16        for cause any member after due notice and public hearing.

17        (b) The membership of the board shall reflect geographic  
18        diversity and the diverse interests of stakeholders including  
19        consumers, employers, insurers, and dental benefit providers.

20        Each person appointed to the board shall have education,  
21        training, or professional experience in at least one of the  
22        following areas:



- 1        (1) Health care policy;
- 2        (2) Health benefits plan administration, including
- 3        medicaid administration;
- 4        (3) Health insurance; provided that no employee of an
- 5        insurer shall be appointed to the board;
- 6        (4) Health care financing and purchasing;
- 7        (5) Health care delivery;
- 8        (6) Information technology; or
- 9        (7) Economics and actuarial science.

10        In making appointments, the appointing authorities shall  
11 consider the background and expertise of all members of the  
12 board and the geographic, socioeconomic, and other  
13 characteristics of the State, so that the board's composition  
14 reflects a diversity of expertise, skills, and background  
15 relevant to the State; provided that members appointed pursuant  
16 to subsection (a) (4) through (6) shall not be employees of the  
17 State.

18        ~~[The director of commerce and consumer affairs or the~~  
19 ~~director's designee, the director of health or the director's~~  
20 ~~designee, the director of human services or the director's~~  
21 ~~designee, and the director of labor and industrial relations or~~



1 ~~the director's designee shall be ex officio, voting members of~~  
2 ~~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 (c) Board members shall serve staggered terms and the  
10 interim board shall recommend an appropriate schedule for  
11 staggered terms; provided that this subsection shall not apply  
12 to ~~[ex officio members,]~~ members appointed pursuant to  
13 subsection (a) (1) through (3), who shall serve during their  
14 ~~[entire]~~ term of office."

15 SECTION 6. In codifying the new sections added by section  
16 2 of this Act, the revisor of statutes shall substitute  
17 appropriate section numbers for the letters used in designating  
18 the new sections in this Act.

19 SECTION 7. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on July 1, 2112.





**Report Title:**

Health; Hawaii Health Connector; Sustainability Fee

**Description:**

Reduces the membership of the Connector board of directors from fifteen to ten members and changes the composition and voting status of the board. Creates the consumer, patient, business, and health care advisory group; health insurers advisory group; and the insurance producers advisory group to advise the Connector board of directors. Creates the Connector Oversight Council to review the financial and operational plans of the Connector. Establishes a sustainability fee to be collected through June 30, 2018, to support operations of the Connector, and establishes a special fund. Effective July 1, 2112.  
(SB2470 HD1 PROPOSED)

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

