

STAND. COM. REP. NO. **3021**

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 2529
H.D. 3
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committees on Commerce and Consumer Protection and Health, to which was referred H.B. No. 2529, H.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Create the consumer, patient, business, and health care advisory group; health insurers advisory group; and the insurance producers advisory group to advise the Hawaii Health Connector Board of Directors;
- (2) Create the Connector legislative oversight committee to review the financial and operational plans of the Hawaii Health Connector;
- (3) Permit certified insurance agents and brokers to be compensated for enrolling individuals and employers in qualified plans through the Hawaii Health Connector;
- (4) Establish the Hawaii Health Connector federally mandated sustainability fee to support operations of the Connector and to be collected through June 30, 2018;
- (5) Require the Hawaii Health Connector Board of Directors to submit a sustainability plan to the Connector



legislative oversight committee and the Insurance Commissioner;

- (6) Establish the Hawaii Health Connector sustainability special fund; and
- (7) Amend the membership of the Hawaii Health Connector Board of Directors from fifteen to ten members and change the composition of the Board.

Your Committees received testimony in support of this measure from Community Alliance for Mental Health, Hawaii Independent Insurance Agents Association, and one individual. Your Committees received testimony in opposition to this measure from the American Council of Life Insurers; MetLife, Inc.; Ironworkers Stabilization Fund; Hawaii Business League; Hawaii Medical Assurance Association; UHA Health Insurance; and one individual. Your Committees received comments on this measure from the Office of the Governor; Department of the Attorney General; Department of Commerce and Consumer Affairs; Hawai'i Health Connector; Tax Foundation of Hawaii; Hawai'i Primary Care Association; Hawaii Medical Service Association; America's Health Insurance Plans; National Association of Insurance and Financial Advisors; American Family Life Assurance Company of Columbus; Advantage Insurance Services, Inc.; AARP Hawaii; Chamber of Commerce Hawaii; and League of Women Voters of Hawaii.

Your Committees find that the federal Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) mandates state health insurance exchanges to be self-sustaining beginning in January 2015. The Hawaii Health Connector's (Connector) Board of Directors (Board) is currently engaged in a sustainability planning process to reduce the annual operating expenses of the Connector and must consider numerous complex issues. The Board's goal is to find the right balance between cost cutting, complying with federal and state law, and protecting the most important services and benefits for Hawaii residents, especially with regard to the Prepaid Health Care Act. Your Committees note that the Connector is expected to provide the Legislature with an outline of a cost reduction plan within the next two to three weeks.

Your Committees additionally note the long-term value of the Connector and its goal to provide opportunities for Hawaii residents to acquire health insurance with better benefits. The Connector also has the ability to save individuals and small



businesses money through the use of tax credits and subsidies. Therefore, while the Connector works toward a cost reduction strategy, your Committees find that additional steps must be taken to create a sustainable funding method for the Connector. Although this measure attempts to create a sustainable funding method by imposing an assessment based on the number of individuals covered by each insurer, your Committees find that a fee based on premiums would better accommodate cost inflation over time, rather than a fee based on covered lives.

Your Committees additionally find that this measure establishes three separate advisory groups to provide input and recommendations to the Board. However, the Board already has several mechanisms available for stakeholder engagement and public input, including a standing Consumer Advisory Committee consisting of participants from the community. As the Board already has the authority to create advisory committees, the advisory groups proposed by this measure are not necessary.

Your Committees also find that this measure permits certified insurance agents and brokers to be compensated for enrollments through the Connector. Requiring the Connector to pay for the services of agents and brokers will require this compensation to be built into the Connector's operating budget and sustainability plan. For the Connector to be sustainable, its organization and operations must be downsized, and not expanded.

Finally, your Committees note that this year will be a particularly important time for the Connector as the Connector continues to improve operations, seeks stability, contemplates options for sustainability, and adapts to evolving requirements under the Affordable Care Act. To best accomplish these objectives, the Board must be as efficient as possible. Amendments are therefore necessary to further streamline the Board.

Your Committees have amended this measure by:

- (1) Deleting language that would have established a consumer, patient business, and health care advisory group, a health care advisory group, and an insurance producers advisory group;
- (2) Amending the composition and the duties of the Connector legislative oversight committee;



- (3) Deleting language that would have permitted certified insurance agents and brokers to be compensated for enrollments through the Hawaii Health Connector;
- (4) Establishing the Hawaii health insurance exchange special fund, administered by the Department of Commerce and Consumer Affairs, to be used for the financial support of the Connector and to ensure the sustainability of the Connector;
- (5) Beginning January 1, 2015, assessing a Hawaii health insurance exchange sustainability fee of no more than .345 percent 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; provided that the final amount of the sustainability fee is to be based on the sustainability plan budget request submitted to the Connector legislative oversight committee;
- (6) Specifying that funding for the Hawaii Health Connector may include appropriations from the Legislature via the Hawaii health insurance exchange sustainability fee but noting that the current two percent surcharge authorized by the Connector on plans sold through the Connector shall cease to be collected once the sustainability fee is instituted;
- (7) Requiring the Hawaii Health Connector Board of Directors to prepare and annually submit a fully documented biennial sustainability plan budget request for the Connector to the Connector legislative oversight committee;
- (8) Requiring the Legislature to annually appropriate the funds collected from the Hawaii health insurance exchange sustainability fee to the Hawaii health insurance exchange, pursuant to information received and recommendations made by the Connector legislative oversight committee;
- (9) Specifying that no more than \$15,000,000 shall be allocated to the Hawaii health insurance exchange in any



calendar year, but providing that the Legislature may increase this ceiling through adoption of a subsequent budget request from the Hawaii Health connector;

- (10) Deleting language that would have established the Hawaii health connector federally mandated sustainability fee and would have authorized the Insurance Commissioner to take into account the recommendation of the Connector legislative oversight committee and assess and collect the Hawaii health connector sustainability fee based upon the number of individuals covered by each insurer or dental insurer;
- (11) Inserting language to exclude from the definition of "insurer" under chapter 435H, Hawaii Revised Statutes, limited benefit health insurance policies;
- (12) Clarifying the status of the Hawaii Health Connector as the designated health insurance exchange for the State;
- (13) Requiring the Hawaii Health Connector to submit the results of the Connector's annual audit to the Legislature, in addition to the Insurance Commissioner;
- (14) Clarifying that all plans to generate revenue for the Hawaii Health Connector must be in compliance with federal law;
- (15) Amending the composition of the Hawaii Health Connector Board of Directors, including:
 - (A) Lowering the number of members on the Board to twelve, with a maximum of nine total voting members;
 - (B) Removing members representing insurers and dental benefit providers from the Board but permitting the Board to establish a subcommittee of representatives from all providers of health care insurance and dental benefits;
 - (C) Requiring all but one of the state agency representatives on the Board to be ex officio nonvoting members and specifying the list of state representatives from which the Governor may



designate an official state representative to serve as an ex officio voting member of the Board; and

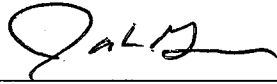
- (D) Clarifying procedures for making appointments and filling vacancies on the Board; and
- (16) Inserting language to appropriate general revenues to the Hawaii health insurance exchange special fund;
- (17) Appropriating funds out of the Hawaii health insurance exchange special fund for the Hawaii Health Connector but requiring the general fund to be reimbursed over a five-year period for the original appropriation amount once the Hawaii health insurance exchange sustainability fee is authorized and collected and the sustainability plan is adopted;
- (18) Amending the purpose section for clarity; and
- (19) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committees note that because this measure assesses a sustainability fee on all comprehensive medical plans in the State, more plans and individuals will be covered under the sustainability fee than under the two-percent surcharge currently levied by the Connector. The result is a much lower fee than the surcharge and a more level playing field that promotes competition, ensures equity amongst health insurance issuers, and may potentially encourage more insurers to participate in the Connector.

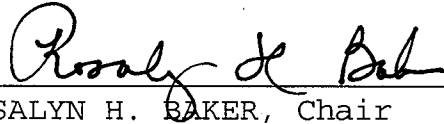
As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Health that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2529, H.D. 3, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2529, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and Health,



JOSH GREEN, Chair

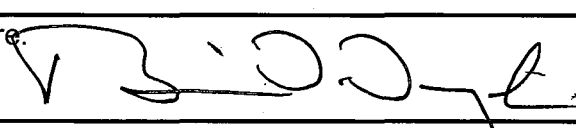


ROSALYN H. BAKER, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:	Committee Referral:	Date:		
HB 2529 HD3	CPN/HTH, WAM	3/18/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓	✓		
NISHIHARA, Clarence K.		✓		
WAKAI, Glenn				✓
SLOM, Sam				✓
TOTAL	2	1	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes

