

---

---

# 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. The legislature finds that the federal Patient  
2 Protection and Affordable Care Act of 2010 (Affordable Care Act)  
3 requires states to establish health insurance exchanges to  
4 connect buyers and sellers of health and dental insurance and  
5 facilitate the purchase and sale of federally qualified health  
6 insurance plans and qualified dental plans. Hawaii's health  
7 insurance exchange, known as the Hawaii health connector  
8 (connector), stated in its January 2015 annual report that it is  
9 on the path to financial self-sustainability and could reach a  
10 surplus by 2022. However, increased engagement and  
11 participation by insurers in the connector will be a critical  
12 factor to increase enrollment and achieve self-sustainability as  
13 quickly as possible.

14           The legislature further finds that the Affordable Care Act  
15 allows states to elect to permit the sale of fully-insured large  
16 group health plans through state health exchanges. If a state  
17 chooses this option, the same insurance market reforms that



1 currently apply to fully-insured group health plans purchased by  
2 small employers will apply to the fully-insured large group  
3 health insurance market. Enabling the Hawaii health connector  
4 to offer large group coverage to insurers is one option for  
5 increased insurer participation in the connector.

6 The legislature additionally finds that the small business  
7 health options program (SHOP) participation provision is a  
8 qualified health plan certification requirement that links  
9 certification of a qualified health plan insurer in the  
10 individual market to SHOP participation. Adopting the federal  
11 interpretation of the participation provision will increase  
12 health insurer participation in the Hawaii health connector, by  
13 requiring all health insurers with more than twenty per cent of  
14 the market share to participate in the connector's SHOP market.

15 The legislature also finds that section 1304(b)(2) of the  
16 Affordable Care Act defines a small employer as an employer who  
17 employs an average of at least one but not more than one hundred  
18 employees. Amending the definition of "small employer" in  
19 section 431:2-201.5, Hawaii Revised Statutes, to conform to the  
20 definition in section 1304(b)(2) of the Affordable Care Act may



1 help expand the potential market for small businesses in the  
2 Hawaii health connector's small business health options program.

3       The legislature further finds that states currently have  
4 the option to permit health insurers to continue certain  
5 insurance policies that would otherwise be canceled due to the  
6 requirements of the Affordable Care Act. These transitional  
7 renewal policies, also known as grandmothers health plans,  
8 contain only some of the features of the Affordable Care Act but  
9 are not considered out of compliance with certain reforms of the  
10 Act, if specific conditions are met. States may not extend  
11 these plans to policy years beginning after October 1, 2016, but  
12 may elect to end the transitional period at an earlier date.  
13 Ending transitional renewal policies by January 1, 2016, will  
14 increase the number of individuals and small businesses that  
15 could compare plans offered through the connector and will  
16 ensure that all plans offered in Hawaii are fully compliant with  
17 the Affordable Care Act.

18       The legislature also finds that under the federal  
19 Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA),  
20 employers sponsoring group health plans to covered employees  
21 must provide an initial notice about the ability to continue



1 insurance coverage under COBRA. The federal Department of Labor  
2 also requires employers covered by the Fair Labor Standards Act  
3 to provide written notice to employees about potential insurance  
4 coverage available through state health insurance marketplaces.  
5 Requiring health insurers to provide notice about the connector  
6 will therefore ensure that more people are aware of their health  
7 insurance options under COBRA and the connector.

8 The purpose of this Act is to:

- 9 (1) Enable the Hawaii health connector to offer large  
10 group coverage to insurers;
- 11 (2) Require insurer participation in the connector  
12 pursuant to Small Business Health Options Program  
13 policies set under 45 CFR 156.200(g);
- 14 (3) Expand the potential small businesses market in the  
15 connector by amending the current definition of "small  
16 employer" under section 431:2-201.5, Hawaii Revised  
17 Statutes;
- 18 (4) End transitional renewal policies, beginning  
19 January 1, 2016; and
- 20 (5) Require health insurers to provide notice to group  
21 health plans offering continuation coverage about



1 options to secure affordable coverage under the Hawaii  
2 health connector.

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

6 "§435H- Large group coverage. Beginning on January 1,  
7 2017, the State shall allow the connector to offer large group  
8 coverage to insurers, as permitted in section 1312(f)(2)(B) of  
9 the Federal Act.

10 §435H- Transitional renewal policies. Beginning January  
11 1, 2016, the State shall cease permitting transitional renewal  
12 policies issued by insurers. All policies issued or renewed  
13 after this date shall be in compliance with the Federal Act,  
14 including the requirements of sections 2701, 2702, 2703, 2704,  
15 2705, 2706, 2707, and 2709 of the Federal Act.

16 §435H- Consolidated Omnibus Budget Reconciliation Act;  
17 notification. In addition to the requirements under the federal  
18 Consolidated Omnibus Budget Reconciliation Act of 1985, all  
19 insurers shall provide notice to group health plans that offer  
20 continuation coverage to employees, former employees, spouses,  
21 former spouses, and dependent children regarding options to



1 secure affordable coverage through the connector, including the  
2 official website, telephone number, similar health insurance  
3 plans, and the availability of advance premium tax credits and  
4 cost-sharing reductions."

5 SECTION 3. Section 431:2-201.5, Hawaii Revised Statutes,  
6 is amended by amending subsection (b) to read as follows:

7 "(b) The following definitions shall be used when applying  
8 title 42 United States Code section 300gg, et seq.:

9 "Employee" means an employee who works on a full-time basis  
10 with a normal workweek of twenty hours or more.

11 "Group health issuer" means all persons offering health  
12 insurance coverage to any group or association, but shall not  
13 include those persons offering benefits exempted from title I of  
14 the Health Insurance Portability and Accountability Act of 1996,  
15 P.L. 104-191, under sections 732(c) and 733(c) of title I of the  
16 Employee Retirement Income Security Act of 1974 and sections  
17 2747 and 2791(c) of the Public Health Service Act.

18 "Small employer" means, in connection with a group health  
19 plan with respect to a calendar year and a plan year, an  
20 employer who employed an average of at least one but no more  
21 than [~~fifty~~] one hundred employees on business days during the



1 preceding calendar year and who employs at least one employee on  
2 the first day of the plan year."

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

5 "~~§~~435H-6 ~~[+]~~ Eligibility of insurers and plans. (a)

6 The commissioner shall determine eligibility for the inclusion  
7 of insurers and plans; provided that all qualified plans and  
8 qualified dental plans that apply for inclusion shall be  
9 included in the connector~~[-]~~; provided further that, as a  
10 condition of its license or certificate of authority, any  
11 insurer who controls, in any fiscal year and as determined by  
12 the commissioner, greater than twenty per cent share of the  
13 State's small group market for all policies of accident and  
14 health or sickness insurance subject to article 10A of chapter  
15 431 or chapter 432 or 432D, shall offer through the connector,  
16 in the following fiscal year:

17 (1) At least one gold level qualified health plan; and

18 (2) At least one platinum level qualified health plan,  
19 as a condition of participation in the individual market of the  
20 connector.



1       (b) The commissioner shall require that each qualified  
2 plan, as a condition of certification, shall:

3       (1) Offer to any willing federally-qualified health center  
4 providing services in geographic areas served by the  
5 qualified plan, the opportunity to contract with the  
6 qualified plan to provide to the qualified plan's  
7 enrollees all ambulatory services that are covered by  
8 the qualified plan that the federally-qualified health  
9 center offers to provide; and

10       (2) Reimburse each federally-qualified health center for  
11 services as provided in 42 United States Code section  
12 1396a(bb) .

13       (c) As used in this section:

14       "Federally-qualified health center" has the same meaning as  
15 provided in 42 United States Code section 1396d(1)(2)(B) .

16       "Gold level" and "platinum level" have the same meaning as  
17 provided in 42 United States Code section 18022(d) ."

18       SECTION 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20       SECTION 6. This Act shall take effect on July 1, 2050.





**Report Title:**

Hawaii Health Connector; Large Group Coverage; Small Employers;  
Transitional Renewal Policies; Notification

**Description:**

Enables the Hawaii health connector to offer large group coverage. Requires health insurers with greater than 20 percent share of the State's small group health insurance market to offer gold and platinum level qualified health plans as a condition of participation in the individual market of the Hawaii Health Connector. Ends transitional renewal policies effective 1/1/2016. Amends state small market parameters to comport with federal law. Adds notification requirements.  
(HB1467 HD2)

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

