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## A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

1           SECTION 1. The legislature finds that the Hawaii Rx  
2 program, legislatively established in 2002 and repealed in 2011,  
3 was a program in which:

4           (1) Participating prescription drug manufacturers paid  
5 rebates to the State at the risk of being treated as  
6 nonparticipating manufacturers;

7           (2) Participating residents purchased discounted drugs  
8 from participating pharmacies; and

9           (3) The State reimbursed the pharmacies for the discounts  
10 of the prescription drugs.

11           The legislature believes that a program such as the Hawaii  
12 Rx program, had it still been in place today, could have acted  
13 as an effective buffer against any sudden and dramatic price  
14 increases in the costs of certain drugs, such as Daraprim, whose  
15 price rose from \$13.50 per pill to \$750 per pill, shortly after  
16 Turing Pharmaceuticals of New York purchased the rights to the  
17 drug from Impax Laboratories.



1           The purpose of this Act is to reenact the Hawaii Rx  
2 program.

3           SECTION 2. Chapter 346, Hawaii Revised Statutes, is  
4 amended by adding a new part to be appropriately designated and  
5 to read as follow:

6                               "PART . HAWAII Rx PROGRAM

7           §346-A Definitions. As used in this part:

8           "Administrator" means the director of human services.

9           "Department" means the department of human services.

10          "Discount" means the amount by which the price of a drug  
11 sold by a pharmacy is reduced as determined by the department of  
12 human services.

13          "Manufacturer" means anyone who is engaged in  
14 manufacturing, preparing, propagating, compounding, processing,  
15 packaging, repackaging, or labeling a prescription drug.

16          "Program" means the Hawaii Rx program except as otherwise  
17 provided.

18          §346-B Hawaii Rx program. There is established within the  
19 department, the Hawaii Rx program. The program will combine the  
20 purchasing power of all persons to reduce prescription drug  
21 costs for those in the group. The department may contract with



1 a third party or third parties in accordance with chapter 103F  
2 to administer any single component, or combination of components  
3 of the program including outreach, eligibility, claims,  
4 administration, rebate recovery, and redistribution.

5 **§346-C Program eligibility.** (a) All residents of the  
6 State shall be eligible to participate in the Hawaii Rx program.

7 (b) The department:

8 (1) Shall establish procedures for determining eligibility  
9 and shall issue program enrollment cards to eligible  
10 residents;

11 (2) Shall undertake outreach efforts to build public  
12 awareness of the program and maximize the enrollment  
13 of eligible residents; and

14 (3) May adjust the requirements and terms of the program  
15 by rule to accommodate any federally funded  
16 prescription drug program.

17 **§346-D Rebate agreement.** (a) Any prescription drug  
18 manufacturer that sells prescription drugs in the State may  
19 enter into a rebate agreement with the department for the Hawaii  
20 Rx access program. The rebate agreement shall require the  
21 manufacturer to make rebate payments to the State each calendar



1 quarter or according to a schedule established by the  
2 department.

3 (b) The administrator shall negotiate the amount of the  
4 rebate required from a manufacturer.

5 **§346-E Nonparticipating manufacturers.** If the department  
6 and a drug manufacturer fail to reach agreement on the terms of  
7 a rebate, the department shall conduct a review of whether to  
8 place that manufacturer's products on the prior authorization  
9 list or formularies for the state medicaid program in accordance  
10 with this chapter. The department may release the names of  
11 manufacturers that do not enter into rebate agreements. This  
12 information shall be deemed public information. The department  
13 may also provide to doctors, pharmacists, and other health  
14 professionals information about the relative cost of drugs  
15 produced by manufacturers that enter into rebate agreements  
16 compared to the cost of drugs produced by those that do not  
17 enter into rebate agreements. The department shall adopt rules  
18 under chapter 91 creating procedures for the implementation of  
19 this section.

20 **§346-F Discounted retail prices for program participants.**

21 (a) Each pharmacy participating in the Hawaii Rx program shall



1 discount the price of drugs covered by the program and sold to  
2 program participants.

3 (b) The department shall establish discounts for drugs  
4 covered by a rebate agreement and shall promote the use of  
5 reduced-cost drugs, taking into consideration:

6 (1) Reduced prices for state and federally capped drug  
7 programs;

8 (2) Dispensing fees;

9 (3) Administrative costs of the department; and

10 (4) The average of all rebates provided pursuant to  
11 section 346-D, weighted by sales of drugs subject to  
12 those rebates over the most recent twelve-month period  
13 for which the information is available.

14 (c) In making a determination under this section, the  
15 administrator may rely on pricing information for a selected  
16 number of prescription drugs where the list of drugs selected  
17 is:

18 (1) Representative of the prescription drug needs of the  
19 residents of the State; and

20 (2) Made public.



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1           (d) Beginning July 1, 2018, a participating pharmacy shall  
2 offer prescription drugs below the average wholesale price, plus  
3 a dispensing fee designated by the department. These initial  
4 price levels shall be calculated by the department and the  
5 dispensing fee shall not be less than that provided under the  
6 state medicaid program. The average wholesale price is the  
7 price on a specific commodity that is assigned by the drug  
8 manufacturer and is listed in a nationally-recognized drug  
9 pricing file.

10           (e) No later than January 1, 2019, a participating  
11 pharmacy shall offer prescription drugs at or below the initial  
12 price levels specified in subsection (d), minus the amount of  
13 any discounts as calculated pursuant to subsections (b) and (c)  
14 to be paid by the State to the pharmacy.

15           **§346-G Pharmacy reimbursement.** (a) A pharmacy shall  
16 submit claims to the department to verify the amount charged to  
17 program participants. On a schedule to be determined by the  
18 department, the department shall reimburse each pharmacy for the  
19 discounts of prescription drugs provided to program  
20 participants.



1           (b) The department shall collect pharmacy use data  
2 necessary to calculate the amount of the manufacturer rebate  
3 under section 346-D. The department shall protect the  
4 confidentiality of information received as required under state  
5 or federal law, rule, or regulation.

6           **§346-H Hawaii Rx special fund.** (a) There is established  
7 within the state treasury, to be administered by the department,  
8 the Hawaii Rx special fund into which shall be deposited:

9           (1) All moneys received from manufacturers who pay rebates  
10 as provided in section 346-D;

11           (2) Appropriations made by the legislature to the fund:  
12 and

13           (3) Any other revenues designated for the fund.

14           (b) Moneys in the Hawaii Rx special fund shall be used for  
15 the following purposes:

16           (1) Reimbursement payments to pharmacies for discounts  
17 provided to program participants;

18           (2) The cost of administering the Hawaii Rx program,  
19 including salary and benefits of employees, and  
20 computer costs; and



1           (3) Any other purpose deemed necessary by the department  
2                   for the purpose of operating and administering the  
3                   Hawaii Rx program.

4           All interest on special fund balances shall accrue to the  
5 special fund. Upon dissolution of the Hawaii Rx special fund,  
6 any unencumbered moneys in the fund shall lapse to the general  
7 fund.

8           **§346-I Annual report.** The department shall report the  
9 enrollment and financial status of the Hawaii Rx program to the  
10 legislature no later than twenty days prior to the convening of  
11 each regular session, beginning with the 2019 regular session."

12           SECTION 3. The administrator of the Hawaii Rx program  
13 shall use the administrator's best efforts to obtain an initial  
14 rebate amount equal to or greater than the rebate calculated  
15 under the medicaid program pursuant to title 42 United States  
16 Code section 1396r-8.

17           SECTION 4. In implementing this Act, the department of  
18 human services shall coordinate with other governmental programs  
19 and may take actions to enhance efficiency, reduce the cost of  
20 prescription drugs, and maximize the benefits of this and other  
21 governmental programs, including proposals to amend eligibility





1 for the Hawaii Rx program to provide program benefits to the  
2 beneficiaries of other programs.

3 The department of human services may seek waivers of  
4 federal law, rule, or regulation necessary to implement the  
5 provisions of this Act.

6 SECTION 5. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$ or so  
8 much thereof as may be necessary for fiscal year 2016-2017, to  
9 develop a plan to implement the Hawaii Rx program. The plan  
10 shall include a description of how the program will operate, how  
11 the medicaid prescription drug expansion program will be  
12 integrated into the Hawaii Rx program or describe another  
13 appropriate design consistent with the goals of the Hawaii Rx  
14 program, recommend amendments to the enabling legislation,  
15 estimated funding required for start up and operational costs,  
16 and any other matters that effect the implementation of the  
17 program. The department shall report back to the legislature  
18 regarding the plan no later than twenty days prior to the start  
19 of the regular session of 2018. The appropriation may be used  
20 to hire consultants to assist in the preparation of the Hawaii  
21 Rx program plan.



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1           The sum appropriated shall be expended by the department of  
2 human services for the purposes of this Act.

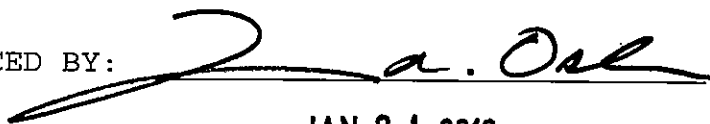
3           SECTION 6. If any provision of this Act, or the  
4 application thereof to any person or circumstance is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act which can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9           SECTION 7. In codifying the new sections added by section  
10 2 of this Act, the revisor of statutes shall substitute  
11 appropriate section numbers for the letters used in designating  
12 the new sections in this Act.

13           SECTION 8. This Act shall take effect on July 1, 2016.

14

INTRODUCED BY:



JAN 21 2016



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**Report Title:**

Prescription Drugs; Hawaii Rx Program; Appropriation

**Description:**

Establishes pharmaceutical discount program for all state residents under which State obtains manufacturers' rebates on drugs that are offered at discounted prices to program participants. Provides reimbursement to participating pharmacists. Establishes special fund. Appropriates moneys.

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

