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# A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1           SECTION 1. The legislature finds that the significant  
2 benefits of Hawaii's Prepaid Health Care Act, enacted in 1974,  
3 are evident in Hawaii's high rate of insured residents, which is  
4 among the highest in the nation. Similarly, one of the key  
5 purposes of the federal Patient Protection and Affordable Care  
6 Act of 2010, as amended (Affordable Care Act), is to lower the  
7 uninsured rate by expanding public and private insurance  
8 coverage.

9           The Affordable Care Act required the establishment of  
10 health insurance exchanges where individuals and small  
11 businesses could compare and purchase private insurance plans.  
12 However, the viability of state-based health insurance exchanges  
13 has been a challenge across the country, particularly in small  
14 states with low numbers of uninsured residents.

15           The legislature further finds that due to the small number  
16 of uninsured residents in Hawaii, Hawaii has not been able to  
17 maintain a financially self-sustaining health insurance  
18 exchange. Consequently, the federal Centers for Medicare and



1 Medicaid Services (CMS) found that Hawaii's exchange, the Hawaii  
2 Health Connector (Connector), was not financially self-  
3 sustainable by January 1, 2015, as required by the Affordable  
4 Care Act.

5 Hawaii was faced with losing some of the federal funds for  
6 programs under the United States Department of Health and Human  
7 Services because the Connector was not compliant with several  
8 provisions of the Affordable Care Act. The non-compliance  
9 included unresolved information technology issues, a non-  
10 integrated eligibility enrollment system, and lack of financial  
11 sustainability. To prevent the loss of these funds, CMS  
12 initiated discussions with Hawaii's governor to transition  
13 Hawaii from a state-based marketplace to a state-based  
14 marketplace that utilizes the federal platform for eligibility  
15 and enrollment of individuals and families, and a state-  
16 maintained small business health options program.

17 The purpose of this Act is to:

18 (1) Authorize the Department of Human Services to develop  
19 and administer outreach as required by the Affordable  
20 Care Act; and



1           (2) Create the Hawaii health insurance programs within the  
2           department of labor and industrial relations, which  
3           will conform state law to the Affordable Care Act and  
4           enable the State to:

5           (A) Preserve the benefits of the Prepaid Health Care  
6           Act for Hawaii residents;

7           (B) Ensure a smooth transition from a state-based  
8           marketplace to a state-based marketplace using  
9           the federal platform for individuals and  
10          families; and

11          (C) Develop a system to allow small businesses to  
12          continue to take advantage of tax credits  
13          afforded by the Affordable Care Act.

14          SECTION 2. Section 346-14, Hawaii Revised Statutes, is  
15          amended to read as follows:

16          "§346-14 Duties generally. Except as otherwise provided  
17          by law, the department of human services shall:

18          (1) Establish and administer programs and standards, and  
19          adopt rules as deemed necessary for all public  
20          assistance programs;



- 1           (2) Establish, extend, and strengthen services for the  
2           protection and care of abused or neglected children  
3           and children in danger of becoming delinquent to make  
4           paramount the safety and health of children who have  
5           been harmed or are in life circumstances that threaten  
6           harm;
- 7           (3) Establish and administer programs, and adopt rules as  
8           deemed necessary, for the prevention of domestic and  
9           sexual violence and the protection and treatment of  
10          victims of domestic and sexual violence;
- 11          (4) Assist in preventing family breakdown;
- 12          (5) Place, or cooperate in placing, abused or neglected  
13          children in suitable private homes or institutions and  
14          place, or cooperate in placing, children in suitable  
15          adoptive homes;
- 16          (6) Have authority to establish, maintain, and operate  
17          receiving homes for the temporary care and custody of  
18          abused or neglected children until suitable plans are  
19          made for their care; and accept from the police and  
20          other agencies, for temporary care and custody, any



1           abused or neglected child until satisfactory plans are  
2           made for the child;

3           (7) Administer the medical assistance programs for  
4           eligible public welfare and other medically needy  
5           individuals by establishing standards, eligibility,  
6           and health care participation rules, payment  
7           methodologies, reimbursement allowances, systems to  
8           monitor recipient and provider compliance, and  
9           assuring compliance with federal requirements to  
10          maximize federal financial participation;

11          (8) Cooperate with the federal government in carrying out  
12          the purposes of the Social Security Act and in other  
13          matters of mutual concern pertaining to public  
14          welfare, public assistance, and child welfare  
15          services, including the making of reports, the  
16          adoption of methods of administration, and the making  
17          of rules as are found by the federal government, or  
18          any properly constituted authority thereunder, to be  
19          necessary or desirable for the efficient operation of  
20          the plans for public welfare, assistance, and child  
21          welfare services or as may be necessary or desirable



- 1 for the receipt of financial assistance from the  
2 federal government;
- 3 (9) Carry on research and compile statistics relative to  
4 public and private welfare activities throughout the  
5 State, including those dealing with dependence,  
6 defectiveness, delinquency, and related problems;
- 7 (10) Develop plans in cooperation with other public and  
8 private agencies for the prevention and treatment of  
9 conditions giving rise to public welfare problems;
- 10 (11) Adopt rules governing the procedure in hearings,  
11 investigations, recording, registration, determination  
12 of allowances, and accounting and conduct other  
13 activities as may be necessary or proper to carry out  
14 this chapter;
- 15 (12) Supervise or administer any other activities  
16 authorized or required by this chapter, including the  
17 development of the staff of the department through in-  
18 service training and educational leave to attend  
19 schools and other appropriate measures, and any other  
20 activities placed under the jurisdiction of the  
21 department by any other law;



- 1           (13) Make, prescribe, and enforce policies and rules  
2           governing the activities provided for in section  
3           346-31 it deems advisable, including the allocation of  
4           moneys available for assistance to persons assigned to  
5           work projects among the several counties or to  
6           particular projects where the apportionment has not  
7           been made pursuant to other provisions of law, if any,  
8           governing expenditures of the funds;
- 9           (14) Determine the appropriate level for the Hawaii  
10           security net, by developing a tracking and monitoring  
11           system to determine what segments of the population  
12           are not able to afford the basic necessities of life,  
13           and advise the legislature annually regarding the  
14           resources required to maintain the security net at the  
15           appropriate level;
- 16           (15) Subject to the appropriation of state funds and  
17           availability of federal matching assistance, expand  
18           optional health care to low-income persons as follows:  
19           (A) Pregnant women and infants under one year of age  
20           living in families with incomes up to one hundred



1 eighty-five per cent of the federal poverty level  
2 and without any asset restrictions;

3 (B) Children under six years of age living in  
4 families with incomes up to one hundred thirty-  
5 three per cent of the federal poverty level and  
6 without any asset restrictions;

7 (C) Older children to the extent permitted under  
8 optional federal medicaid rules;

9 (D) Elder persons;

10 (E) Aliens;

11 (F) The homeless; and

12 (G) Other handicapped and medically needy persons;

13 [~~and~~]

14 (16) Subject to the appropriation of state funds and  
15 availability of federal matching assistance, establish  
16 the income eligibility level for the medically needy  
17 program at one hundred thirty-three per cent of the  
18 assistance allowance [~~-~~]; and

19 (17) Subject to the appropriation of state funds and the  
20 availability of federal funds, develop and administer  
21 outreach as required by the federal Patient Protection





1           and Affordable Care Act of 2010, Public Law 111-148,  
2           as amended."

3           SECTION 3. Chapter 371, Hawaii Revised Statutes, is  
4 amended by adding a new part to be appropriately designated and  
5 to read as follows:

6           "PART       .   HAWAII HEALTH INSURANCE EXCHANGE PROGRAMS

7           §371-       Definitions. As used in this part:

8           "Commissioner" means the insurance commissioner.

9           "Department" means the department of labor and industrial  
10 relations.

11          "Director" means the director of labor and industrial  
12 relations.

13          "Federal act" means the federal Patient Protection and  
14 Affordable Care Act, Public Law 111-148, as amended, or  
15 regulations or guidance issued under the federal act.

16          "Insurer" means any person or entity that issues a policy  
17 of accident and health or sickness insurance subject to article  
18 1 of chapter 431, mutual benefit societies under article 1 of  
19 chapter 432, health maintenance organizations under chapter  
20 432D, and dental carriers under chapter 432G, and any other  
21 entity offering or providing accident and health or sickness



1 insurance in this State, except an insurer licensed to offer  
2 accident and health or sickness insurance under section  
3 431:10A-102.5.

4 §371- Hawaii health insurance programs; purpose. (a)  
5 There is established in the department a state health insurance  
6 exchange, named the Hawaii health insurance programs, pursuant  
7 to the federal act. The purpose of the Hawaii health insurance  
8 programs is to enable the provision of health insurance to  
9 comply with the federal act.

10 (b) The department is authorized to take any action  
11 necessary to operate a small business health options program  
12 pursuant to the federal act to assist qualified employers and  
13 facilitate enrollment of qualified employees into qualified  
14 health plans.

15 (c) The commissioner shall determine qualifications for  
16 the inclusion of insurers and plans in the state health  
17 insurance exchange; provided that all health plans and dental  
18 plans that are qualified by the commissioner and certified by  
19 the director shall be included in the state exchange.

20 (d) Eligibility appeals under the small business health  
21 options program shall comply with the requirements of the



1 federal act and shall not be subject to chapter 91. Decisions  
2 shall not be subject to judicial review.

3 §371- Issuer fees. The department shall collect fees up  
4 to the amount allowed by the federal act, without the necessity  
5 of a rule, from each qualified health and dental plan certified  
6 by the director and participating in the exchange pursuant to  
7 this part from January 1, 2016, to January 1, 2018.

8 §371- Affordable Care Act legislative oversight  
9 committee. (a) There is established the Affordable Care Act  
10 legislative oversight committee.

11 (b) The oversight committee shall consist of seven members  
12 who shall include:

- 13 (1) The chair of the house standing committee on consumer  
14 protection and commerce;
- 15 (2) The chair of the house standing committee on health;
- 16 (3) The chair of the house standing committee on finance;
- 17 (4) The chair of the senate standing committee on  
18 commerce, consumer protection, and health;
- 19 (5) The chair of the senate standing committee on ways and  
20 means;



1           (6) One member of the minority party of the house, to be  
2           selected by the minority party leader; and

3           (7) One member of the minority party of the senate, to be  
4           selected by the minority party leader.

5           (c) The chairs of the house committee on consumer  
6 protection and commerce and the senate committee on commerce,  
7 consumer protection, and health shall serve as the co-chairs of  
8 the committee.

9           (d) The committee shall meet at least annually as agreed  
10 upon by the co-chairs.

11          (e) The committee shall make recommendations as needed to  
12 the house committee on finance and the senate committee on ways  
13 and means.

14          §371- Oversight; rate regulation. (a) The commissioner  
15 shall retain full regulatory jurisdiction pursuant to the  
16 authority granted to the commissioner by chapters 431, 432,  
17 432D, and 432G over all insurers and qualified plans and  
18 qualified dental plans included in the state health insurance  
19 exchange.



1 (b) Rate regulation for qualified plans and qualified  
2 dental plans included in the state health insurance exchange  
3 shall be pursuant to applicable state and federal law.

4 §371- Effect on the Prepaid Health Care Act. Nothing in  
5 this part shall in any manner diminish or limit the protections  
6 contained in or alter the provisions of chapter 393."

7 SECTION 4. The departments of commerce and consumer  
8 affairs, labor and industrial relations, and human services may  
9 adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to  
10 effectuate the purposes of this Act; provided that the  
11 departments may adopt interim rules, which shall be exempt from  
12 chapters 91 and 201M, Hawaii Revised Statutes, to effectuate the  
13 purposes of this Act; provided further that the interim rules  
14 shall remain in effect until January 1, 2018, or until rules are  
15 adopted pursuant to chapter 91, Hawaii Revised Statutes,  
16 whichever occurs sooner.

17 SECTION 5. All records, equipment, machines, files,  
18 supplies, books, papers, documents, maps, and other personal  
19 property heretofore made, used, acquired, or held by the Hawaii  
20 health connector shall be transferred to the department of labor  
21 and industrial relations to the extent that such records,



1 equipment, machines, files, supplies, books, papers, documents,  
2 maps and other personal property heretofore made, used,  
3 acquired, or held were purchased with federal or state funds and  
4 to the extent permitted by federal law.

5 SECTION 6. There shall be no cause of action, claim for  
6 damages or relief, charge, or any other liability of any kind  
7 whatsoever created against the State, or any of its agencies,  
8 agents, or employees, which relates to or arises out of the  
9 Hawaii health connector's performance of or failure to perform  
10 its duties during its existence as the Hawaii health insurance  
11 exchange. Furthermore, there shall be no cause of action, claim  
12 for damages or relief, charge, or any other liability of any  
13 kind whatsoever created against the State, or any of its  
14 agencies, agents, or employees, which relates to the State's  
15 assumption, retention, and reporting of any information, or the  
16 accuracy thereof, collected or created by the Hawaii health  
17 connector, or that the Hawaii health connector did not collect,  
18 create, retain, or report, during its existence as the Hawaii  
19 health insurance exchange.

20 SECTION 7. If any provision of this Act, or the  
21 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or  
2 applications of the Act that can be given effect without the  
3 invalid provision or application, and to this end the provisions  
4 of this Act are severable.

5 SECTION 8. If any part of this Act is found to be in  
6 conflict with federal requirements that are a prescribed  
7 condition for the allocation of federal funds to the State, the  
8 conflicting part of this Act is inoperative solely to the extent  
9 of the conflict and with respect to the agencies directly  
10 affected, and this finding does not affect the operation of the  
11 remainder of this Act in its application to the agencies  
12 concerned. The governor may modify the strict provisions of this  
13 Act, to the extent, and only to the extent, necessary to  
14 effectuate the intent of this Act.

15 SECTION 9. This Act shall not be applied so as to impair  
16 any contract existing as of the effective date of this Act in a  
17 manner violative of either the Hawaii State Constitution or  
18 Article 1, section 10, of the United States Constitution.

19 SECTION 10. This Act shall be liberally construed to  
20 effectuate its purpose.



1 SECTION 11. The director of labor and industrial relations  
2 may establish six additional temporary positions in the office  
3 of community services, without regard to chapters 76 and 89,  
4 Hawaii Revised Statutes, to carry out the purposes of this Act.  
5 The positions may include an accountant V, two program  
6 specialist IV, a secretary V, program manager, information  
7 technology specialist VII, and any other position the director  
8 deems necessary for the purposes of this Act.

9 SECTION 12. The director of human services may establish  
10 nine additional permanent positions in the Med-QUEST division,  
11 without regard to chapters 76 and 89, Hawaii Revised Statutes,  
12 to carry out the purposes of this Act. The positions may  
13 include a premium assistance clerk, purchasing specialist III,  
14 communications specialist, outreach manager, four outreach  
15 coordinators, outreach clerical staff, and any other position  
16 the director deems necessary for the purposes of this Act.

17 SECTION 13. The director of labor and industrial relations  
18 shall submit a report to the legislature on the status of the  
19 Hawaii health insurance programs, including revenues, how many  
20 policies were subject to the issuer fees, expenditures, and  
21 program results pursuant to section 3 of this Act, no later than





1 twenty days prior to the convening of the regular session of  
2 2018.

3 SECTION 14. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$1,165,000 or so much  
5 thereof as may be necessary for fiscal year 2016-2017 to carry  
6 out the purposes of this Act, including operating expenses and  
7 the hiring of staff.

8 The sum appropriated shall be expended by the department of  
9 labor and industrial relations for the purposes of this Act.

10 SECTION 15. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$2,918,788 or so much  
12 thereof as may be necessary for fiscal year 2016-2017 to carry  
13 out the purposes of this Act, including operating expenses and  
14 the hiring of staff.

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

17 SECTION 16. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 17. This Act shall take effect on July 1, 2016;  
20 provided that section 3 of this Act shall be repealed on  
21 January 1, 2018.



**Report Title:**

Hawaii Health Insurance Programs; State Health Insurance Exchange; Department of Labor and Industrial Relations; Department of Human Services; Appropriation

**Description:**

Authorizes the department of human services to develop and administer outreach as required by the Affordable Care Act. Establishes a state health insurance exchange, the Hawaii health insurance programs, in the department of labor and industrial relations to conform Hawaii law to the Affordable Care Act. Appropriates funds to the department of labor and industrial relations and the department of human services. (SD1)

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