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# HOUSE CONCURRENT RESOLUTION

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REQUESTING THE AUDITOR TO ASSESS BOTH THE SOCIAL AND FINANCIAL  
EFFECTS OF PROPOSED MANDATED HEALTH INSURANCE COVERAGE FOR  
THE COSTS OF MEDICALLY NECESSARY TRANSPORTATION TO THE  
CONTINENTAL UNITED STATES FOR QUALIFYING PATIENTS.

1 WHEREAS, critically ill patients in Hawaii may require  
2 treatment on the continental United States; and  
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4 WHEREAS, commercial flights are not an option for these  
5 patients because each patient requires life-supporting equipment  
6 and a medical support team; and  
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8 WHEREAS, the cost of transportation by an air ambulance can  
9 be a significant financial burden that may not be covered by  
10 insurance; and  
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12 WHEREAS, although Medicaid currently covers the cost of  
13 transportation to the continental United States for Hawaii's  
14 most needy families, those who are middle-income earners and  
15 working full-time do not receive comparable coverage; and  
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17 WHEREAS, for many patients requiring transportation to the  
18 continental United States, their only options are to mortgage  
19 their homes, drain retirement savings, borrow from family or  
20 friends, or establish an online campaign to raise funds; and  
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22 WHEREAS, during the time that a family is fundraising for a  
23 sick loved one, the patient's condition may rapidly deteriorate  
24 and reduce the chance of recovery; and  
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26 WHEREAS, if a delay in treatment is too long, then the  
27 accepting facility on the mainland may give the patient's bed to  
28 another individual, and the patient is forced to find another  
29 accepting facility; and



1 WHEREAS, due to Hawaii's unique position in the middle of  
2 the Pacific Ocean, the State's residents deserve to receive  
3 life-saving medical care that is not available in the State; and  
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5 WHEREAS, H.B. No. 687, H.D. 2, considered during the  
6 Regular Session of 2018, proposes to require insurance coverage  
7 for the costs of medically necessary transportation to the  
8 continental United States for qualifying patients; and  
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10 WHEREAS, in testimony submitted to the House of  
11 Representatives Standing Committee on Consumer Protection and  
12 Commerce regarding H.B. No. 687, H.D. 1, which is the preceding  
13 draft of H.B. No. 687, H.D. 2, and contains a similar insurance  
14 coverage mandate, the Department of the Attorney General noted  
15 that:  
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- 17 (1) Section 1311(d) (3) (B) of the Patient Protection and  
18 Affordable Care Act allows a state to require  
19 qualified health plans to add benefits, as long as the  
20 state defrays the cost of the additional benefits;  
21
- 22 (2) Title 45 Code of Federal Regulations section 155.170  
23 provides that unless the enactment of a benefit is  
24 directly attributable to state compliance with federal  
25 requirements, a benefit is in addition to essential  
26 health benefits if the benefit was required by a state  
27 after December 31, 2011, and directly applies to  
28 qualified health plans;  
29
- 30 (3) Because Hawaii law did not mandate insurance coverage  
31 of transportation to the continental United States  
32 before December 31, 2011, a new mandate for this  
33 coverage may be considered an additional mandate for  
34 which the State of Hawaii would be required to defray  
35 the cost; and  
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- 37 (4) If a state mandates a benefit in addition to the  
38 essential health benefits, title 45 Code of Federal  
39 Regulations section 155.170 requires qualified health  
40 plan issuers to quantify the cost attributable to each  
41 additional state-required benefit and report their  
42 calculations to the state, which is then required to  
43 defray the cost by making the payment either to an  
44 individual enrolled in a qualified health plan offered



1 in the state, or on behalf of an individual enrolled  
2 in a qualified health plan directly to the plan; and  
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4 WHEREAS, in testimony submitted to the House of  
5 Representatives Standing Committee on Consumer Protection and  
6 Commerce regarding H.B. No. 687, H.D. 1, the Insurance  
7 Commissioner expressed similar concerns; and  
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9 WHEREAS, in testimony submitted to the House of  
10 Representatives Standing Committee on Consumer Protection and  
11 Commerce regarding H.B. No. 687, H.D. 1, the Hawaii Medical  
12 Service Association suggested that the measure be amended by  
13 amending the term "qualifying patient" to mean a patient who is,  
14 among other qualifying criteria, on medically-necessary  
15 extracorporeal membrane oxygenation or mechanical circulatory  
16 support (including percutaneous ventricular assist devices and  
17 intraaortic balloon pump therapies) in order to qualify for the  
18 mandated coverage proposed in the measure; and  
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20 WHEREAS, H.B. No. 687, H.D. 2, does not incorporate the  
21 foregoing requested amendment; and  
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23 WHEREAS, pursuant to section 23-51, Hawaii Revised  
24 Statutes, before any legislative measure that mandates health  
25 insurance coverage for specific health services, specific  
26 diseases, or certain providers of health care services as part  
27 of individual or group health insurance policies, can be  
28 considered, concurrent resolutions shall be passed that  
29 designate a specific legislative bill for the auditor to prepare  
30 a report, which is commonly known as a "sunrise review", for  
31 submission to the Legislature that assesses both the social and  
32 financial effects of the proposed mandated coverage under that  
33 legislative bill; now, therefore,  
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35 BE IT RESOLVED by the House of Representatives of the  
36 Twenty-ninth Legislature of the State of Hawaii, Regular Session  
37 of 2018, the Senate concurring, that the Auditor is requested to  
38 assess, pursuant to section 23-51, Hawaii Revised Statutes, both  
39 the social and financial effects of the proposed mandated health  
40 insurance coverage under H.B. No. 687, H.D. 2, Regular Session  
41 of 2018, which requires insurance coverage for the costs of  
42 medically necessary transportation to the continental United  
43 States for qualifying patients; and



1 BE IT FURTHER RESOLVED that in the course of conducting its  
2 assessment, the Auditor is requested to assess:

- 3
- 4 (1) Whether Section 1311(d)(3)(B) of the Patient  
5 Protection and Affordable Care Act would require the  
6 State to defray the costs of the coverage mandate  
7 imposed under H.B. No. 687, H.D. 2, if that bill were  
8 to become law; and  
9
- 10 (2) The social and financial effects of amending the  
11 existing definition of the term "qualifying patient",  
12 as it appears in H.B. No. 687, H.D. 2, to include a  
13 provision that requires a patient be on medically-  
14 necessary extracorporeal membrane oxygenation or  
15 mechanical circulatory support (including percutaneous  
16 ventricular assist devices and intraaortic balloon  
17 pump therapies) to qualify for the mandated covered  
18 benefit proposed in the measure; and  
19

20 BE IT FURTHER RESOLVED that the Auditor is requested to  
21 submit a report of its findings and recommendations, including  
22 any proposed legislation, to the Legislature no later than  
23 twenty days prior to the convening of the Regular Session of  
24 2019; and  
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26 BE IT FURTHER RESOLVED that a certified copy of this  
27 Concurrent Resolution be transmitted to the Auditor.

