

Honolulu, Hawaii

FEB 17 2017

RE: S.B. No. 385
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 385 entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize insurers, mutual benefit societies, and health maintenance organizations to offer, sell, or renew, on or after January 1, 2018, a high deductible health plan in conjunction with a health savings account to an employer subject to the Prepaid Health Care Act together with a prepaid health care plan insurance policy; and
- (2) Specify limitations for high deductible health plans and health savings accounts.

Your Committee received testimony in support of this measure from the University Health Alliance; JTB Hawaii, Inc.; and one individual. Your Committee received testimony in opposition to this measure from the International Longshore and Warehouse Union, Local 142 and Americans for Democratic Action - Hawai'i. Your Committee received comments on this measure from the Department of Labor and Industrial Relations, Department of Taxation, Department of the Attorney General, Hawaii Medical Service Association, and Kaiser Permanente Hawaii.



Your Committee finds that health savings accounts are authorized under federal law and afford employees and their families, who also have a high deductible health plan, a tax-advantaged medical savings account. A health savings account is not subject to federal income tax at the time of deposit and is portable, meaning unspent balances continue to accumulate over time and follow an employee, should the employee change jobs. Your Committee further finds that health savings accounts are not appropriate for every employee, but for those employees who may be better matched with a health savings account program rather than a group plan, health savings accounts offer significant financial incentives.

Your Committee has heard testimony from the Department of the Attorney General concerning the possibility that this measure may be subject to an Employee Retirement Income Security Act preemption challenge. Your Committee understands these concerns and believes this issue may warrant further discussion by your Committees on Judiciary and Labor and Ways and Means.

Your Committee has amended this measure by:

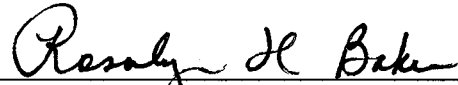
- (1) Clarifying that when a high deductible health plan is offered, sold, or renewed in conjunction with a health savings account, an employer must also ensure that a prepaid health care plan health insurance policy or plan contract, which meets the requirements of the Prepaid Health Care Act and is not a high deductible health plan, is also offered to each eligible insured;
- (2) Clarifying that insurers, mutual benefit societies, and health maintenance organizations are not required to serve as the primary custodian or trustee of a health savings account;
- (3) Specifying that the Department of Labor and Industrial Relations maintains the ability and oversight to determine if a high deductible health plan or health savings account complies with the Prepaid Health Care Act;



- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 385, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 385, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

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



ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 385	CPH, JDL/WAM	2/13/17		
<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)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/	/		
IHARA, Jr., Les		/		
KIDANI, Michelle N.		/		
RUDERMAN, Russell E.				/
TOTAL	3	3		1
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
<i>Clarence K. Nishihara</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes