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TO THE HOUSE COMMITTEE ON  
HEALTH AND HUMAN SERVICES

TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Thursday, February 8, 2018  
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2209, RELATING TO HEALTH INSURANCE.**

TO THE HONORABLE JOHN M. MIZUNO, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 2209, Relating to Health Insurance. My name is Gordon Ito, and I am the Insurance Commissioner (“Commissioner”) for the Department’s Insurance Division (“Division”). The Department appreciates the intent of this bill, which is a companion to S.B. 2924, and submits the following comments.

The purpose of this bill is to establish an individual mandate for certain qualified taxpayers to obtain and maintain health insurance throughout the year.

This bill seeks to stabilize our health insurance market and provides a valuable opportunity to discuss the important issue of maintaining enrollment numbers in health insurance plans.

At page 10, lines 5 to 7, the Commissioner is required to “establish a process to determine which health plans shall be considered affordable, for the purposes of ... section 235- [.]” Instead of establishing a process, assessing affordability should be based upon criteria similar to the individual mandate process implemented by Massachusetts.

At page 10, lines 9 to 11, the Commissioner is further required to post on the Division website “the list of health plans deemed to be creditable coverage[.]” If the intent of this language is that the Division maintain a comprehensive list of every insurance plan that would possibly qualify as “creditable coverage,” that task would present significant difficulties for Division staff. Many entities that would issue “creditable coverage,” such as all federal government entities, are outside the jurisdiction of the Division.

At page 11, lines 3 to 7, the Commissioner is empowered to “establish an appeals procedure for enforcement actions taken by the department of taxation under section 235- [.]” The Department submits that it may not be appropriate for the Commissioner to preside over appeals of administrative actions by the Department of Taxation (DOTAX), as the Commissioner would then be called upon to review DOTAX’s administrative decisions in matters that are within DOTAX’s scope of expertise.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR

DOUGLAS S. CHIN  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

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To: The Honorable John M. Mizuno, Chair  
and Members of the House Committee on Health & Human Services

Date: Thursday, February 8, 2018  
Time: 9:00 A.M.  
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 2209, Relating to Health Insurance

The Department of Taxation (Department) offers the following comments on H.B. 2209 for the Committee's consideration.

H.B. 2209 requires qualified taxpayers to obtain and maintain creditable coverage of health insurance and imposes a penalty on any qualified taxpayer that fails to maintain creditable coverage for more than 63 days. The penalty is to be assessed on taxpayers' individual income tax returns. The bill defines creditable coverage by referring to the various plans and sources of coverage that constitute creditable coverage. The bill is effective for tax years beginning after December 31, 2018.

First, the Department has concerns with its ability to properly administer this penalty. The Department is not an expert on health insurance coverage and will be unable to make sophisticated determinations as to what qualifies as creditable coverage and what does not. The Department notes that the bill empowers the insurance commissioner to review the Department's decisions on the applicability of the penalty. This highlights the Department's concern, as it shows that the Department is not the agency best equipped to determine what qualifies as creditable coverage.

For the above reason, the Department recommends requiring another party to certify to taxpayers that they have creditable coverage. This certification would mimic the federal penalty, which requires insurers to issue a statement to those insured to document their coverage.

Second, the Department notes that the penalty itself is not defined in the bill. The Department recommends defining the calculation and amount of the penalty.

Finally, the Department notes that the definition and description of the taxpayers that are affected is unclear and potentially confusing. The Department recommends revisiting the definition of “qualified taxpayers” to clarify who the penalty does and does not apply to.

Thank you for the opportunity to provide comments.

## REQUEST FOR AMENDMENT OF SB 2924 / HB 2209

The Christian Science Committee on Publication for Hawaii respectfully requests that the Hawaii legislature include appropriate religious accommodation from proposed individual health insurance mandates as follows:

Amend SECTION 2 of the bill (Chapter 235, Hawaii Revised Statutes--Creditable coverage; qualified taxpayers), subsection (b) by adding a new subsection (3) as follows:

**(3) Has sincerely held religious beliefs which are the basis of his refusal to obtain and maintain creditable coverage during the 12 months of the taxable year for which the return was filed.**

Amend SECTION 2 of the bill (Chapter 235, Hawaii Revised Statutes--Creditable coverage; qualified taxpayers), subsection (c) by adding the following language:

**(c) . . . An individual who declares a religious objection under subsection (b)(3) of this section shall not be assessed a penalty on the return unless the individual receives medical health care during the taxable year for which the return is filed, in which case the individual shall be liable for providing or arranging for full payment for the medical health care and be subject to assessment of a penalty on the return.**

We do not oppose an individual health insurance mandate, or other efforts that further Hawaii's goal of enhancing public access to affordable health care. However, we do have concerns over the proposed individual mandates to the extent they don't leave room for those with sincere religious beliefs, such as Christian Scientists who prefer to use a religious nonmedical method of healing for their health care, to pursue their health care in a manner consistent with those beliefs.

Christian Science is a Bible-based religion and system of spiritual healing that was founded in the late 1800s. Although Christian Science includes no theological dictate opposed to medical treatment, most members routinely turn to prayer (and, in some cases, the services of religious nonmedical providers) rather than conventional medical treatment because they have found it to be effective in addressing illness, injury, and disease. Christian Science practitioners, Christian Science nurses, and Christian Science nursing facilities provide nonmedical services in accordance with the teachings of Christian Science to individuals who have chosen to rely on those teachings for their health needs. In some instances, the services of religious nonmedical providers are covered by public and private health insurance, including Medicare, TRICARE, select Federal Employee Health Benefit Plans and employer-sponsored plans. Currently, there are no individual health plans available through Hawaii's Exchange that would cover the religious nonmedical health care services that this segment of the population actually uses.

The proposed amendment language is modeled on a religious accommodation which was successfully implemented in Massachusetts, the first (and only) state to pass an individual health insurance mandate. The Massachusetts language upon which this amendment is based is found at Mass. Gen. Laws Ann. ch. 111M, § 3, and has been in effect since its enactment in 2005. This accommodation was designed to be broad enough to prevent giving preferences to particular religious beliefs, yet narrow enough to prevent abuse. According to a Massachusetts annual report on its individual

## REQUEST FOR AMENDMENT OF SB 2924 / HB 2209 (con't)

mandate, about 0.1% of the population claims the religious objection each year, reflecting minimal impact on the risk pool while protecting minority rights and religious freedom.

The proposed amended religious accommodation is also very similar to a bipartisan proposal currently before Congress to amend the ACA's religious conscience language. This federal legislation seeks to right-size the ACA's religious conscience exemption, which is too narrow and currently applies only to those faiths who object to insurance of any kind, as do the Amish and Mennonites. Hawaii's congressional delegation has demonstrated broad support for this legislative solution, with Senator Brian Schatz leading the Senate bill in the past two Congresses and Senator Hirono co-sponsoring. Congresswoman Hanabusa and former Congressman Takai have cosponsored the House bill.

Improving our health care system through health insurance requirements should not come at the expense of fundamental beliefs and practices that might be held by minority groups. While solutions to Hawaii's health crisis are greatly needed, it is important that such solutions promote, not limit, health options for its citizens. Requiring individuals to purchase health insurance whose cultural and belief systems don't fit within a traditional approach to health care can serve to unfairly diminish the resources of such groups away from the forms of care that best meet their needs. The proposed amendments are necessary to prevent this from happening.

Notably, Hawaii's Prepaid Health Care Act (Chapter 235, Hawaii Revised Statutes), which has required employers to provide certain baseline health benefits through a prepaid group health care plan to employees since its enactment in 1974, includes a religious accommodation for "any individual who pursuant to the teachings, faith, or belief of any group, depends for healing upon prayer or other spiritual means." This provision has been in place since the inception of the Act in 1974, and has not served to frustrate the overriding purposes of the Act. The Hawaii Legislature's historical observance of these concerns lends support and legitimacy to the importance of addressing this request as it relates to the proposals of SB 2924 and HB 2209.

Thank you for your attention to this important issue!

For further information, please contact:

Cissy Dawes  
Christian Science Committee on Publication for Hawaii  
phone: (808) 394-2541  
email: [Hawaii@compub.org](mailto:Hawaii@compub.org)  
[www.christianscience.com](http://www.christianscience.com)

Testimony of  
Jonathan Ching  
Government Relations Specialist

Before:  
House Committee on Health & Human Services  
The Honorable John M. Mizuno, Chair  
The Honorable Bertrand Kobayashi, Vice Chair

February 8, 2018  
9:00 a.m.  
Conference Room 329

**Re: HB2209, Relating to Insurance**

Chair Mizuno, Vice-Chair Kobaysashi, and committee members, thank you for this opportunity to provide testimony on HB2209, which establishes a state-level individual mandate.

**Kaiser Permanente Hawai'i SUPPORTS HB2209**

As the committee is aware, significant uncertainties exist in the individual health insurance market. Last year, the federal government eliminated funding of Cost Sharing Reduction (CSR) payments, which drove up premiums for many consumers seeking coverage in Hawai'i and across the nation. Additionally, Congress and President Trump signed into law tax legislation that reduces the federal individual mandate penalty to zero. Both the elimination of the CSR payments and the penalty associated with the individual mandate has resulted in further uncertainty about the future of the individual market in Hawai'i. For this reason, we support the state's efforts to protect and preserve the individual market through the establishment of a state-level individual mandate.

Kaiser Permanente Hawai'i recognizes that a state-level individual mandate is not a panacea to stabilized markets, but is one component that can be used to provide certainty and stability to insurers. Other tools such an appropriately structured and funded reinsurance program is another step towards reducing individual premiums and promoting stability in the individual market.

Prior to the enactment of the Patient Protection and Affordable Care Act (ACA) in 2010, states attempting to manage guaranteed issue markets without individual coverage mandates experienced rising premiums and fewer options for consumers. With the enactment of the ACA and the federal individual mandate, many more of our residents obtained affordable health insurance. However, the reduction of the ACA's individual mandate penalty to zero have created a lack of certainty and stability, which are the biggest contributors to premium hikes.

Finally, we request the Committee urge the Office of the Attorney General to research whether mandating the changes sought under HB2209 may have the inadvertent effect of jeopardizing the ongoing existence of the State's Prepaid Health Care Act, given that any substantive changes to the Prepaid Health Care Act can cause the Act to sunset.

We look forward to having the opportunity to work with the Committee to further HB2209, which we see as the best alternative to an enforced federal mandate. Thank you for the opportunity to testify on this measure.





An Independent Licensee of the Blue Cross and Blue Shield Association

February 8, 2018

The Honorable John M. Mizuno, Chair  
The Honorable Bertrand Kobayashi, Vice Chair  
House Committee on Health and Human Services

Re: HB 2209 – Relating to Health Insurance

Dear Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on HB 2209, which establishes an individual mandate for certain qualified taxpayers to sign up and maintain health insurance throughout the year, or pay a penalty on their individual income tax return. HMSA supports this bill.

HMSA commends the Committee for taking a proactive stance in preserving aspects of the Affordable Care Act that were repealed as a result of recent action by the President and Congress. This Bill in particular seeks to make permanent the individual mandate at a state level in order to help maintain the high percentage of individuals who are insured in Hawaii. Additionally, this Bill will help avoid a potentially drastic increase in individual plan rates.


Thank you for allowing us to comment on HB 2209.

Sincerely,

Pono Chong  
Vice-President, Government Relations



To: The Honorable John M. Mizuno  
The Honorable Bertrand Kobayashi, Vice Chair  
Members, Committee on Health and Human Services

From:  Paula Yoshioka, Vice President, Government Relations and External Affairs, The  
Queen's Health Systems

Date: February 7, 2018

Hrg: House Committee on Health and Human Services Hearing; Thursday, February 8, 2018  
at 9:00 AM in Room 329

Re: Support for H.B. 2209, Relating to Health Insurance

My name is Paula Yoshioka, and I am a Vice President at The Queen's Health Systems (QHS). I would like to express my **support** for the intent of H.B. 2209, Relating to Health Insurance. This measure would keep in place the individual mandate established under the Affordable Care Act (ACA).

Across the nation about 20 million more adults have gained coverage through the ACA and the country has seen the uninsured rate drop by nearly 40 percent or more for every income group.<sup>1</sup> For Hawaii, number of uninsured individuals declined by 46 percent between 2013 and 2016.<sup>2</sup>

The mission of QHS to provide quality health care services to Native Hawaiians and the people of Hawaii regardless of their ability to pay. QHS is concerned that the dismantling of the ACA would result in thousands of our patients losing coverage. In 2016, QHS absorbed \$55.9 million in Medicaid reimbursement shortfalls that did not cover the full cost of care. As QHS continues to grow and meets the needs of our community, ensuring that our patients have access to health insurance is critical for our health care system.

We commend the legislature for introducing this measure that seeks to protect access to health care coverage for the people of Hawaii. Thank you for your time and attention to this important issue.

<sup>1</sup> United States Department of Health and Human Services, ASPE Issue Brief, "Affordable Care Act Has Led to Historic, Widespread Increase in Health Insurance Coverage",  
<https://aspe.hhs.gov/sites/default/files/pdf/207946/ACAHistoricIncreaseCoverage.pdf>

<sup>2</sup> United States Census Bureau, "Health Insurance Coverage in the United States: 2016",  
<https://www.census.gov/content/dam/Census/library/publications/2017/demo/p60-260.pdf>

**LATE**

**HB-2209**

Submitted on: 2/7/2018 11:50:42 AM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

**LATE**

**HB-2209**

Submitted on: 2/7/2018 2:41:52 PM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Maria Teresa Belardo		Support	No

Comments:

I support the establishing of an individual mandate. Please take this into great consideration. Mahalo!



## Honolulu County Republican Party

725 Kapiolani Blvd, C-105

Honolulu, HI 96813

February 7, 2018

House Committee on Health & Human Services  
Conference Room 329  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Chair Mizuno, Vice Chair Kobayashi, and Committee Members,

RE: HB-2209 Establishes an individual mandate for certain qualified taxpayers to sign up and maintain health insurance throughout the year, or pay a penalty on their individual income tax return.

The Honolulu County Republican Party **STRONGLY OPPOSES** SB-2209.

Hawaii Republicans support efforts to achieve accessible and affordable health care without rationing or making drastic cuts to programs that provide care to the most vulnerable of Hawaii's residents. We support innovative measures without sacrificing quality of care.

The implementation of HB-2209 is not going to achieve the goal the sponsors of this bill believe. The better course of action is to be serious about both personal freedom and personal responsibility. Under this bill, we have neither.

Requiring everyone to buy health insurance, whether they need it or not, is an unacceptable violation of personal liberty. It is a way of taxing healthy people without calling it a tax.

Never before has our Legislature forced us to buy a private good or service. This is an unprecedented overreach of your authority, as provided in our State constitution and the Constitution of the United States.

Respectfully,

A handwritten signature in blue ink that reads "Brett Kulbis".

Brett Kulbis  
Chairman  
Honolulu County Republican Party

**LATE**

**HB-2209**

Submitted on: 2/7/2018 11:24:36 AM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tsz Yin Lau		Oppose	No

Comments:

**LATE**

**HB-2209**

Submitted on: 2/7/2018 11:38:26 AM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gordon Caluya		Oppose	No

Comments:

I Vehemently oppose this bill. Who are you to punish someone for not having health insurance? This bill was only submitted to Spite President Trump, yet punishes law-abiding citizens for not havihealth insurance? Ridiculous! Government is only here to Protect people, not invade Every facet of their lives! Enough already! Stop meddling in people's business! And stop raising taxes or imposing fees and penalties for every little thing! How about getting rid of public employee unions to save the state money??? NONE of you have the Balls to do something as Logical and money-saving as that! Please call me personally if you'd like to discuss this at 497-5667. But you Won't!

Aloha,

Gordon Caluya

Flashg7@hotmail.com

**LATE**

**HB-2209**

Submitted on: 2/7/2018 12:09:54 PM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Francis Chantavong		Oppose	No

Comments:

Aloha,

As a tax payer in the state of Hawaii I oppose this bill, the struggling families in Hawaii needs less taxes not more. You are making it harder to live in paradise!



**LATE**

**HB-2209**

Submitted on: 2/7/2018 12:23:14 PM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charlene Mersburgh		Oppose	No

Comments:

I am opposed to HB 2209 Relating to Health Insurance mandating certian taxpayers to maintain health insurance or pay a penalty on their income tax. At one point in time Hawaii had a better health care system than the recently repealed ACA at the federal level. When ACA came out with huge monthly fees and high deductibles it hurt the people who were forced to pay for insurance.

**LATE**

**HB-2209**

Submitted on: 2/7/2018 4:45:12 PM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dan Goo		Oppose	No

Comments:

**HB-2209**

Submitted on: 2/8/2018 7:35:05 AM

Testimony for HHS on 2/8/2018 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charlene Dierking		Oppose	No

Comments:

I trust that Congress will pass Health Care Reform this year. The existing ACA is too costly for individual subscribers. An individual mandate doesn't solve this problem. I think you should put this bill on hold.