

SB 2924

SD2 HD1

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 Patient
2 Protection and Affordable Care Act of 2010 (Affordable Care Act)
3 includes an individual coverage requirement, commonly known as
4 the individual mandate, that requires most people in the country
5 to have health insurance and imposes tax penalties on those
6 without an exemption who do not comply. The individual mandate
7 is an important part of the overall health reforms established
8 under the Affordable Care Act, which was designed to extend
9 insurance to nearly all people, including those with medical
10 conditions that require expensive care and who may have
11 previously been denied coverage. However, to pay for care,
12 insurance companies need to have a large enrollment pool of
13 consumers, especially young people and healthy people who use
14 fewer services, as these individuals broaden the risk pool and
15 reduce premium costs for all insured persons. Thus, the
16 individual mandate was adopted to guarantee this broad
17 enrollment base and ensure that health insurance premiums remain



1 more affordable for everyone. The legislature notes that
2 because the majority of the United States population receives
3 health insurance coverage either through employer-sponsored
4 health insurance or through public programs such as medicaid and
5 medicare, the people most impacted by the mandate are those who
6 purchase insurance through the individual market.

7 The legislature further finds that Congressional
8 Republicans recently passed a sweeping tax bill that effectively
9 repealed the individual mandate, by reducing the tax penalty in
10 the existing law to \$0 or zero per cent of household income
11 above a certain threshold. Insurance companies and
12 Congressional Democrats have warned that premiums will increase
13 and insurance markets will be weakened if the tax penalties for
14 going without health insurance are eliminated. The
15 Congressional Budget Office has estimated that repealing the
16 mandate penalties would increase premiums by ten per cent and
17 leave 4,000,000 more people uninsured in 2019 and 13,000,000
18 more uninsured by 2027.

19 The legislature additionally finds that it is important to
20 preserve Hawaii's insurance market and ensure that insurance
21 premiums remain stable and affordable for Hawaii's consumers.



1 Establishing a state-level individual mandate, similar to the
2 one adopted by Massachusetts in 2006, will help achieve these
3 goals.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Establish an individual mandate for certain qualified
- 6 taxpayers to sign up for and maintain health insurance
- 7 throughout the year, or pay a penalty on their
- 8 individual income tax return; and
- 9 (2) Provide a religious exemption for not purchasing
- 10 creditable health insurance required by this Act.

11 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§235- Creditable coverage; qualified taxpayers. (a)
15 For each month beginning after December 31, 2018, the following
16 qualified taxpayers age eighteen and over shall obtain and
17 maintain creditable coverage so long as it is deemed affordable
18 by the insurance commissioner, pursuant to section 431:2- :

- 19 (1) Residents of the State; or
- 20 (2) Individuals who became residents of the State within
- 21 sixty-three days, in the aggregate;



1 provided that residents who within sixty-three days have
2 terminated any prior creditable coverage shall obtain and
3 maintain creditable coverage within sixty-three days of the
4 termination.

5 (b) Every qualified taxpayer who files or is required to
6 file an individual income tax return as a resident of the State
7 shall indicate on the return, in a manner prescribed by the
8 director of taxation, whether the qualified taxpayer:

9 (1) Had creditable coverage in force for each of the
10 twelve months of the taxable year for which the return
11 is filed as required under subsection (a), whether
12 covered as an individual or as a named beneficiary of
13 a policy covering multiple individuals; or

14 (2) Had a certificate issued by the insurance
15 commissioner, pursuant to section 431:2- .

16 (c) If a qualified taxpayer fails to indicate on the
17 income tax return whether the qualified taxpayer had the
18 coverage required under subsection (a), or indicates on the
19 income tax return that the qualified taxpayer did not have the
20 coverage required under subsection (a) in force, then a penalty
21 shall be assessed on the return. If the qualified taxpayer



1 indicates that the qualified taxpayer had the coverage in force
2 but the director of taxation determines, based upon the
3 information available, that the requirement of subsection (a)
4 was not met, then the director of taxation shall assess the
5 penalty.

6 (d) If in any taxable year, in whole or in part, a
7 qualified taxpayer does not comply with the requirement of
8 subsection (a), the director of taxation shall retain any amount
9 overpaid by the qualified taxpayer and apply it toward any
10 penalty payment required by this subsection; provided that the
11 amount retained shall not exceed . The penalty shall be
12 assessed for each of the months the qualified taxpayer did not
13 meet the requirement of subsection (a); provided that any lapse
14 in coverage of sixty-three days or less shall not be counted in
15 calculating the penalty; provided further that nothing in this
16 subsection shall authorize the commissioner to retain any amount
17 for purposes that otherwise would be paid to a claimant agency
18 or agencies as debts recoverable under sections 231-51 to 231-
19 59.

20 (e) If the amount retained pursuant to subsection (d) is
21 insufficient to meet the penalty assessed, the director of



1 taxation shall notify the qualified taxpayer of the balance due
2 on the penalty and related interest.

3 (f) The department of taxation shall have all enforcement
4 and collection procedures available under this chapter to
5 collect any penalties assessed under this section.

6 (g) A qualified taxpayer who disputes the determination of
7 applicability or affordability, as enforced by the department,
8 may seek a review of this determination through an appeals
9 process established by the insurance commissioner pursuant to
10 section 431:2- ; provided that no additional penalties shall be
11 enforced against a qualified taxpayer seeking review until the
12 review is complete and any subsequent appeals are exhausted.

13 (h) This section shall not apply to any individual, who
14 pursuant to the teachings, faith, or religious beliefs of any
15 group, depends upon prayer or other spiritual means for healing
16 if the individual:

17 (1) Files a sworn affidavit with the individual's income
18 tax return stating that the individual did not have
19 creditable coverage and that the refusal to obtain and
20 maintain creditable coverage during the 12 months of
21 the taxable year for which the return was filed was



1 based on the individual's sincerely held teachings,
2 faith, or religious belief; and

3 (2) Does not receive medical health care during the
4 taxable year for which the return is filed.

5 (i) For purposes of this section, the following
6 definitions shall apply:

7 "Creditable coverage" means coverage of a qualified
8 taxpayer under any of the following health insurance plans or as
9 a named beneficiary receiving coverage on another's health
10 insurance plan with no lapse of coverage for more than sixty-
11 three days:

12 (1) An individual or group health insurance plan that
13 meets the requirements for mandatory health care
14 benefits under section 393-7(a) or (b);

15 (2) An individual or group health insurance plan available
16 from the State's health insurance marketplace;

17 (3) Part A or Part B of Title XVIII of the Social Security
18 Act;

19 (4) Title XIX or XXI of the Social Security Act, other
20 than coverage consisting solely of benefits under



- 1 section 1903(v) or section 1928 of Title XIX of the
2 Social Security Act;
- 3 (5) Title 10 United States Code chapter 55;
- 4 (6) A medical care program of the Indian Health Service or
5 of a tribal organization authorized under section 102
6 of the Indian Self-Determination and Education
7 Assistance Act;
- 8 (7) A state health benefits risk pool;
- 9 (8) A health plan offered under title 5 United States Code
10 chapter 89;
- 11 (9) A public health plan as defined in federal regulations
12 authorized by the Public Health Service Act, section
13 2701(c)(1)(I), as amended by Public Law 104-191;
- 14 (10) A health benefit plan under the Peace Corps Act, title
15 22 United States Code section 2504(e); or
- 16 (11) Any other qualifying coverage required by the Health
17 Insurance Portability and Accountability Act of 1996,
18 as amended, or by regulations promulgated under that
19 Act.

20 The term "creditable coverage" shall not include: a
21 limited benefit health insurance plan, as that term is defined



1 under section 431:10A-102.5; insurance arising out of a workers'
 2 compensation law or similar law; motor vehicle medical payment
 3 insurance; insurance under which benefits are payable with or
 4 without regard to fault and which is statutorily required to be
 5 contained in a liability insurance policy or equivalent self-
 6 insurance; or coverage supplemental to the coverage provided
 7 under title 10 United States Code chapter 55, if offered as a
 8 separate insurance policy.

9 "Health insurance marketplace" means a service that helps
 10 individuals and small businesses shop for and enroll in
 11 affordable health insurance, as established by the federal
 12 Patient Protection and Affordable Care Act of 2010, or any
 13 similar successor service available at the federal or state
 14 level.

15 "Qualified taxpayer" means an individual:

16 (1) Who files an individual income tax return for the
 17 taxable year;

18 (2) Who is not claimed or is not otherwise eligible to be
 19 claimed as a dependent by another taxpayer for federal
 20 or Hawaii state individual income tax purposes;



- 1 (3) Who has been physically present in the State for more
- 2 than nine months during the taxable year;
- 3 (4) Whose household income for the taxable year does not
- 4 exceed per cent of the federal poverty guideline
- 5 for Hawaii, as most recently published by the United
- 6 States Department of Health and Human Services for the
- 7 taxpayer's family size; or
- 8 (5) Who, if married at the close of the taxable year,
- 9 files a joint return for the taxable year; provided
- 10 that this paragraph shall not apply to a married
- 11 taxpayer who is unable to file a joint return because
- 12 the taxpayer is a victim of domestic abuse or spousal
- 13 abandonment and is living apart from the taxpayer's
- 14 spouse at the time the taxpayer files the return."

15 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
 16 amended by adding a new section to part II of article 2 to be
 17 appropriately designated and to read as follows:

18 "§431:2- Creditable coverage; powers of commissioner.

19 (a) The commissioner shall establish a process to determine
 20 which health plans shall be considered affordable, for purposes



1 of complying with the creditable coverage requirements under
2 section 235- .

3 (b) The list of health plans deemed to be creditable
4 coverage shall be updated annually and posted on the insurance
5 division's website.

6 (c) The commissioner shall have the following additional
7 powers:

8 (1) Establish procedures for granting an annual
9 certification upon request of a qualified taxpayer who
10 has sought health insurance coverage through Hawaii's
11 insurance marketplace, attesting that, for the
12 purposes of enforcing section 235- , no health
13 benefit plan that meets the definition of creditable
14 coverage was deemed affordable by the commissioner for
15 that qualified taxpayer. The commissioner shall
16 maintain a list of qualified taxpayers for whom the
17 certificates have been granted; and

18 (2) Establish an appeals procedure for enforcement actions
19 taken by the department of taxation under section
20 235- , including standards to govern appeals based



1 upon the assertion that imposition of the penalty
2 under section 235- would create extreme hardship.

3 (d) The insurance commissioner, in conjunction with the
4 department of taxation, may adopt rules pursuant to chapter 91,
5 for purposes of implementing this section and section 235- .

6 (e) For purposes of this section:

7 "Creditable coverage" shall have the same meaning as in
8 section 235- .

9 "Health insurance marketplace" shall have the same meaning
10 as in section 235- .

11 "Qualified taxpayer" shall have the same meaning as in
12 section 235- ."

13 SECTION 4. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on July 1, 3000;
15 provided that this Act shall be repealed on December 31, 2023.



Report Title:

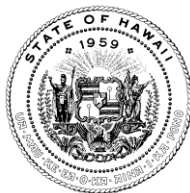
Health Insurance; Creditable Coverage; Individual Mandate;
Qualified Taxpayers

Description:

Establishes an individual mandate for certain qualified taxpayers to sign up for and maintain health insurance throughout the year, or pay a penalty on their individual income tax return. Provides a religious exemption. Sunsets on 12/31/2023. Effective 7/1/3000. (SB2924 HD1)

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





DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

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**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE**

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Wednesday, March 21, 2018
2:15 p.m.

**TESTIMONY ON SENATE BILL NO. 2924, S.D. 2, H.D. 1, RELATING TO HEALTH
INSURANCE.**

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on S.B. 2924, S.D. 2, H.D. 1, 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 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. It also 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.

On page 10, line 19 to page 11, line 2, the Commissioner is required to “establish a process to determine which health plans shall be considered affordable, for purposes of complying with the creditable coverage requirements under section 235- [.]” The Department respectfully submits that assessing affordability should instead be based upon criteria similar to the individual mandate process implemented by Massachusetts.

Additionally, on page 11, lines 3-5, the Commissioner is further required to post on the Division website and update annually “[t]he list of health plans deemed to be creditable coverage[.]” This requirement would pose significant difficulties for the Division, as many entities that would issue “creditable coverage,” such as all federal government entities, are outside the jurisdiction of the Division.

Finally, on page 11, lines 18-20, the Commissioner is empowered to “establish an appeals procedure for enforcement actions taken by the department of taxation under section 235- [.]” The Department respectfully 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 provide comments on this measure.

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

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To: The Honorable Roy M. Takumi, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Wednesday, March 21, 2018
Time: 2:15 P.M.
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2924, S.D. 2, H.D. 1, Relating to Health Insurance

The Department of Taxation (Department) offers the following comments on S.B. 2924, S.D. 2, H.D. 1, for the Committee's consideration.

S.B. 2924, S.D. 2, H.D.1, 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 contains a religious exemption from the penalty. The bill has a defective effective date of July 1, 3000 and will be repealed on December 31, 2023.

First, the Department notes that it 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 specified 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.



An Independent Licensee of the Blue Cross and Blue Shield Association

March 21, 2018

The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce

Re: SB 2924, SD2, HD1 – Relating to Health Insurance

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on SB 2924, SD2, HD1 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 the intent of 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 SB 2924, SD2, HD1.

Sincerely,

Jennifer Diesman
Senior Vice-President-Government Relations

healthcaresharing.org

(833) 997-4273

2200 S. Babcock St.
Melbourne, FL 32901

March 20, 2018

Representative Roy Takumi, Chair Consumer Protection and Commerce (CPC)

Representative Linda Ichiyama, Vice-Chair CPC

Members of the CPC Committee

RE: Testimony and Comments Requesting Suggested Amendments on SB2924, SD2, HD1

The Alliance of Health Care Sharing Ministries represents three of the United States largest sharing ministries, collectively having over 800,000 members.

These religious ministries coordinate on a voluntary basis the sharing of medical expenses amongst their members, along with members providing emotional and spiritual support to each other in medical crisis.

When the Affordable Care Act's (ACA) individual insurance mandate was drafted, Congress recognized that these ministries were already meeting the health care financial needs of its members and providing a valuable service beyond the financial. Therefore, the members of Health Care Sharing Ministries were exempted from the individual mandate at 42 U.S.C. 5000A(d)(2)(B). Massachusetts had previously exempted members from its individual insurance mandate by way of regulation. See 956 CMR 5.03(3)(a)3.

Now as more states are considering enacting their own individual insurance mandates, they too are following the pattern set by the ACA by exempting members of health care sharing ministries.

Maryland – SB 1011, pg.26, line8.

New Jersey – SB 1877, section2, lines 20-21.

Washington - S6084, section 1, subsection 2, sub subsection 6 [Note – A task force for study has now been substituted for the text]

As SB2924 and HB2209 are heard in committee, please consider what the ACA and Massachusetts did, and what other states are proposing, as it relates to exempting health care sharing ministry members. I have attached to my testimony proposed amendatory language which is identical to that included in the ACA.

I appreciate the hard work you are doing for the residents of Hawaii, and I thank you for your consideration for those residents who are members of a Health Care Sharing Ministry. If you have any questions about health care sharing or if I can assist in any way, please do not hesitate to contact me.

Thank-you,



Dr. Dave Weldon M.D.

President, Alliance of Health Care Sharing Ministries

**The Language Exempting Members of Health Care Sharing Ministries
From the Individual Responsibility Requirement
Of the Patient Protection and Affordable Care Act
and
Suggested for Hawaii’s use with S2924 on Health Care and other related
matters**

On page 6, line 13, redesignate (h) – the highlighted section below as (i) and renumber the subsequent text –

“(i) This section shall not apply to any individual, who pursuant to the teachings, faith, or religious beliefs of any group, depends upon prayer or other spiritual means for healing if the individual:

- (1) Files a sworn affidavit with the individual’s income tax return stating that the individual did not have creditable coverage and that the refusal to obtain and maintain creditable coverage during the 12 months of the taxable year for which the return was filed was based on the individual’s sincerely held teachings, faith, or religious belief; and
- (2) Does not receive medical health care during the taxable year for which the return is filed.”

On page 6 insert the following section as the new (h) –

(h) An individual shall be exempt from the requirement to maintain minimum essential coverage and shall not be subject to a penalty under this statute for any month if the individual is a member for the month of a health care sharing ministry.

- (1) As used in this subsection, “health care sharing ministry” means an organization:
 - (I) which is described in section 501(c)(3) and is exempt from taxation under section 501(a),
 - (II) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed,
 - (III) members of which retain membership even after they develop a medical condition,
 - (IV) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999, and
 - (V) which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.
-



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**TESTIMONY FOR SENATE BILL 2924, SENATE DRAFT 2, HOUSE DRAFT 1,
RELATING TO HEALTH INSURANCE**

House Committee on Consumer Protection and Commerce

Hon. Roy M. Takumi, Chair

Hon. Linda Ichiyama, Vice Chair

Wednesday, March 21, 2018, 2:15 PM

State Capitol, Conference Room 329

Honorable Chair Takumi and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in strong support of Senate Bill 2924, SD 2, HD 1, relating to health insurance.

President Donald Trump and the Republicans who currently control Congress have moved to repeal the Affordable Care Act, recently eliminating the individual mandate at the core of Obamacare in the GOP's heartless tax reform bill enacted at the end of 2017. To date, they've yet to finalize a plan for replacing the ACA, much less one that continues coverage for millions of Americans who will lose their health insurance upon the ACA's complete repeal.

Without access to health care, the inalienable rights to life, liberty, and the pursuit of happiness can be neither pursued nor obtained. The recently enacted Republican tax bill effectively repealed the ACA's individual mandate by reducing the tax penalty in the existing law to \$0 or 0 percent of household income above a certain threshold, which will result in increased insurance premiums, weakened insurance markets, and up to 13,000,000 more uninsured citizens by the year 2027, including many working families here in the islands.

Health care is a human right. Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
House Committee on Consumer Protection & Commerce
The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair

March 21, 2018
2:15 p.m.
Conference Room 329

Re: SB2924 SD2 HD1, Relating to Health Insurance

Chair Takumi, Vice-Chair Ichiyama, and committee members, thank you for this opportunity to provide testimony on SB2924 SD2 HD1, which establishes a state-level individual mandate.

Kaiser Permanente Hawai'i SUPPORTS SB2924 SD2 HD1 and requests an AMENDMENT

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 as 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.

The passage of SB2924 SD2 HD1 before the end of the legislative session is important as health insurers need to submit their applications to offer qualified health plans on the individual market, including proposed rates, in June 2018, for coverage effective January 1, 2019. If SB2924 SD2 HD1 is passed by June 2018, consumers will realize the benefits of a state-level individual mandate by January 1, 2019.

With the federal penalty to reduce to zero in 2019, an effective date of January 1, 2019 will essentially “step in” place of the federal mandate without any disruption to consumers. Furthermore, we request the removal of the sunset date given that an individual mandate provides issuers with certainty that allows consumers to realize the benefit in the form of premiums lower than what rates would be without the mandate. A sunset date eliminates such stability and predictability. Thus, we request the committee consider the following amendment to SB2924 SD2 HD1,

On Section 5, page 13, line 14:

SECTION 5. This Act shall take effect on [~~July 1, 3000~~]
January 1, 2019~~]; provided that this Act shall be repealed on~~
~~December 31, 2023~~.

We look forward to having the opportunity to work with the Committee to further SB2924 SD2 HD1, which we see as the best alternative to an enforced federal mandate. Thank you for the opportunity to testify on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Enforce Individual Health Care Mandate Through Income Tax System

BILL NUMBER: SB 2924 HD-1

INTRODUCED BY: House Committee on Health & Human Services

EXECUTIVE SUMMARY: 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 returns.

SYNOPSIS: Adds a new section to HRS chapter 235 to impose a penalty on any qualified taxpayer who is not covered with affordable, creditable health insurance coverage, or whose dependent is not covered, in any month.

A qualified taxpayer is at least 18 years old and is a resident of Hawaii or has become a resident of Hawaii within the last 63 days.

An individual would be exempt from the penalty if the individual is not required to file a tax return; if the individual or family has income under ___% of the federal poverty level in Hawaii; or if the individual is a nonresident.

The amount of the penalty is unspecified.

Adds a new section to HRS chapter 431, Article 2, to give the Insurance Commissioner jurisdiction to determine creditable coverage and whether such coverage is affordable.

The new section to HRS chapter 235 provides for an appeal process whereby a qualified taxpayer can dispute the determination of applicability (of the penalty) or affordability.

That section also provides for a religious belief exemption, if the taxpayer doesn't then go out and receive medical health care during the taxable year.

EFFECTIVE DATE: July 1, 3000; provided that this Act shall be repealed on December 31, 2023.

STAFF COMMENTS: The proposed measure is a reaction to the Tax Cuts and Jobs Act of 2017's repeal, effective January 1, 2019, of the individual health care coverage mandate in the Patient Protection and Affordable Care Act of 2010, commonly known as "Obamacare." The proposal basically says, "Even if the national Obamacare law is repealed, we can and will still have it in Hawaii."

The federal individual mandate law, IRC section 5000A, allows for several exemptions, which the bill for the most part ignores. There are good reasons for several of the exemptions, and great care should be taken before deciding to toss them.

For example, what about an individual who is in prison for the whole year? The federal ACA exempts that individual, but this bill would not. If the State is taking care of that individual while in custody, why does that individual need to buy health insurance?

And what about an individual who died during the year? If Grandpa died in February, are we really going to make his widow pay to cover his health insurance for the full year, or penalize her for not having insurance for him if his health insurance terminates upon his death?

We are assuming, of course, that such exemptions will be recognized under Hawaii law. If the legislature's intent is not to carry over the exemptions, then the public should know that this adaptation of the Obamacare individual mandate is more onerous than that provided in the federal law.

Digested 3/19/2018