

---

---

# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Health insurance exchanges are a central  
2 component of the federal Patient Protection and Affordable Care  
3 Act, and the federal act gives states broad discretion in  
4 establishing the structure and governance of their own  
5 exchanges. The legislature finds that the Hawaii health  
6 connector was established by Act 205, Session Laws of Hawaii  
7 2011, as Hawaii's health insurance exchange and was charged with  
8 the responsibility of implementing applicable parts of the  
9 federal act.

10           The successful and efficient operation of the Hawaii health  
11 connector is essential for the State, health insurers, and  
12 insured persons in Hawaii to comply with the new requirements of  
13 the federal act. The legislature also finds that the Hawaii  
14 health connector was established as a private nonprofit entity,  
15 rather than a state agency, to provide the connector with a  
16 certain degree of freedom and autonomy in establishing and  
17 operating the State's health insurance exchange.



1           However, the legislature believes that evolving federal  
2 health care regulations and the need for greater transparency  
3 and oversight over Hawaii's health insurance exchange  
4 necessitate that the State revise the structure of the Hawaii  
5 health connector's board of directors. In addition, the  
6 legislature finds that the Hawaii health connector should engage  
7 with advisory groups that represent various stakeholder  
8 interests and allow for their input and recommendations for the  
9 activities of the connector. The legislature also believes that  
10 it should take a proactive oversight role to monitor the  
11 connector and review its financial and operational plans.

12           The Patient Protection and Affordable Care Act mandates  
13 health insurance exchanges to be self-sustaining beginning in  
14 January 2015. The legislature further recognizes that the  
15 financial sustainability of the Hawaii health connector must be  
16 facilitated in a way that promotes competition and ensures  
17 equity among the competitors. The legislature finds that a  
18 sustainability fee on insurers is an appropriate financing  
19 method that will strike a proper balance by promoting  
20 competition, facilitating a self-sustaining health insurance  
21 exchange market, and maintaining reasonable health insurance  
22 rates.



1 The purpose of this Act is to:

- 2 (1) Provide for greater transparency, stakeholder  
3 engagement, and legislative involvement in the  
4 activities of the Hawaii health connector; and
- 5 (2) Provide for the sustainability of the Hawaii health  
6 connector by authorizing the insurance commissioner to  
7 assess a fee on all issuers selling plans, both inside  
8 and outside of the connector, until June 30, 2018.

9 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is  
10 amended by adding seven new sections to be appropriately  
11 designated and to read as follows:

12 "§435H-A Consumer, patient, business, and health care  
13 advisory group. The board shall establish a consumer, patient,  
14 business, and health care advisory group to provide input and  
15 recommendations to the board. The advisory group shall reflect  
16 geographic diversity and a diversity of interests. Members  
17 shall include individuals with education, training, or  
18 professional experience in the fields of consumer advocacy,  
19 patient advocacy, public health, health care provision,  
20 economics, financial management, risk management, and small  
21 business. Members of the advisory group shall serve in an  
22 advisory capacity only and shall not be considered members of



1 the board. Members shall not be compensated but may be  
2 reimbursed for necessary expenses incurred in the performance of  
3 their duties.

4 §435H-B Health insurers advisory group. The board shall  
5 establish a health insurers advisory group to provide input and  
6 recommendations to the board. Members shall consist of  
7 representatives of the insurers that offer qualified plans or  
8 qualified dental plans through the connector. Members of the  
9 advisory group shall serve in an advisory capacity only and  
10 shall not be considered members of the board. Members of the  
11 advisory group shall not be compensated but may be reimbursed  
12 for necessary expenses incurred in the performance of their  
13 duties.

14 §435H-C Insurance producers advisory group. The board  
15 shall establish an insurance producers advisory group to provide  
16 input and recommendations to the board. The advisory group  
17 shall reflect geographic diversity and members shall include  
18 insurance agents and brokers that sell qualified plans through  
19 the connector. Members of the advisory group shall serve in an  
20 advisory capacity only and shall not be considered members of  
21 the board. Members shall not be compensated but may be



1 reimbursed for necessary expenses incurred in the performance of  
2 their duties.

3 §435H-D Connector legislative oversight committee. (a)

4 There is created the connector legislative oversight committee,  
5 which shall consist of the following members:

6 (1) Two members of the house standing committee on  
7 consumer protection and commerce;

8 (2) Two members of the house standing committee on health;

9 (3) Two members of the house standing committee on  
10 finance;

11 (4) Two members of the senate standing committee on  
12 commerce and consumer protection;

13 (5) Two members of the senate standing committee on  
14 health; and

15 (6) Two members of the senate standing committee on ways  
16 and means.

17 Members of the connector legislative oversight committee  
18 shall be appointed by the senate president and the speaker of  
19 the house of representatives, respectively, provided that one  
20 appointment from each house shall be a member of the minority  
21 party selected by the minority leader.



1        (b) The committee shall select co-chairs from among its  
2 members and shall meet at the call of the co-chairs as often as  
3 is needed.

4        (c) The committee shall promote and protect the interests  
5 of the residents of Hawaii by reviewing the financial and  
6 operational plans of the connector and providing input and  
7 recommendations to the board.

8        (d) The committee shall annually review the sustainability  
9 plan that is submitted by the board pursuant to section 435H-F  
10 and shall recommend to the commissioner the amount of the Hawaii  
11 health connector universal federally mandated sustainability  
12 fee.

13        (e) The connector legislative oversight committee shall be  
14 dissolved on June 30, 2018.

15        **§435H-E Agents and brokers.** (a) Certified insurance  
16 agents and brokers may enroll individuals and employers in  
17 qualified plans through the connector and assist individuals and  
18 employers in applying for applicable premium tax credits and  
19 cost-sharing reductions for which they may be eligible. The  
20 commissioner shall adopt rules for certifying insurance agents  
21 and brokers pursuant to this section; provided that the rules



1 shall include qualifications and educational requirements for  
2 agents and brokers that comply with the federal act.

3 (b) Certified insurance agents and brokers shall be  
4 compensated for these activities in a manner to be determined by  
5 the board.

6 §435H-F Hawaii health connector universal federally  
7 mandated sustainability fee; annual sustainability plan. (a)  
8 Until June 30, 2018, the board shall submit a sustainability  
9 plan to the connector legislative oversight committee and the  
10 commissioner no later than ninety days prior to the start of  
11 each fiscal year of the connector. The sustainability plan  
12 shall specify the amount of funding required to finance the  
13 operations and cash reserve of the connector for each ensuing  
14 fiscal year beginning on July 1; provided that the balance of  
15 the cash reserve does not exceed the value of the cost of six  
16 months of administering and operating the connector.

17 (b) The sustainability plan submitted pursuant to  
18 subsection (a) shall include:

19 (1) A detailed itemized budget based upon zero-based  
20 budgeting principles for the upcoming fiscal year;



- 1       (2) A detailed justification for the release of moneys  
2       from the Hawaii health connector sustainability  
3       special fund pursuant to section 435H-G; and  
4       (3) Minutes of meetings of the consumer, patient,  
5       business, and health care advisory group, the health  
6       insurers advisory group, and the insurance producers  
7       advisory group, including the results of any votes  
8       taken, and any recommendations made by those advisory  
9       groups.

10       For the purposes of formulating the budget, "zero-based  
11 budgeting principles" means that the Hawaii health connector  
12 shall justify all projected allocations and expenditures,  
13 starting with an initial balance of zero dollars to spend.

14       (c) Any other provision notwithstanding, beginning on July  
15 1, 2015, and on each July 1 thereafter until June 30, 2018, the  
16 commissioner, taking into account the recommendation of the  
17 connector legislative oversight committee pursuant to section  
18 435H-D(d), shall assess upon and collect from each insurer the  
19 Hawaii health connector universal federally mandated  
20 sustainability fee. At the discretion of the commissioner, the  
21 fee or a percentage thereof may be assessed upon and collected  
22 from each dental insurer subject to chapter 432G. The fee shall



1 be assessed upon a pro rata basis, based upon the number of  
2 individuals covered by each insurer, or dental insurer, as  
3 appropriate, on the preceding December 31, excluding individuals  
4 covered under a medicaid plan pursuant to Title XIX of the  
5 Social Security Act, 42 U.S.C. section 1396 et seq. The total  
6 of all revenues collected from the fee shall not exceed the  
7 amount of funding required to finance the operations and cash  
8 reserve of the connector as specified in subsection (a).

9 (d) Before July 1, 2018, any fee that is assessed upon an  
10 insurer or a dental insurer for the purpose of funding the  
11 operations and cash reserve of the connector shall be void,  
12 except as follows:

13 (1) The Hawaii health connector universal federally  
14 mandated sustainability fee assessed pursuant to  
15 subsection (c); or

16 (2) Any fee imposed pursuant to section 435H-3(b).

17 (e) After June 30, 2018, the board shall not be required  
18 to file a sustainability plan pursuant to subsection (a) and the  
19 insurance commissioner shall not assess or collect the Hawaii  
20 health connector universal federally mandated sustainability fee  
21 pursuant to subsection (c).



1       §435H-G Hawaii health connector sustainability special  
2 fund. (a) There is established the Hawaii health connector  
3 sustainability special fund, into which shall be deposited:

4       (1) Hawaii health connector universal federally mandated  
5 sustainability fee revenues collected pursuant to  
6 section 435H-F; and

7       (2) Any appropriations that may be made by the legislature  
8 to the fund.

9       Moneys in the Hawaii health connector sustainability  
10 special fund shall not be considered part of the general fund.

11       (b) Moneys in the Hawaii health connector sustainability  
12 special fund are to be expended by the commissioner only as  
13 provided in this subsection. Moneys in the special fund shall  
14 be transferred to the connector according to procedures  
15 established by the commissioner and shall only be used for the  
16 administration, operations, and prudent cash management of the  
17 connector.

18       (c) The Hawaii health connector sustainability special  
19 fund shall be audited annually by an independent auditor  
20 retained by the connector. The auditor's report of each annual  
21 audit shall be submitted to the commissioner and the connector



1 legislative oversight committee not later than thirty days from  
2 the date the audit report is received by the connector.

3 (d) The Hawaii health connector sustainability special  
4 fund shall be dissolved on June 30, 2018, and all unencumbered  
5 and unexpended moneys remaining on balance in the special fund  
6 on that date shall lapse to the credit of the general fund."

7 SECTION 3. Section 435H-2, Hawaii Revised Statutes, is  
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) There is established the Hawaii health insurance  
10 exchange to be known as the Hawaii health connector. The  
11 connector shall be a nonprofit incorporated entity. The  
12 connector shall not be an agency of the State and shall not be  
13 subject to laws or rules regulating rulemaking, public  
14 employment, or public procurement. [~~The connector shall be a~~  
15 ~~Hawaii nonprofit corporation organized and governed pursuant to~~  
16 ~~chapter 414D, the Hawaii nonprofit corporations act.~~] The debts  
17 and liabilities of the connector shall not constitute the debts  
18 and liabilities of the State.

19 (b) The purposes of the connector shall include:

20 (1) Facilitating the purchase and sale of qualified plans  
21 and qualified dental plans;



- 1           (2) Connecting consumers to the information necessary to
- 2           make informed health care choices; [~~and~~]
- 3           (3) Enabling consumers to purchase coverage and manage
- 4           health and dental plans electronically[~~-~~]; and
- 5           (4) Performing any and all other duties required of a
- 6           health insurance exchange pursuant to the federal
- 7           act."

8           SECTION 4. Section 435H-3, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10           "~~§~~435H-3~~§~~ **Funding.** (a) The connector may receive  
 11 contributions, grants, endowments, fees, or gifts in cash or  
 12 otherwise from public and private sources including  
 13 corporations, businesses, foundations, governments, individuals,  
 14 and other sources subject to rules adopted by the board. The  
 15 State may appropriate moneys to the connector. As required by  
 16 section 1311(d)(5)(A) of the Federal Act, the connector shall be  
 17 self-sustaining by January 1, 2015, and may charge assessments  
 18 or user fees to participating health and dental carriers, or may  
 19 otherwise generate funding to support its operations. Moneys  
 20 received by or under the supervision of the connector shall not  
 21 be placed into the state treasury and the State shall not  
 22 administer any moneys of the connector nor be responsible for

1 the financial operations or solvency of the connector[-] except  
2 as provided in section 435H-G.

3 (b) In addition to any other means of generating revenue  
4 pursuant to subsection (a), the connector may charge fees for  
5 displaying advertisements for ancillary services on the  
6 connector's website."

7 SECTION 5. Section 435H-4, Hawaii Revised Statutes, is  
8 amended by amending subsections (a) through (c) to read as  
9 follows:

10 "(a) The [~~Hawaii health~~] connector shall be [~~a nonprofit~~  
11 ~~entity~~] governed by a board of directors that shall comprise  
12 [~~fifteen~~] ten members as follows:

13 (1) The director of commerce and consumer affairs or the  
14 director's designee, who shall be an ex officio,  
15 nonvoting member;

16 (2) The director of human services or the director's  
17 designee, who shall be an ex officio, nonvoting  
18 member;

19 (3) The healthcare transformation coordinator, who shall  
20 be an ex officio, nonvoting member;

21 (4) Three members who shall be appointed by the governor  
22 [and with the advice and consent of the senate



1 ~~pursuant to section 26 34, provided that the governor~~  
2 ~~shall submit nominations to the senate for advice and~~  
3 ~~consent no later than February 1, 2012; and provided~~  
4 ~~further that the senate shall timely advise and~~  
5 ~~consent to nominations for terms to begin July 1,~~  
6 ~~2012. Members of the interim board shall be eligible~~  
7 ~~for appointment to the board.];~~

8 (5) Two members who shall be appointed by the president of  
9 the senate; and

10 (6) Two members who shall be appointed by the speaker of  
11 the house of representatives.

12 The board shall elect one of its members as the chairperson of  
13 the board. The board, by majority vote, may remove or suspend  
14 for cause any member after due notice and public hearing.

15 (b) The membership of the board shall reflect geographic  
16 diversity and the diverse interests of stakeholders including  
17 consumers, employers, insurers, and dental benefit providers.

18 Each person appointed to the board shall have education,  
19 training, or professional experience in at least one of the  
20 following areas:

21 (1) Health care policy;



- 1        (2) Health benefits plan administration, including  
2            medicaid administration;
- 3        (3) Health insurance; provided that no employee of an  
4            insurer shall be appointed to the board;
- 5        (4) Health care financing and purchasing;
- 6        (5) Health care delivery;
- 7        (6) Information technology; or
- 8        (7) Economics and actuarial science.

9        In making appointments, the appointing authorities shall  
10       consider the background and expertise of all members of the  
11       board and the geographic, socioeconomic, and other  
12       characteristics of the State, so that the board's composition  
13       reflects a diversity of expertise, skills, and background  
14       relevant to the State; provided that members appointed pursuant  
15       to subsection (a) (4) through (6) shall not be employees of the  
16       State.

17       ~~[The director of commerce and consumer affairs or the~~  
18       ~~director's designee, the director of health or the director's~~  
19       ~~designee, the director of human services or the director's~~  
20       ~~designee, and the director of labor and industrial relations or~~  
21       ~~the director's designee shall be ex officio, voting members of~~  
22       ~~the board.~~



1       ~~The director of commerce and consumer affairs, the director~~  
2 ~~of health, the director of human services, and the director of~~  
3 ~~labor and industrial relations may select a designee for a~~  
4 ~~specified meeting or meetings. Such selection of the designee~~  
5 ~~shall be submitted in writing to the board of directors prior to~~  
6 ~~or at the meeting in which the designee will serve.]~~

7       (c) Board members shall serve staggered terms and the  
8 interim board shall recommend an appropriate schedule for  
9 staggered terms; provided that this subsection shall not apply  
10 to ~~[ex officio members,]~~ members appointed pursuant to  
11 subsection (a) (1) through (3), who shall serve during their  
12 ~~[entire]~~ term of office."

13       SECTION 6. In codifying the new sections added by section  
14 2 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

17       SECTION 7. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19       SECTION 8. This Act shall take effect on July 1, 2112.



**Report Title:**

Health; Hawaii Health Connector; Sustainability Fee

**Description:**

Reduces the membership of the Connector board of directors from fifteen to ten members and changes the composition and voting status of the board. Creates the consumer, patient, business, and health care advisory group; health insurers advisory group; and the insurance producers advisory group to advise the Connector board of directors. Creates the Connector legislative oversight committee to review the financial and operational plans of the Connector. Establishes a sustainability fee to be collected through 6/30/2018, to support operations of the Connector, and establishes a special fund. Effective 7/1/2112.  
(HD3)

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

