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**A BILL FOR AN ACT**

MAKING EMERGENCY APPROPRIATIONS FOR THE STATE TO COMPLY WITH THE AFFORDABLE CARE ACT.

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

1           SECTION 1. This Act is recommended by the governor for  
2 immediate passage in accordance with section 9 of article VII of  
3 the Constitution of the State of Hawaii.

4           SECTION 2. In accordance with article VII, section 9, of  
5 the Constitution of the State of Hawaii and sections 37-91 and  
6 37-93, Hawaii Revised Statutes, the legislature has determined  
7 that appropriations contained in this Act will cause the state  
8 general fund expenditure ceiling for fiscal year 2015-2016 to be  
9 exceeded by \$5,442,439, or .008 per cent. The reasons for  
10 exceeding the general fund expenditure ceiling are that the  
11 appropriations made in this Act are necessary to serve the  
12 public interest and to meet the needs addressed by this Act.

13           SECTION 3. The Legislature finds that the department of  
14 labor and industrial relations and the department of human  
15 services used fiscal year 2015-2016 operating funds to cover  
16 expenses for the maintenance of the medicaid eligibility  
17 application of the department of human services enterprise

1 system and for the transition of the functions of the Hawaii  
2 Health Connector to the State to enable Hawaii to be compliant  
3 with the Patient Protection and Affordable Care Act, P. L. 111-  
4 148, as amended, and any regulations or guidance issued under  
5 the federal Act.

6 The purpose of this Act is to reimburse the departments for  
7 funds used in the maintenance of the medicaid eligibility  
8 application of the department of human services enterprise  
9 system and for the transition of the functions of the Hawaii  
10 Health Connector to the State to enable the departments to  
11 perform their mandated responsibilities and functions during  
12 fiscal year 2015-2016.

13 SECTION 4. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$1,651,510 or so much  
15 thereof as may be necessary for fiscal year 2015-2016 to carry  
16 out the purposes of the Act.

17 The sum appropriated shall be expended by the department of  
18 labor and industrial relations for the purposes of this Act.

19 SECTION 5. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$3,790,929 or so much  
21 thereof as may be necessary for fiscal year 2015-2016 to carry  
22 out the purposes of the Act, including the hiring of necessary

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1 staff.

2 The sum appropriated shall be expended by the department of  
3 human services for the purposes of this Act.

4 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Jefferson", is written over a horizontal line.

7

BY REQUEST

JAN 25 2016

**Report Title:**

Emergency Appropriation; Department of Labor and Industrial Relations; Department of Human Services

**Description:**

Makes an emergency appropriation for fiscal year 2015-2016 for the Department of Labor and Industrial Relations and the Department of Human Services to cover short-term costs required to comply with the Affordable Care Act.

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

## JUSTIFICATION SHEET

DEPARTMENT: LABOR AND INDUSTRIAL RELATIONS  
HUMAN SERVICES

TITLE: MAKING EMERGENCY APPROPRIATIONS FOR THE STATE TO COMPLY WITH THE AFFORDABLE CARE ACT.

PURPOSE: To reimburse the Department of Labor and Industrial Relations (DLIR) (\$1,651,510) and to reimburse the Department of Human Services (DHS) (\$3,790,929) for costs associated with maintaining the Medicaid eligibility application of the DHS Enterprise system and the costs incurred with the transfer of the Hawaii Health Connector (HHC) functions to DLIR and DHS in accordance with the Affordable Care Act (ACA).

MEANS: Appropriate \$1,651,510 or so much thereof as may be necessary for fiscal year 2015-2016 to DLIR, and \$3,790,929 or so much thereof as may be necessary for fiscal year 2015-2016 to DHS.

JUSTIFICATION: In January 2015, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) found the HHC to be non-compliant with the ACA because it did not meet statutory and regulatory requirements.

CMS initiated discussions with Governor Ige to bring Hawaii into compliance with key requirements of the ACA. As part of the discussions, Governor Ige decided to transition Hawaii from a State-Based Marketplace (SBM) to a SBM using the Federal Platform (SBM-FP) for eligibility and enrollment of individuals and families through a DHS gateway while employer-based plans would be managed by DLIR.

Because most people in Hawaii have health insurance coverage through the Hawaii Prepaid

Health Care Act (PHCA), DLIR's focus has been to manage the ACA's impact on the business community. DHS continues to process Medicaid eligibility and enrollments for individuals and families. Required by the transition, in November 2015, DHS implemented the interface between the DHS eligibility system and the federal exchange to accept and process applications for individuals who screen for potential Medicaid eligibility. For individuals who do not qualify for Medicaid, DHS contracted outreach services, which were previously tasked to the HHC. These outreach services provide assistance to Medicaid and non-Medicaid eligible individuals in applying for tax credits and purchase of insurance through the federal exchange.

DLIR and DHS lacked sufficient funding to take on these functions. Therefore, the Department of Budget & Finance (BUF) lifted the ten percent general fund restriction that had been imposed on DLIR to enable the department to carry out the ACA-related functions and grant management in fiscal year 2015-2016. In order to transition the functions from the Hawaii Health Connector to the State, CMS is expected to effectuate a change of grantee to DLIR in 2016.

BUF approved the DHS transfer of the necessary funds from HMS 401 (Health Care Payments) to HMS 902 (General Support for Health Care Payments); consequently, this results in a shortfall in HMS 401 for FY2016. If HMS 401 is not replenished, health care payments for Hawaii's Medicaid recipients may be impacted.

These Emergency Appropriations allocate funds to DLIR and DHS to restore fiscal year 2015-2016 funds that were needed for the maintenance of the Medicaid eligibility application of the DHS Enterprise system and for the transition to the SBM-FP in accordance with the Affordable Care Act. This restored funding will enable the departments to perform all their core

responsibilities and functions during fiscal year 2015-2016.

The general fund appropriations included in this measure have been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. Including appropriations made up to and including the regular session of 2015, the Executive Branch appropriation ceiling for fiscal year 2015-16 has already been exceeded by \$57,056,901 or 0.9 percent. Funding requested in this measure will enable DLIR and DHS to perform their core responsibilities and functions during fiscal year 2015-2016 and will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2015-16 by an additional \$5,442,439 or .008 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2015-16 in this measure only, and does not include other general fund appropriations for fiscal year 2015-16 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2016.

Impact on the public: The measure, if enacted, would enable the State to restore Hawaii's compliance with the ACA by administering and operating a SBM-FP. This will ensure that people in Hawaii can purchase quality, affordable health coverage.

Impact on the department and other agencies: The requested Emergency Appropriations will ensure that the departments are able to fund their core operations during fiscal year 2015-2016.

GENERAL FUND: \$5,442,439 in Fiscal Year 2015-2016.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: LBR903, HMS401.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.