HOUSE RESOLUTION

REQUESTING THE AUDITOR TO ASSESS BOTH THE SOCIAL AND FINANCIAL EFFECTS OF PROPOSED MANDATED HEALTH INSURANCE COVERAGE FOR THE COSTS OF MEDICALLY NECESSARY TRANSPORTATION TO THE CONTINENTAL UNITED STATES FOR QUALIFYING PATIENTS.

WHEREAS, critically ill patients in Hawaii may require treatment on the continental United States; and

WHEREAS, commercial flights are not an option for these patients because each patient requires life-supporting equipment and a medical support team; and

WHEREAS, the cost of transportation by an air ambulance can be a significant financial burden that may not be covered by insurance; and

WHEREAS, although Medicaid currently covers the cost of transportation to the continental United States for Hawaii's most needy families, those who are middle-income earners and working full-time do not receive comparable coverage; and

WHEREAS, for many patients requiring transportation to the continental United States, their only options are to mortgage their homes, drain retirement savings, borrow from family or friends, or establish an online campaign to raise funds; and

WHEREAS, during the time that a family is fundraising for a sick loved one, the patient's condition may rapidly deteriorate and reduce the chance of recovery; and

WHEREAS, if a delay in treatment is too long, then the accepting facility on the mainland may give the patient's bed to another individual, and the patient is forced to find another accepting facility; and
WHEREAS, due to Hawaii's unique position in the middle of the Pacific Ocean, the State's residents deserve to receive life-saving medical care that is not available in the State; and

WHEREAS, H.B. No. 687, H.D. 2, considered during the Regular Session of 2018, proposes to require insurance coverage for the costs of medically necessary transportation to the continental United States for qualifying patients; and

WHEREAS, in testimony submitted to the House of Representatives Standing Committee on Consumer Protection and Commerce regarding H.B. No. 687, H.D. 1, which is the preceding draft of H.B. No. 687, H.D. 2, and contains a similar insurance coverage mandate, the Department of the Attorney General noted that:

1. Section 1311(d)(3)(B) of the Patient Protection and Affordable Care Act allows a state to require qualified health plans to add benefits, as long as the state defrays the cost of the additional benefits;

2. Title 45 Code of Federal Regulations section 155.170 provides that unless the enactment of a benefit is directly attributable to state compliance with federal requirements, a benefit is in addition to essential health benefits if the benefit was required by a state after December 31, 2011, and directly applies to qualified health plans;

3. Because Hawaii law did not mandate insurance coverage of transportation to the continental United States before December 31, 2011, a new mandate for this coverage may be considered an additional mandate for which the State of Hawaii would be required to defray the cost; and

4. If a state mandates a benefit in addition to the essential health benefits, title 45 Code of Federal Regulations section 155.170 requires qualified health plan issuers to quantify the cost attributable to each additional state-required benefit and report their calculations to the state, which is then required to
defray the cost by making the payment either to an
individual enrolled in a qualified health plan offered
in the state, or on behalf of an individual enrolled
in a qualified health plan directly to the plan; and

WHEREAS, in testimony submitted to the House of
Representatives Standing Committee on Consumer Protection and
Commerce regarding H.B. No. 687, H.D. 1, the Insurance
Commissioner expressed similar concerns; and

WHEREAS, in testimony submitted to the House of
Representatives Standing Committee on Consumer Protection and
Commerce regarding H.B. No. 687, H.D. 1, the Hawaii Medical
Service Association suggested that the measure be amended by
amending the term "qualifying patient" to mean a patient who is,
among other qualifying criteria, on medically-necessary
extracorporeal membrane oxygenation or mechanical circulatory
support (including percutaneous ventricular assist devices and
intraaortic balloon pump therapies) in order to qualify for the
mandated coverage proposed in the measure; and

WHEREAS, H.B. No. 687, H.D. 2, does not incorporate the
foregoing requested amendment; and

WHEREAS, pursuant to section 23-51, Hawaii Revised
Statutes, before any legislative measure that mandates health
insurance coverage for specific health services, specific
diseases, or certain providers of health care services as part
of individual or group health insurance policies, can be
considered, concurrent resolutions shall be passed that
designate a specific legislative bill for the auditor to prepare
a report, which is commonly known as a "sunrise review", for
submission to the Legislature that assesses both the social and
financial effects of the proposed mandated coverage under that
legislative bill; now, therefore,

BE IT RESOLVED by the House of Representatives of the
Twenty-ninth Legislature of the State of Hawaii, Regular Session
of 2018, that the Auditor is requested to assess, pursuant to
section 23-51, Hawaii Revised Statutes, both the social and
financial effects of the proposed mandated health insurance
coverage under H.B. No. 687, H.D. 2, Regular Session of 2018,
which requires insurance coverage for the costs of medically
necessary transportation to the continental United States for
qualifying patients; and

BE IT FURTHER RESOLVED that in the course of conducting its
assessment, the Auditor is requested to assess:

(1) Whether Section 1311(d)(3)(B) of the Patient
Protection and Affordable Care Act would require the
State to defray the costs of the coverage mandate
imposed under H.B. No. 687, H.D. 2, if that bill were
to become law; and

(2) The social and financial effects of amending the
existing definition of the term "qualifying patient",
as it appears in H.B. No. 687, H.D. 2, to include a
provision that requires a patient be on medically-
necessary extracorporeal membrane oxygenation or
mechanical circulatory support (including percutaneous
ventricular assist devices and intraaortic balloon
pump therapies) to qualify for the mandated covered
benefit proposed in the measure; and

BE IT FURTHER RESOLVED that the Auditor is requested to
submit a report of its findings and recommendations, including
any proposed legislation, to the Legislature no later than
twenty days prior to the convening of the Regular Session of
2019; and

BE IT FURTHER RESOLVED that a certified copy of this
Resolution be transmitted to the Auditor.

OFFERED BY:    MAR 09 2018