

Honolulu, Hawaii

MAR 24 2017

RE: H.B. No. 552
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health, to which was referred H.B. No. 552, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Ensure certain benefits under the federal Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) are preserved under state law in the case of repeal of the Affordable Care Act by Congress, including: the individual mandate; minimum essential benefit requirements; extended dependent coverage; and prohibitions on preexisting condition exclusions and gender discrimination in premiums and costs; and
- (2) Establish a trust fund and procedures to reimburse insurers for unrecouped costs of providing minimum essential insurance benefits.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs; State Council on Developmental Disabilities; Hawai'i Civil Rights Commission; Hawaii State Commission on the Status of Women; Special Education Advisory Council; Hawaii Substance Abuse



Coalition; Healthcare Association of Hawaii; Hawai'i Public Health Institute; The Queen's Health Systems; Planned Parenthood Votes Northwest and Hawaii; Early Childhood Action Strategy; The Sex Abuse Treatment Center; American Diabetes Association; Lāna'i Community Health Center; Kū Aloha Ola Mau; IMUAlliance; International Longshore & Warehouse Union, Local 142; The Salvation Army - Addiction Treatment Services and Family Treatment Services; Hawai'i Psychological Association; Action with Aloha; AARP Hawaii; March of Dimes; and five individuals. Your Committee received comments on this measure from the Department of Human Services, Department of Budget and Finance, Department of Labor and Industrial Relations, Department of Taxation, Hawaii Employer-Union Health Benefits Trust Fund Board of Directors, Hawaii Medical Service Association, Kaiser Permanente Hawaii, Tax Foundation of Hawaii, Community Coalition for Hawaii Universal Healthcare Through Comprehensive Planning, and Hawaii Children's Action Network.

Your Committee finds that the Affordable Care Act has resulted in an estimated 20,000,000 Americans gaining health insurance coverage. Hawaii has long experienced low rates of uninsured individuals, thanks to the State's Prepaid Health Care Act. However, the Affordable Care Act reduced the number of uninsured individuals in the State even more, and enabled 54,000 individuals to gain insurance coverage, while 560,000 individuals with pre-existing conditions could no longer be denied health insurance coverage, and over 630,000 individuals were able to access and benefit from a broad range of preventive services. Furthermore, approximately 33,000 residents of Hawaii now have insurance coverage due to the expansion of Medicaid under the Affordable Care Act.

Your Committee further finds that the future of the Affordable Care Act is now uncertain. There is much uncertainty and confusion around what final actions Congressional Republicans and the President will take in their efforts to repeal and replace the Affordable Care Act. Without the Affordable Care Act, it is estimated that 20,000,000 people will lose access to health insurance across the country. Lack of access to health insurance will negatively affect the health of patients who lose their coverage but will also further strain the health care system in the State. There are also serious concerns that Congress may attempt to push through a repeal of the Affordable Care Act by



cutting services for low-income individuals, individuals with disabilities, older adults, and children.

In light of these concerns, your Committee additionally finds that expansion of the Medicaid program in Hawaii is an option that could be considered, specifically for individuals and qualifying families whose income is between 138.5 percent and two hundred fifty percent of the federal poverty level for Hawaii. This expansion, referred to for now as the Medicaid Plus Program, would cover individuals and families currently receiving health insurance coverage through the federal health insurance exchange; people who may be receiving advance premium tax credits - primarily self-employed individuals, part-time workers, and Compact of Free Association migrants; lower income employed individuals who may have difficulty obtaining health insurance; and other part-time workers who may work several jobs but who do not otherwise qualify for coverage under Hawaii's Prepaid Health Care Act. Your Committee notes that the Medicaid Plus Program is not intended to offer health care coverage for children, as such coverage is already available under Hawaii's traditional Medicaid program, which provides health care services for children in households whose income is up to three hundred percent of the federal poverty level for Hawaii. Your Committee also finds that because the issues surrounding health insurance and the potential repeal of the Affordable Care Act are far-reaching and complex, it is appropriate to convene a working group to further address these issues.

Your Committee has heard the concerns raised in testimony from the Department of Labor and Industrial Relations regarding the ability of the Department to administer the Minimum Essential Coverage Premium Supplementation Trust Fund, as a trust fund created for this purpose may be more appropriately placed within another department. Your Committee has also heard the concerns raised by the Department of Taxation regarding certain tax exemptions in this measure. According to the Department, for the individual mandate exemption for taxpayers below the filing income threshold under federal law, it may be more appropriate to determine this exemption based on state law. Your Committee appreciates these concerns and concludes that amendments to this measure are necessary.

Accordingly, your Committee has amended this measure by:



- (1) Establishing the Minimum Essential Coverage Premium Supplementation Trust Fund as a new chapter, to be administered by the Director of Finance, rather than establishing the trust fund as a new part in chapter 371, Hawaii Revised Statutes, and requiring the trust fund to be administered by the Director of Finance in accordance with directions of the Director of Labor and Industrial Relations;
- (2) Clarifying that individuals who are not required to file individual tax returns as determined under Hawaii law, rather than federal law, are not required to maintain minimum essential coverage;
- (3) Specifying that the requirements to maintain minimum essential coverage shall not apply to an individual or family whose income is two hundred fifty percent or less of the federal poverty level in Hawaii;
- (4) Specifying that a nonresident who is required to file an individual income tax return in Hawaii is exempt from the requirements for minimum essential coverage;
- (5) Establishing the Medicaid Plus Program within the Department of Human Services, which shall:
 - (A) Provide insurance coverage to individuals and qualifying families whose income is between 138.5 percent and two hundred fifty percent of the federal poverty level for Hawaii;
 - (B) Include a cost sharing requirement for individuals and qualifying families of an unspecified dollar amount or unspecified percentage of income, whichever is less; and
 - (C) Require inclusion of specific essential health care benefits and additional benefits;
- (6) Specifying that prescription drug coverage shall be one of the essential health care benefits offered by all health insurance entities in the State;



- (7) Establishing the Affordable Health Insurance Working Group to address the complexities of the health care system in Hawaii and the related uncertainty over the future of the Affordable Care Act and:
- (A) Specifying the membership of the working group, including requiring the Chairs of the Senate Committee on Commerce, Consumer Protection, and Health and House Committee on Health to serve as chairs, and requiring the Chairs of the Senate and House Committees on Human Services to serve as vice-chairs;
 - (B) Permitting the working group to hold informational briefings and listening sessions to gather input from the public;
 - (C) Enabling the working group, with the assistance of the Departments of Budget and Finance and Taxation, to further refine the framework of the Minimum Essential Coverage Premium Supplementation Trust Fund;
 - (D) Enabling the working group to request assistance and feedback from subject matter experts, as needed;
 - (E) Requiring the working group to provide periodic updates to the legislature, make recommendations for any legislative or administrative action, as appropriate; and submit a final report to the Legislature no later than twenty days prior to the Regular Session of 2018;
 - (F) Requesting the Legislative Reference Bureau to provide staff, research, and drafting assistance to the working group; and
 - (G) Specifying that the working group shall be officially convened at the pleasure of the chairs and vice chairs of the working group, depending



upon Congressional action related to the Affordable Care Act, but no later than August 1, 2017;

- (8) Updating the purpose section;
- (9) Inserting an effective date of July 1, 2017, related to the establishment of the Affordable Health Insurance Working Group, while retaining language that conditions the effective date of certain sections upon the repeal of the Affordable Care Act; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that this amended measure represents a work in progress and further discussions will be needed as this amended measure moves through the legislative process. Your Committee also notes that it anticipates any expansion of the Medicaid program, or another similar program designed to ensure health care coverage to residents below two hundred fifty percent of the federal poverty level in Hawaii would go into effect for the next plan year after any federal law that repeals and replaces the Affordable Care Act takes effect.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 552, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 552, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* HB 552 HD 1	Committee Referral: CPH, WAM	Date: 3/22/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les				/
KIDANI, Michelle N.	/			
RUDERMAN, Russell E.	/			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes