

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 552  
H.D. 1  
S.D. 2

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

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 552, H.D. 1, S.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 maintain current levels of health insurance coverage for Hawaii residents.

Specifically, the measure:

- (1) Ensures that the benefits of the federal Patient Protection and Affordable Care Act, particularly those relating to the individual mandate, minimum essential benefit requirements, extended dependent coverage, and prohibitions on preexisting condition exclusions and gender discrimination in premiums and costs, are preserved under state law if the federal act is repealed;
- (2) Establishes a trust fund and procedures to reimburse insurers for the unrecouped costs of providing minimum essential insurance benefits;
- (3) Establishes the medicaid plus program in the Department of Human Services to provide insurance coverage to



individuals and qualifying families whose income is between 138.5 per cent and 250 per cent of the federal poverty level for Hawaii; and

- (4) Establishes 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 federal Patient Protection and Affordable Care Act.

Your Committee received written comments in support of this measure from the Hawaii Civil Rights Commission; Insurance Division, Department of Commerce and Consumer Affairs; Special Education Advisory Council; Healthcare Association of Hawaii; Planned Parenthood Votes Northwest and Hawaii; American Diabetes Association; American Heart Association; March of Dimes; Hawaii Section of the American Congress of Obstetricians and Gynecologists; IMUAlliance; ILWU Local 142; Hawaii Public Health Institute; The Queen's Health Systems; AARP Hawaii; Healthy Mothers Healthy Babies Coalition of Hawaii; and one individual.

Your Committee received written comments in opposition to this measure from the Hawaii Employer-Union Health Benefits Trust Fund (EUTF), and two individuals.

Your Committee received written comments on this measure from the Department of Labor and Industrial Relations; Department of Human Services; Department of Budget and Finance; Department of Taxation; Legislative Reference Bureau; Tax Foundation of Hawaii; Kaiser Permanente; HMSA; and Hawaii Children's Action Network.

Your Committee finds that for over forty years, Hawaii's Prepaid Health Care Act has ensured that Hawaii would have among the lowest levels of uninsured persons in the nation. The federal enactment of the Patient Protection and Affordable Care Act reduced the number of uninsureds even further, providing fifty-five thousand more Hawaii residents with access to affordable care from doctors and hospitals. This achievement is now potentially jeopardized with the possibility of new congressional action, and uncertainty abounds with respect to when and how the federal act will be "repealed and replaced." Your Committee believes that under a worse case scenario, this measure will serve to retain the best elements of the federal act, should the act be repealed.



Your Committee has amended this measure by changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

Your Committee notes that the EUTF submitted written comments in opposition to this measure, primarily because of the potential impacts upon state and county retirees. Your Committee requests the Conference Committee on this measure to consider the EUTF's concerns.

Your Committee also notes several substantive and technical issues for the Conference Committee's consideration. The substantive issues include the following:

- (1) Section 2 of the measure creates a new Hawaii Revised Statutes section -2, relating to "Management of the fund": The cross-reference to "chapter 37" in the provision requiring the Director of Finance to be liable for the performance of the director's duties, as provided under chapter 37, HRS, seems inapposite because chapter 37, HRS, deals primarily with the executive budget and the allotment system. In contrast, chapter 36, HRS, deals with the management of state funds; and
- (2) Section 2 of the measure creates a new Hawaii Revised Statutes section -4, relating to "Entitlement to premium supplementation": Specifically, section -4 provides that only an "insurer" is entitled to premium supplementation and only for "individual" policies, plans, contracts, and agreements, even though the minimum essential coverage requirements under sections 5 to 7 of the measure are imposed upon mutual benefit societies and health maintenance organizations, as well as insurers, and apply to both *individual* and *group* policies, plans, contracts, and agreements.

The technical issues include the following:

- (1) Section 2 of the measure creates new Hawaii Revised Statutes sections -2, relating to "Management of the fund," and -3, relating to "Disbursements from the fund": State laws are referenced but without specific



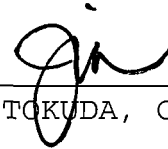
statutory references. It is therefore unclear which laws are referred to by the phrases "the general depository law of the State" and "provisions of law requiring specific appropriations or other formal release by the state officers of money in their custody";

- (2) Section 2 of the measure creates new Hawaii Revised Statutes section -4, relating to "Entitlement to premium supplementation": Contrary to the language as drafted, it does not appear that proposed new Hawaii Revised Statutes "section 235-A," which is an individual income tax section, requires insurers to provide the minimum essential coverage. Rather, it would appear that this requirement is imposed upon insurers and like entities under the new sections relating to "Essential health care benefits" and "Extension of dependent coverage" that are being added to chapters 431, 432, and 432D, Hawaii Revised Statutes, in sections 5, 6, and 7 of the measure;
- (3) Section 5 of the measure adds four new sections to article 10A, chapter 431, Hawaii Revised Statutes, but does not specify the parts of article 10A to which the sections should be added. Furthermore, three of them, specifically, the sections entitled, "Extension of dependent coverage," "Prohibition of preexisting condition exclusions," and "Prohibited discrimination in premiums or contributions," deal with both individual and group policies. Part I of article 10A deals only with individual policies while part II deals only with group policies; and
- (4) Section 7 of the measure adds two new sections relating to "Essential health care benefits" and "Extension of dependent coverage," respectively, to chapter 432D, Hawaii Revised Statutes, relating to health maintenance organizations. The consistent prior practice for amending required coverages for health maintenance organization policies has been to amend section 432D-23, HRS, to add cross references to the counterpart provisions that are being added to article 10A of chapter 431, HRS.



As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 552, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 552, H.D. 1, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,



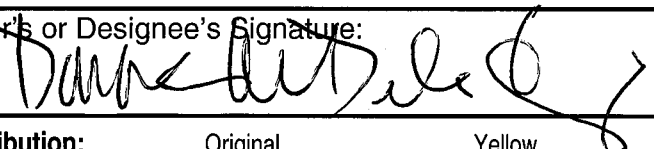
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JILL N. TOKUDA, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <b>HB 552, HD1, SD1</b>	Committee Referral: <b>CPH, WAM</b>	Date: <b>4/3/17</b>		
<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
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood				/
HARIMOTO, Breene	/			
INOUYE, Lorraine R.				/
KAHELE, Kaiali'i	/			
RIVIERE, Gil				/
SHIMABUKURO, Maile S.L.	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn	/			
<b>TOTAL</b>	<b>8</b>			<b>3</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes