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To: The Honorable John M. Mizuno, Chair
and Members of the House Committee on Health & Human Services

Date: Tuesday, March 13, 2018
Time: 8:30 A.M.
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2924, S.D. 2, Relating to Health Insurance

The Department of Taxation (Department) offers the following comments on S.B. 2924, S.D. 2, for the Committee's consideration.

S.B. 2924, S.D. 2, requires qualified taxpayers to obtain and maintain creditable coverage of health insurance and imposes a penalty on any qualified taxpayer that fails to maintain creditable coverage for more than 63 days. The penalty is to be assessed on taxpayers' individual income tax returns. The bill defines creditable coverage by referring to the various plans and sources of coverage that constitute creditable coverage. The bill has a defective effective date of July 1, 2050 and will be repealed on December 31, 2023.

First, the Department notes that it has concerns with its ability to properly administer this penalty. The Department is not an expert on health insurance coverage and will be unable to make sophisticated determinations as to what qualifies as creditable coverage and what does not. The Department notes that the bill empowers the insurance commissioner to review the Department's decisions on the applicability of the penalty. This highlights the Department's concern, as it shows that the Department is not the agency best equipped to determine what qualifies as creditable coverage.

For the above reason, the Department recommends requiring another party to certify to taxpayers that they have creditable coverage. This certification would mimic the federal penalty, which requires insurers to issue a statement to those insured to document their coverage.

Second, the Department notes that the penalty itself is not specified in the bill. The Department recommends defining the calculation and amount of the penalty.

Finally, the Department notes that the definition and description of the taxpayers that are affected is unclear and potentially confusing. The Department recommends revisiting the definition of qualified taxpayers to clarify who the penalty does and does not apply to.

Thank you for the opportunity to provide comments.



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TO THE SENATE COMMITTEE ON
HEALTH AND HUMAN SERVICES

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, March 13, 2018
8:30 a.m.

TESTIMONY ON SENATE BILL NO. 2924, S.D. 2, RELATING TO HEALTH INSURANCE.

TO THE HONORABLE JOHN M. MIZUNO, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on S.B. 2924, S.D.2, Relating to Health Insurance. My name is Gordon Ito, and I am the Insurance Commissioner (“Commissioner”) for the Department’s Insurance Division (“Division”). The Department appreciates the intent of this bill and submits the following comments.

The purpose of this bill is to establish an individual mandate for certain qualified taxpayers to obtain and maintain health insurance throughout the year.

This bill seeks to stabilize our health insurance market and provides a valuable opportunity to discuss the important issue of maintaining enrollment numbers in health insurance plans.

In Section 3, page 10, lines 5 to 8, the Commissioner is required to “establish a process to determine which health plans shall be considered affordable, for the purposes of ... section 235- [.]” Instead of establishing a process, assessing affordability should be based upon criteria similar to the individual mandate process implemented by Massachusetts.

Additionally, on page 10, lines 9 to 11, the Commissioner is further required to post on the Division website “the list of health plans deemed to be creditable coverage[.]” If the intent of this language is that the Division maintain a comprehensive list of every insurance plan that would possibly qualify as “creditable coverage,” this task would present significant difficulties for the Division. Many entities that would issue “creditable coverage,” such as all federal government entities, are outside the jurisdiction of the Division.

Finally, on page 11, lines 3 to 7, the Commissioner is empowered to “establish an appeals procedure for enforcement actions taken by the department of taxation under section 235- [.]” The Department submits that it may not be appropriate for the Commissioner to preside over appeals of administrative actions by the Department of Taxation (“DOTAX”), as the Commissioner would then be called upon to review DOTAX’s administrative decisions in matters that are within DOTAX’s scope of expertise.

Thank you for the opportunity to submit testimony on this measure.



An Independent Licensee of the Blue Cross and Blue Shield Association

March 13, 2018

The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
House Committee on Health and Human Services

Re: SB 2924, SD2 – Relating to Health Insurance

Dear Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on SB 2924, SD2, which establishes an individual mandate for certain qualified taxpayers to sign up and maintain health insurance throughout the year, or pay a penalty on their individual income tax return. HMSA supports the intent of this Bill.

HMSA commends the Committee for taking a proactive stance in preserving aspects of the Affordable Care Act that were repealed as a result of recent action by the President and Congress. This Bill in particular seeks to make permanent the individual mandate at a state level in order to help maintain the high percentage of individuals who are insured in Hawaii. Additionally, this Bill will help avoid a potentially drastic increase in individual plan rates.

Thank you for allowing us to comment on SB 2924, SD2.

Sincerely,

Pono Chong
Vice-President, Government Relations

Testimony of
Jonathan Ching
Government Relations Specialist

Before:
House Committee on Health & Human Services
The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair

March 13, 2018
8:30 a.m.
Conference Room 329

Re: SB2924 SD2, Relating to Health Insurance

Chair Mizuno, Vice-Chair Kobayashi, and committee members, thank you for this opportunity to provide testimony on SB2924 SD2, which establishes a state-level individual mandate.

Kaiser Permanente Hawai'i SUPPORTS SB2924 SD2

As the committee is aware, significant uncertainties exist in the individual health insurance market. Last year, the federal government eliminated funding of Cost Sharing Reduction (CSR) payments, which drove up premiums for many consumers seeking coverage in Hawai'i and across the nation. Additionally, Congress and President Trump signed into law tax legislation that reduces the federal individual mandate penalty to zero. Both the elimination of the CSR payments and the penalty associated with the individual mandate has resulted in further uncertainty about the future of the individual market in Hawai'i. For this reason, we support the state's efforts to protect and preserve the individual market through the establishment of a state-level individual mandate.

Kaiser Permanente Hawai'i recognizes that a state-level individual mandate is not a panacea to stabilized markets, but is one component that can be used to provide certainty and stability to insurers. Other tools such as an appropriately structured and funded reinsurance program is another step towards reducing individual premiums and promoting stability in the individual market.

Prior to the enactment of the Patient Protection and Affordable Care Act (ACA) in 2010, states attempting to manage guaranteed issue markets without individual coverage mandates experienced rising premiums and fewer options for consumers. With the enactment of the ACA and the federal individual mandate, many more of our residents obtained affordable health insurance. However, the reduction of the ACA's individual mandate penalty to zero have created a lack of certainty and stability, which are the biggest contributors to premium hikes.

We look forward to having the opportunity to work with the Committee to further SB2924 SD2, which we see as the best alternative to an enforced federal mandate. Thank you for the opportunity to testify on this measure.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

**TESTIMONY FOR SENATE BILL 2924, SENATE DRAFT 2, RELATING TO HEALTH
INSURANCE**

House Committee on Health and Human Services

Hon. John M. Mizuno, Chair

Hon. Bertrand Kobayashi, Vice Chair

Tuesday, March 13, 2018, 8:30 AM

State Capitol, Conference Room 329

Honorable Chair Mizuno and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in strong support of Senate Bill 2924, SD 2, relating to health insurance.

President Donald Trump and the Republicans who currently control Congress have moved to repeal the Affordable Care Act, recently eliminating the individual mandate at the core of Obamacare in the GOP's heartless tax reform bill enacted at the end of 2017. To date, they've yet to finalize a plan for replacing the ACA, much less one that continues coverage for millions of Americans who will lose their health insurance upon the ACA's complete repeal.

Without access to health care, the inalienable rights to life, liberty, and the pursuit of happiness can be neither pursued nor obtained. The recently enacted Republican tax bill effectively repealed the ACA's individual mandate by reducing the tax penalty in the existing law to \$0 or 0 percent of household income above a certain threshold, which will result in increased insurance premiums, weakened insurance markets, and up to 13,000,000 more uninsured citizens by the year 2027, including many working families here in the islands.

Health care is a human right. Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

SB-2924-SD-2

Submitted on: 3/11/2018 3:58:20 PM

Testimony for HHS on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Members, Committee on Health and Human Services

From:  Paula Yoshioka, Vice President, Government Relations and External Affairs, The Queen's Health Systems

Date: March 12, 2018

Hrg: House Committee on Health and Human Services Hearing; Tuesday, March 13, 2018 at 8:30 A.M. in Room 329

Re: **Support for SB 2924, SD2, Relating to Health Insurance**

My name is Paula Yoshioka, and I am a Vice President at The Queen's Health Systems (QHS). I would like to express my **support** for the intent of SB 2924, SD2, Relating to Health Insurance. This measure would establish an individual mandate for certain qualified taxpayers to sign up and maintain health insurance throughout the year, or pay a penalty on their individual income tax return.

Across the nation about 20 million more adults have gained coverage through the Affordable Care Act (ACA) and the country has seen the uninsured rate drop by nearly 40 percent or more for every income group.¹ For Hawaii, number of uninsured individuals declined by 46 percent between 2013 and 2016.²

The mission of QHS to provide quality health care services to Native Hawaiians and the people of Hawaii regardless of their ability to pay. QHS is concerned that the dismantling of the ACA would result in thousands of our patients losing coverage. In 2016, QHS absorbed \$55.9 million in Medicaid reimbursement shortfalls that did not cover the full cost of care. As QHS continues to grow and meets the needs of our community, ensuring that our patients have access to health insurance is critical for our health care system.

We commend the legislature for introducing this measure that seeks to protect access to health care coverage for the people of Hawai'i. Thank you for your time and attention to this important issue.

¹ United States Department of Health and Human Services, ASPE Issue Brief, "Affordable Care Act Has Led to Historic, Widespread Increase in Health Insurance Coverage",

<https://aspe.hhs.gov/sites/default/files/pdf/207946/ACAHistoricIncreaseCoverage.pdf>

² United States Census Bureau, "Health Insurance Coverage in the United States: 2016",

<https://www.census.gov/content/dam/Census/library/publications/2017/demo/p60-260.pdf>

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.

SB-2924-SD-2

Submitted on: 3/12/2018 2:59:35 PM

Testimony for HHS on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Armstrong	Healthcare Sharing Ministries	Comments	No

Comments:

Rep .John Mizuno, Chair

Rep .Bertrand Kobayashi, Vice-Chair

Members of the HHS Committee

RE: SB2924 – Relating to Health Insurance

Aloha and Greetings,

1. want to congratulate the sponsors of this legislation. t is important to maintain adequate and affordable healthcare for your constituents.

I am Joe Armstrong . I served 28 years in the Tennessee House of Representatives. For 16 years I served as Chair of the House Health Committee. In 2013-14 I was president of the National President of the National Black Caucus of State Legislators, and I am a member of the Corporate Roundtable for NBCSL . I visited Hawaii in 2014 with the Quad Caucus.

The bill, SB2924 mirrors federal legislation in the Affordable Care Act (ACA) but is missing a very important component, an exemption for health care sharing ministries certified under the applicable provisions of the ACA.

Many states have passed similar legislation. : Maryland, Illinois, Massachusetts, and Vermont, to name several. Within the legislation are found standard definitions and exemptions that are present within the ACA, such as:

- Individuals who cannot afford coverage
- Taxpayer with Income below federal filing thresholds
- Members of Indian Tribes
- Religious Exemptions:

A member of a recognized religious sect or division thereof described in 26 U.S.C. § 1402(g)(1); and an adherent of established tenets or teachings of that sect as described in 26 U.S.C. § 1402(g)(1). 5 (b)(1) An individual shall be exempt from the requirement to maintain minimum essential coverage and shall not be subject to a penalty if the individual is a member for the month of a health care sharing ministry. As used in this subsection, "health care sharing ministry" means an organization: that is described in 26 U.S.C. § 501(c)(3) and is exempt from taxation under 26 U.S.C. § 501(a); the members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed; the members of which retain membership even after they develop a medical condition.

Health care sharing ministries are part of the solution to the health care needs of Americans. In the interest of ensuring Hawaii's citizens have more legally-approved choices (particularly one that is present in the ACA), I submit that it is for their benefit that language mirroring the federal law be added to SB2924. Please add these important exemptions to your legislation and parallel the ACA and other states.

Thank you.

Joe Armstrong

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Enforce Individual Health Care Mandate Through Income Tax System

BILL NUMBER: SB 2924, SD-2

INTRODUCED BY: Senate Committee on Ways & Means

EXECUTIVE SUMMARY: Establishes an individual mandate for certain qualified taxpayers to sign up and maintain health insurance throughout the year or pay a penalty on their individual income tax returns.

SYNOPSIS: Adds a new section to HRS chapter 235 to impose a penalty on any qualified taxpayer who is not covered with affordable, creditable health insurance coverage, or whose dependent is not covered, in any month.

A qualified taxpayer is at least 18 years old and is a resident of Hawaii or has become a resident of Hawaii within the last 63 days.

An individual would be exempt from the penalty if the individual is not required to file a tax return; if the individual or family has income under ___% of the federal poverty level in Hawaii; or if the individual is a nonresident.

The amount of the penalty is unspecified.

Adds a new section to HRS chapter 431, Article 2, to give the Insurance Commissioner jurisdiction to determine creditable coverage and whether such coverage is affordable.

EFFECTIVE DATE: July 1, 2050; repealed on December 31, 2023.

STAFF COMMENTS: The proposed measure is a reaction to the Tax Cuts and Jobs Act of 2017's repeal, effective January 1, 2019, of the individual health care coverage mandate in the Patient Protection and Affordable Care Act of 2010, commonly known as "Obamacare." The proposal basically says, "Even if the national Obamacare law is repealed, we can and will still have it in Hawaii."

The federal individual mandate law, IRC section 5000A, allows for several exemptions, which the bill for the most part ignores. There are good reasons for several of the exemptions, and great care should be taken before deciding to toss them.

For example, what about an individual who is in prison for the whole year? The federal ACA exempts that individual, but this bill would not. If the State is taking care of that individual while in custody, why does that individual need to buy health insurance?

And what about an individual who died during the year? If Grandpa died in February, are we really going to make his widow pay to cover his health insurance for the full year, or penalize her for not having insurance for him if his health insurance terminates upon his death?

Re: SB 2924, SD-2
Page 2

We are assuming, of course, that such exemptions will be recognized under Hawaii law. If the legislature's intent is not to carry over the exemptions, then the public should know that this adaptation of the Obamacare individual mandate is more onerous than that provided in the federal law.

Digested 3/12/2018