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ASSEMBLY COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED JUNE 6, 2019

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**Assemblyman Caputo, Assemblywomen Lampitt, Vainieri Huttle and
Assemblyman Benson**

SYNOPSIS

Authorizes DOBI to establish State-based exchange for certain health insurance plans and coordinate with Department of Human Services.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 13, 2019, with amendments.

(Sponsorship Updated As Of: 6/28/2019)

1 AN ACT concerning health insurance and supplementing Title 17B
2 of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. There is established in the Department of the Treasury a
8 nonlapsing revolving fund to be known as the “Health Insurance
9 Exchange Trust Fund.” This fund shall be the repository for monies
10 collected pursuant to subsection c. of this section, any federal
11 financial participation available, and other monies received as
12 grants or otherwise appropriated for the purposes of supporting
13 health insurance outreach and enrollment efforts through an
14 exchange. The monies in the fund shall be used only for the
15 purpose of supporting the exchange through initial start-up costs
16 associated with establishment of the exchange, exchange
17 operations, outreach, enrollment, and other means of supporting the
18 exchange¹, including any efforts that can increase market
19 stabilization and that may result in a net benefit to policyholders¹.

20 b. The State Treasurer shall be the custodian of the fund and all
21 disbursements from the fund shall be made by the State Treasurer
22 upon vouchers signed by the Commissioner of Banking and
23 Insurance. The monies in the fund shall be invested and reinvested
24 by the Director of the Division of Investment in the Department of
25 the Treasury to the same extent that other trust funds that are in the
26 custody of the State Treasurer are invested and reinvested, in the
27 manner provided by law. Interest received on the monies in the
28 fund shall be credited to the fund.

29 c. The commissioner may apply a monthly assessment to each
30 individual¹ health benefits plan ¹**[offered by a carrier]** sold in the
31 individual market¹. The assessment shall be paid by the carrier and
32 deposited into the fund and shall be used only for the purpose of
33 supporting the exchange through initial start-up costs associated
34 with establishment of the exchange, exchange operations, outreach,
35 enrollment, and other means of supporting the exchange¹, including
36 any efforts that can increase market stabilization and that may result
37 in a net benefit to policyholders¹. The assessment may be applied
38 at a rate of:

39 (1) .5 percent of the total monthly premium charged by a carrier
40 for each health benefits plan during any period that the State is on a
41 federally-facilitated exchange;

42 (2) 1 percent of the total monthly premium charged by a carrier
43 for each health benefits plan during any period that the State is on a
44 State-based exchange using the federal platform; or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 13, 2019.

1 (3) 3.5 percent of the total monthly premium charged by a
2 carrier for each health benefits plan during any period that the State
3 is on a State-based exchange. The commissioner shall have the
4 discretion to adjust this rate to ensure that the State-based exchange
5 is fully funded, but in no case shall the assessment be applied at a
6 rate that exceeds ~~1~~¹ ~~5~~ ⁴ percent of the total monthly premium
7 charged by a carrier. 1¹ If the commissioner determines it is
8 necessary to adjust the rate above 3.5 percent pursuant to this
9 paragraph, the commissioner shall, in advance of the adjustment,
10 post on the department's website a report describing the reasons and
11 justifications for the adjustment, which shall be consistent with the
12 purposes of supporting the exchange as provided in this section.¹

13 ~~1~~¹ ~~Beginning on January 1,~~ After the¹ 2020 plan year¹, the
14 commissioner shall ~~1~~¹ ~~provide~~ notify¹ a carrier ~~1~~¹ ~~with adequate~~
15 ~~notice~~¹ of its assessment rate for the subsequent year ~~1~~¹ ~~to allow~~
16 at least 20 days prior to the date¹ the carrier ~~1~~¹ ~~to adjust~~ is required
17 to file¹ its rate filing ~~1~~¹ ~~based on the assessment rate~~ with the
18 department¹. 1¹ In the case of an assessment for the 2020 plan year,
19 the commissioner shall notify carriers as soon as is practicable of
20 the assessment amount.¹

21 d. Any unexpended balance in the fund at the end of a year
22 shall be available for expenditure by the commissioner in the
23 subsequent year. The commissioner shall consider any unexpended
24 balance from a previous year when calculating the assessment
25 pursuant to subsection c. of this section.
26

27 2. a. Notwithstanding any other law to the contrary, the
28 Department of Banking and Insurance shall have the authority to
29 operate a State-based exchange and coordinate the operations of the
30 exchange with the operations of the New Jersey Individual Health
31 Coverage Program and the New Jersey Small Employer Health
32 Benefits Program, including reorganization of the boards, as the
33 commissioner deems appropriate. The department's authority to
34 regulate the insurance market shall be separate and distinct from the
35 department's duty to oversee exchange operations, to ensure the
36 best interests of and protection for consumers of the State. 1¹ The
37 commissioner may require that all plans in the individual and small
38 employer markets be made available for comparison on the State-
39 based exchange, but nothing in this section shall allow the
40 commissioner to require all plans in the individual and small
41 employer markets to be purchased exclusively on the State-based
42 exchange.¹ The department shall also have the authority to
43 coordinate the operations of the exchange with the operations of the
44 State Medicaid program established pursuant to P.L.1968, c.413
45 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established
46 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

1 b. The Commissioner of Banking and Insurance shall, in
2 consultation with the Commissioner of Human Services, examine
3 whether federal financial participation is available for the exchange
4 as a State administrative expenditure necessary for the proper and
5 efficient administration of the State Medicaid plan. If the
6 commissioner, in consultation with the Commissioner of Human
7 Services, finds that federal financial participation is available and
8 practicable, the commissioners shall, in consultation with one
9 another, secure the maximum federal financial participation
10 available.

11 c. The Commissioner of Banking and Insurance shall have the
12 authority to require that plans offered on the exchange conform
13 with standardized plan designs that provide for standardized cost-
14 sharing for covered health services.

15 ¹d. The Commissioner of Banking and Insurance shall establish
16 an advisory committee to provide advice to the commissioner
17 concerning the operation of the exchange. The advisory committee
18 shall include at least nine members, as follows:

19 (1) The Commissioner of Banking and Insurance, or a designee,
20 who shall serve ex-officio;

21 (2) The Commissioner of Human Services, or a designee, who
22 shall serve ex-officio;

23 (3) the Commissioner of Health, or a designee, who shall serve
24 ex-officio; and

25 (4) six public members, who shall be residents of the State,
26 appointed by the Commissioner of Banking and Insurance. Each
27 public member shall have demonstrated experience in one or more
28 of the following areas: health insurance consumer advocacy;
29 individual health insurance coverage; small employer health
30 insurance coverage; health benefits plan marketing; the provision of
31 health care services; or academic or professional research relating
32 to health insurance.¹

33

34 3. a. The Commissioner of Banking and Insurance shall
35 present a report to the Governor, and to the Legislature pursuant to
36 section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than June 1,
37 2022, which contains the commissioner's findings and
38 recommendations, including such recommendations for
39 administrative or legislative action as the commissioner deems
40 appropriate, and the status of any decisions or efforts pursuant to
41 subsection a. of section 2 of this act to coordinate the operations of
42 the exchange with:

43 (1) the New Jersey Individual Health Coverage Program
44 established pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) and
45 the New Jersey Small Employer Health Benefits Program
46 established pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.);
47 and

1 (2) the operations of the State Medicaid and NJ FamilyCare
2 programs.

3 b. The Commissioner of Banking and Insurance and the
4 Commissioner of Human Services shall present a report to the
5 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
6 c.164 (C.52:14-19.1), no later than June 1, 2022, which contains an
7 evaluation of the actions of those departments in securing federal
8 financial participation pursuant to subsection b. of section 2 of this
9 act, including details on any grants or federal funding matches
10 which were evaluated, any applications for grants or funding that
11 were made, any applications that were denied, and any funding that
12 was or may be received.

13

14 4. The Department of Banking and Insurance shall adopt rules
15 and regulations pursuant to the "Administrative Procedure Act,"
16 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
17 this act.

18

19 5. This act shall take effect on January 1, 2020, except the
20 commissioner may take any anticipatory administrative action in
21 advance as shall be necessary for the implementation of this act.