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**FLOOR AMENDMENT STATEMENT:** Yes

**LEGISLATIVE FISCAL ESTIMATE:** Yes 03/29/2023  
06/29/2023

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

CL/JA

P.L. 2023, CHAPTER 182, *approved November 27, 2023*  
Senate Committee Substitute (*Second Reprint*)  
for Senate, No. 2824

1 AN ACT requiring study of small employer health insurance and  
2 supplementing P.L.2020, c.61 (C.17B:27A-65 et seq.).  
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:  
6

7 1. a. The Department of Banking and Insurance shall conduct a  
8 study of:

9 (1) the <sup>1</sup>potential<sup>1</sup> impact on the New Jersey Individual Health  
10 Coverage Program and the New Jersey Small Employer Health  
11 Benefits Program of pursuing an amendment to the waiver of  
12 applicable provisions of the Affordable Care Act granted by the United  
13 States Secretary of Health and Human Services pursuant to 42 U.S.C.  
14 s.18052 in order to merge the individual and small group markets and  
15 **[extend] the availability and impact of extending<sup>1</sup>** reinsurance to  
16 small businesses purchasing health insurance through the pooled  
17 market; **[and]<sup>1</sup>**

18 (2) the **[creation of] costs and benefits of creating<sup>1</sup>** a small  
19 employer health insurance subsidy<sup>1</sup>, **and other affordability measures**  
20 **as deemed appropriate by the commissioner,<sup>1</sup>** and sustainable funding  
21 sources for that subsidy **and those measures<sup>1</sup>**. The examination shall  
22 consider the size of an effective and meaningful subsidy, an analysis of  
23 available sustainable funding sources, including an examination of the  
24 establishment of an assessment on other lines of insurance, the size of  
25 any such assessment, and how best to administer both the subsidy and  
26 a potential assessment. The department shall examine similar  
27 subsidies and assessments in other states, including the New Mexico  
28 health care affordability fund and health insurance premium surtax<sup>1</sup>;

29 (3) the actuarial impact of increasing the age rating ratio in the  
30 New Jersey Small Employer Health Benefits Program from 2:1 to  
31 various ranges up to 3:1 . The department shall specifically examine  
32 the impact of any increase of the age rating ratio on consumers and  
33 overall premiums in the small group market, as well as any impact on  
34 market viability, competitiveness, enrollment, and any other factors  
35 that the department finds necessary. The study shall examine and  
36 illustrate the impact of the implementation schedule of any age rating  
37 ratio changes. Additionally, the study shall examine the effect of  
38 geographic region ratings on premiums and whether it would be in the  
39 best interests of the small group market's viability and employers and

**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:

<sup>1</sup>Senate SBA committee amendments adopted March 16, 2023.

<sup>2</sup>Assembly floor amendments adopted May 25, 2023.

1 employees to retain or eliminate this factor. The study shall include  
2 recommendations to the Legislature to support the health of the small  
3 group market and its eligible enrollees; and

4 (4) other policies that could contribute to stabilizing the small  
5 employer health insurance market<sup>1</sup>.

6 b. The department shall make <sup>1</sup>a report of the study's findings and  
7 recommendations and provide a copy of the report to the<sup>1</sup> public  
8 <sup>1</sup>[and] through the Internet website of the department. The  
9 department shall also provide the<sup>1</sup> report <sup>1</sup>[its findings and  
10 recommendations]<sup>1</sup> to the Governor, and to the Legislature pursuant to  
11 section 2 of P.L.1991, c.164 (C.52:14-19.1), <sup>1</sup>[of the study conducted  
12 pursuant to this section]<sup>1</sup> no later than <sup>1</sup>[120 days] one year<sup>1</sup>  
13 following the effective date of this act <sup>1</sup>.

14 c. The commissioner is authorized to request directly from any  
15 other department or agency of State government information or data  
16 that may be needed to carry out the requirements of this section; and  
17 such department or agency is authorized and shall furnish the  
18 requested information or data.

19 d. The commissioner may request from any carrier participating  
20 in the Small Employer Health Benefits Program and Individual Health  
21 Coverage Program data necessary to conduct the study pursuant to this  
22 section, and carriers shall provide the requested data.

23 e. The commissioner may engage the services of experts and  
24 consultants to assist with the preparation of the study required under  
25 this section<sup>1</sup>.

26 <sup>2</sup>f. There is appropriated from the General Fund to the Department  
27 of Banking and Insurance \$500,000 to effectuate the purposes of this  
28 act.<sup>2</sup>

29  
30 2. This act shall take effect immediately.

31

32

33

34

35 Requires DOBI to conduct study on impact of certain changes to  
36 individual and small group health insurance markets.

# SENATE, No. 2824

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 9, 2022

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Revises various requirements for individual and small employer health benefits plans.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/19/2023)

1 AN ACT concerning small employer and individual health benefits  
2 plans, amending P.L.1992, c.161 and P.L.1992, c.162, and  
3 supplementing various parts of the statutory law.

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

7  
8 1. Section 3 of P.L.1992, c.161 (C.17B:27A-4) is amended to  
9 read as follows:

10 3. a. **[No later than 180 days after the effective date of this**  
11 **section of P.L.2008, c.38, a carrier shall, as a condition of issuing**  
12 **small employer health benefits plans in this State, also offer**  
13 **individual health benefits plans. The plans shall be offered on an**  
14 **open enrollment, modified community rated basis, pursuant to the**  
15 **provisions of this act and P.L.2008, c.38. Every carrier that issues**  
16 **small employer health benefits plans pursuant to P.L.1992, c.162**  
17 **(C.17B:27A-17 et seq.) shall make a good faith effort to market**  
18 **individual health benefits plans.]** (Deleted by amendment,  
19 P.L. , c. (pending before the Legislature as this bill).

20 b. A carrier shall offer to an eligible person a choice of at least  
21 three individual health benefits plans established by the board  
22 pursuant to section 6 of P.L.1992, c.161 (C17B:27A-7).

23 c. (1) (Deleted by amendment, P.L.2019, c.359).

24 (2) (Deleted by amendment, P.L.2019, c.359).

25 (3) (Deleted by amendment, P.L.2019, c.359).

26 (4) (Deleted by amendment, P.L.2019, c.359).

27 (5) The provisions of section 13 of P.L.1985, c.236 (C.17:48E-  
28 13), N.J.S.17B:26-1, and section 8 of P.L.1973, c.337 (C.26:2J-8)  
29 with respect to the filing of policy forms shall not apply to health  
30 plans issued on or after the effective date of **[this act]** P.L.1992,  
31 c.161 (C.17B:27A-2 et al.).

32 (6) The provisions of section 27 of P.L.1985, c.236 (C.17:48E-  
33 27) and section 7 of P.L.1988, c.71 (C.17:48E-27.1) with respect to  
34 rate filings shall not apply to individual health plans issued on or  
35 after the effective date of **[this act]** P.L.1992, c.161 (C.17B:27A-2  
36 et al.).

37 d. Every group conversion contract or policy issued after the  
38 effective date of **[this act]** P.L.1992, c.161 (C.17B:27A-2 et al.)  
39 shall be issued pursuant to this section; **[except that this**  
40 **requirement shall be issued pursuant to this section;]** except that  
41 this requirement shall not apply to any group conversion contract or  
42 policy in which a portion of the premium is chargeable to, or  
43 subsidized by, the group policy from which the conversion is made.

44 e. (Deleted by amendment, P.L.2008, c.38).

45 f. (Deleted by amendment, P.L.2019, c.359).

46 (cf: P.L.2019, c.359, s.2)

**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.**

1       2. Section 5 of P.L.1992, c.161 (C.17B:27A-6) is amended to  
2 read as follows:

3       5. An individual health benefits plan issued pursuant to section  
4 3 of **【this act】** P.L.1992, c.161 (C.17B:27A-2 et al.) is subject to the  
5 following provisions:

6       a. The health benefits plan shall guarantee coverage for an  
7 eligible person and his dependents on a modified community rated  
8 basis.

9       b. A health benefits plan shall be renewable with respect to an  
10 eligible person and his dependents at the option of the policy or  
11 contract holder. A carrier may terminate a health benefits plan  
12 under the following circumstances:

13       (1) the policy or contract holder has failed to pay premiums in  
14 accordance with the terms of the policy or contract or the carrier has  
15 not received timely premium payments;

16       (2) the policy or contract holder has performed an act or practice  
17 that constitutes fraud or made an intentional misrepresentation of  
18 material fact under the terms of the coverage.

19       c. A carrier may not renew a health benefits plan only under  
20 the following circumstances:

21       (1) termination of eligibility of the policy or contract holder if  
22 the person is no longer a resident or becomes eligible for a group  
23 health benefits plan, group health plan, governmental plan or church  
24 plan;

25       (2) cancellation or amendment by the board of the specific  
26 individual health benefits plan;

27       (3) approval by the commissioner of a request by the individual  
28 carrier to not renew a particular type of health benefits plan, in  
29 accordance with rules adopted by the commissioner. After  
30 receiving approval by the commissioner, a carrier may not renew a  
31 type of health benefits plan only if the carrier: (a) provides notice to  
32 each covered individual provided coverage of this type of the  
33 nonrenewal at least 90 days prior to the date of the nonrenewal of  
34 the coverage; (b) offers to each individual provided coverage of this  
35 type the option to purchase any other individual health benefits plan  
36 currently being offered by the carrier; and (c) in exercising the  
37 option to not renew coverage of this type and in offering coverage  
38 as required under (b) above, the carrier acts uniformly without  
39 regard to any health status-related factor of enrolled individuals or  
40 individuals who may become eligible for coverage;

41       (4) approval by the commissioner of a request by the individual  
42 carrier to cease doing business in the individual health benefits  
43 market. A carrier may not renew all individual health benefits plans  
44 only if the carrier: (a) first receives approval from the  
45 commissioner; and (b) provides notice to each individual of the  
46 nonrenewal at least 180 days prior to the date of the expiration of  
47 such coverage**【**. A carrier ceasing to do business in the individual  
48 health benefits market may not provide for the issuance of any

1 health benefits plan in the individual or small employer markets  
2 during the five-year period beginning on the date of the termination  
3 of the last health benefits plan not so renewed】; and

4 (5) In the case of a health benefits plan made available by a  
5 health maintenance organization carrier, the carrier shall not be  
6 required to renew coverage to an eligible individual who no longer  
7 resides, lives, or works in the service area, or in an area for which  
8 the carrier is authorized to do business, but only if coverage is  
9 terminated under this paragraph uniformly without regard to any  
10 health status-related factor of covered individuals.

11 (cf: P.L.2008, c.38, s.14)

12

13 3. Section 3 of P.L.1992, c.162 (C.17B:27A-19) is amended to  
14 read as follows:

15 3. a. Except as provided in subsection f. of this section, every  
16 small employer carrier shall, as a condition of transacting business  
17 in this State, offer to every small employer at least three of the  
18 health benefit plans established by the board, as provided in this  
19 section【, and also offer and make a good faith effort to market  
20 individual health benefits plans as provided in section 3 of  
21 P.L.1992, c.161 (C.17B:27A-4)】. The board shall establish a  
22 standard policy form for each of the plans, which except as  
23 otherwise provided in subsection j. of this section, shall be the only  
24 plans offered to small groups on or after January 1, 1994. One  
25 policy form shall contain the benefits provided for in sections 55,  
26 57, and 59 of P.L.1991, c. 187 (C.17:48E-22.2, 17B:26B-2 and  
27 26:2J-4.3). In the case of indemnity carriers, one policy form shall  
28 be established which contains benefits and cost sharing levels which  
29 are equivalent to the health benefits plans of health maintenance  
30 organizations pursuant to the “Health Maintenance Organization  
31 Act of 1973,” Pub.L.93-222 (42 U.S.C. s.300e et seq.). The  
32 remaining policy forms shall contain basic hospital and medical-  
33 surgical benefits, including, but not limited to:

34 (1) Basic inpatient and outpatient hospital care;

35 (2) Basic and extended medical-surgical benefits;

36 (3) Diagnostic tests, including X-rays;

37 (4) Maternity benefits, including prenatal and postnatal care;

38 and

39 (5) Preventive medicine, including periodic physical  
40 examinations and inoculations.

41 At least three of the forms shall provide for major medical  
42 benefits in varying lifetime aggregates, one of which shall provide  
43 at least \$1,000,000 in lifetime aggregate benefits. The policy forms  
44 provided pursuant to this section shall contain benefits representing  
45 progressively greater actuarial values.

46 Notwithstanding the provisions of this subsection to the contrary,  
47 the board also may establish additional policy forms by which a  
48 small employer carrier, other than a health maintenance

1 organization, may provide indemnity benefits or health maintenance  
2 organization enrollees by direct contract with the enrollees' small  
3 employer through a dual arrangement with the health maintenance  
4 organization. The dual arrangement shall be filed with the  
5 commissioner for approval. The additional policy forms shall be  
6 consistent with the general requirements of P.L.1992, c.162  
7 (C.17B:27A-17 et seq.).

8 b. Initially, a carrier shall offer a plan within 90 days of the  
9 approval of such plan by the commissioner. Thereafter, the plans  
10 shall be available to all small employers on a continuing basis.  
11 Every small employer which elects to be covered under any health  
12 benefits plan who pays the premium therefor and who satisfies the  
13 participation requirements of the plan shall be issued a policy or  
14 contract by the carrier.

15 c. The carrier may establish a premium payment plan which  
16 provides installment payments and which may contain reasonable  
17 provisions to ensure payment security, provided that provisions to  
18 ensure payment security are uniformly applied.

19 d. In addition to the standard policies described in subsection a.  
20 of this section, the board may develop up to five rider packages.  
21 Any such package which a carrier chooses to offer shall be issued to  
22 a small employer who pays the premium therefor, and shall be  
23 subject to rating methodology set forth in section 9 of P.L.1992,  
24 c.162 (C.17B:27A-25).

25 e. (Deleted by amendment, P.L.2008, c.38).

26 f. Notwithstanding the provisions of this section to the  
27 contrary, a health maintenance organization which is a qualified  
28 health maintenance organization pursuant to the "Health  
29 Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C.  
30 s.300e et seq.) shall be permitted to offer health benefits plans  
31 formulated by the board and approved by the commissioner which  
32 are in accordance with the provisions of that law in lieu of the five  
33 plans required pursuant to this section.

34 Notwithstanding the provisions of this section to the contrary, a  
35 health maintenance organization which is approved pursuant to  
36 P.L.1973, c.337 (C.26:2J-1 et seq.) shall be permitted to offer health  
37 benefits plans formulated by the board and approved by the  
38 commissioner which are in accordance with the provisions of that  
39 law in lieu of the plans required pursuant to this section, except that  
40 the plans shall provide the same level of benefits as required for a  
41 federally qualified health maintenance organization, including any  
42 requirements concerning copayments by enrollees.

43 g. A carrier shall not be required to own or control a health  
44 maintenance organization or otherwise affiliate with a health  
45 maintenance organization in order to comply with the provisions of  
46 this section, but the carrier shall be required to offer at least three of  
47 the benefits plans which are formulated by the board and approved  
48 by the commissioner, including one plan which contains benefits

1 and cost sharing levels that are equivalent to those required for  
2 health maintenance organizations.

3 h. Notwithstanding the provisions of subsection a. of this  
4 section to the contrary, the board may modify the benefits provided  
5 for in sections 55, 57 and 59 of P.L.1991, c.187 (C.17:48E-22.2,  
6 17B:26B-2 and 26:2J-4.3).

7 i. (1) In addition to the rider packages provided for in  
8 subsection d. of this section, every carrier may offer, in connection  
9 with the health benefits plans required to be offered by this section,  
10 any number of riders which may revise the coverage offered by the  
11 plans in any way, provided, however, that any form of such rider or  
12 amendment thereof which decreases benefits or decreases the  
13 actuarial value of a plan shall be filed for informational purposes  
14 with the board and for approval by the commissioner before such  
15 rider may be sold. Any rider or amendment thereof which adds  
16 benefits or increases the actuarial value of a plan shall be filed with  
17 the board for informational purposes before such rider may be sold.  
18 The added premium or reduction in premium for each rider, as  
19 applicable, shall be listed separately from the premium for the  
20 standard plan.

21 The commissioner shall disapprove any rider filed pursuant to  
22 this subsection that is unjust, unfair, inequitable, unreasonably  
23 discriminatory, misleading, contrary to law or the public policy of  
24 this State. The commissioner shall not approve any rider which  
25 reduces benefits below those required by sections 55, 57 and 59 of  
26 P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3) and  
27 required to be sold pursuant to this section. The commissioner's  
28 determination shall be in writing and shall be appealable.

29 (2) The benefit riders provided for in paragraph (1) of this  
30 subsection shall be subject to the provisions of section 2, subsection  
31 b. of section 3, and sections 5, 7, 8, 9 and 11 of P.L.1992, c.162  
32 (C.17B:27A-18, 17B:27A-19, 17B:27A-22, 17B:27A-23, 17B:27A-  
33 24, 17B:27A-25, and 17B:27A-27).

34 j. (1) Notwithstanding the provisions of P.L.1992, c.162  
35 (C.17B:27A-17 et seq.) to the contrary, a health benefits plan issued  
36 by or through a carrier, association, or multiple employer  
37 arrangement prior to January 1, 1994 or, if the requirements of  
38 subparagraph (c) of paragraph (6) of this subsection are met, issued  
39 by or through an out-of-State trust prior to January 1, 1994, at the  
40 option of a small employer policy or contract holder, may be  
41 renewed or continued after February 28, 1994, or in the case of such  
42 a health benefits plan whose anniversary date occurred between  
43 March 1, 1994 and the effective date of P.L.1994, c.11 (C.17B:27A-  
44 19.1 et al.), may be reinstated within 60 days of that anniversary  
45 date and renewed or continued if, beginning on the first 12-month  
46 anniversary date occurring on or after the sixtieth day after the  
47 board adopts regulations concerning the implementation of the  
48 rating factors permitted by section 9 of P.L.1992, c.162

1 (C.17B:27A-25) and, regardless of the situs of delivery of the health  
2 benefits plan, the health benefits plan renewed, continued or  
3 reinstated pursuant to this subsection complies with the provisions  
4 of section 2, subsection b. of section 3, and sections 6, 7, 8, 9 and  
5 11 of P.L.1992, c.162 (C.17B:27A-18, 17B:27A-19, 17B:27A-22,  
6 17B:27A-23, 17B:27A-24, 17B:27A-25 and 17B:27A-27) and  
7 section 7 of P.L.1995, c.340 (C17B:27A-19.3).

8 Nothing in this subsection shall be construed to require an  
9 association, multiple employer arrangement or out-of-State trust to  
10 provide health benefits coverage to small employers that are not  
11 contemplated by the organizational documents, bylaws, or other  
12 regulations governing the purpose and operation of the association,  
13 multiple employer arrangement or out-of-State trust.  
14 Notwithstanding the foregoing provision to the contrary, an  
15 association, multiple employer arrangement or out-of-State trust  
16 that offers health benefits coverage to its members' employees and  
17 dependents:

18 (a) shall offer coverage to all eligible employees and their  
19 dependents within the membership of the association, multiple  
20 employer arrangement or out-of-State trust;

21 (b) shall not use actual or expected health status in determining  
22 its membership; and

23 (c) shall make available to its small employer members at least  
24 one of the standard benefits plans, as determined by the  
25 commissioner, in addition to any health benefits plan permitted to  
26 be renewed or continued pursuant to this subsection.

27 (2) Notwithstanding the provisions of this subsection to the  
28 contrary, a carrier or out-of-State trust which writes the health  
29 benefits plans required pursuant to subsection a. of this section shall  
30 be required to offer those plans to any small employer, association  
31 or multiple employer arrangement.

32 (3) (a) A carrier, association, multiple employer arrangement, or  
33 out-of-State trust may withdraw a health benefits plan marketed to  
34 small employers that was in effect on December 31, 1993 with the  
35 approval of the commissioner. The commissioner shall approve a  
36 request to withdraw a plan, consistent with regulations adopted by  
37 the commissioner, only on the grounds that retention of the plan  
38 would cause an unreasonable financial burden to the issuing carrier,  
39 taking into account the rating provisions of section 9 of P.L.1992,  
40 c.162 (C.17B:27A-25) and section 7 of P.L.1995, c.340  
41 (C.17B:27A-19.3).

42 (b) A carrier which has renewed, continued or reinstated a  
43 health benefits plan pursuant to this subsection that has not been  
44 newly issued to a new small employer group since January 1, 1994,  
45 may, upon approval of the commissioner, continue to establish its  
46 rates for that plan based on the loss experience of that plan if the  
47 carrier does not issue that health benefits plan to any new small  
48 employer groups.

1 (4) (Deleted by amendment, P.L.1995, c.340).

2 (5) A health benefits plan that otherwise conforms to the  
3 requirements of this subsection shall be deemed to be in compliance  
4 with this subsection, notwithstanding any change in the plan's  
5 deductible or copayment.

6 (6) (a) Except as otherwise provided in subparagraphs (b) and  
7 (c) of this paragraph, a health benefits plan renewed, continued or  
8 reinstated pursuant to this subsection shall be filed with the  
9 commissioner for informational purposes within 30 days after its  
10 renewal date. No later than 60 days after the board adopts  
11 regulations concerning the implementation of the rating factors  
12 permitted by section 9 of P.L.1992, c.162 (C.17B:27A-25) the filing  
13 shall be amended to show any modifications in the plan that are  
14 necessary to comply with the provisions of this subsection. The  
15 commissioner shall monitor compliance of any such plan with the  
16 requirements of this subsection, except that the board shall enforce  
17 the loss ratio requirements.

18 (b) A health benefits plan filed with the commissioner pursuant  
19 to subparagraph (a) of this paragraph may be amended as to its  
20 benefit structure if the amendment does not reduce the actuarial  
21 value and benefits coverage of the health benefits plan below that of  
22 the lowest standard health benefits plan established by the board  
23 pursuant to subsection a. of this section. The amendment shall be  
24 filed with the commissioner for approval pursuant to the terms of  
25 sections 4, 8, 12 and 25 of P.L.1995, c.73 (C.17:48-8.2, 17:48A-9.2,  
26 17:48E-13.2 and 26:2J-43), N.J.S.17B:26-1 and N.J.S.17B:27-49, as  
27 applicable, and shall comply with the provisions of sections 2 and 9  
28 of P.L.1992, c.162 (C.17B:27A-18 and 17B:27A-25) and section 7  
29 of P.L.1995, c.340 (C.17B:27A-19.3).

30 (c) A health benefits plan issued by a carrier through an out-of-  
31 State trust shall be permitted to be renewed or continued pursuant to  
32 paragraph (1) of this subsection upon approval by the commissioner  
33 and only if the benefits offered under the plan are at least equal to  
34 the actuarial value and benefits coverage of the lowest standard  
35 health benefits plan established by the board pursuant to subsection  
36 a. of this section. For the purposes of meeting the requirements of  
37 this subparagraph, carriers shall be required to file with the  
38 commissioner the health benefits plans issued through an out-of-  
39 State trust no later than 180 days after the date of enactment of  
40 P.L.1995, c.340. A health benefits plan issued by a carrier through  
41 an out-of-State trust that is not filed with the commissioner pursuant  
42 to this subparagraph, shall not be permitted to be continued or  
43 renewed after the 180-day period.

44 (7) Notwithstanding the provisions of P.L.1992, c.162  
45 (C.17B:27A-17 et seq.) to the contrary, an association, multiple  
46 employer arrangement or out-of-State trust may offer a health  
47 benefits plan authorized to be renewed, continued or reinstated  
48 pursuant to this subsection to small employer groups that are

1 otherwise eligible pursuant to paragraph (1) of subsection j. of this  
2 section during the period for which such health benefits plan is  
3 otherwise authorized to be renewed, continued or reinstated.

4 (8) Notwithstanding the provisions of P.L.1992, c.162  
5 (C.17B:27A-17 et seq.) to the contrary, a carrier, association,  
6 multiple employer arrangement or out-of-State trust may offer  
7 coverage under a health benefits plan authorized to be renewed,  
8 continued or reinstated pursuant to this subsection to new  
9 employees of small employer groups covered by the health benefits  
10 plan in accordance with the provisions of paragraph (1) of this  
11 subsection.

12 (9) Notwithstanding the provisions of P.L.1992, c.162  
13 (C.17B:27A-17 et seq.) or P.L.1992, c.161 (C.17B:27A-2 et al.) to  
14 the contrary, any individual, who is eligible for small employer  
15 coverage under a policy issued, renewed, continued or reinstated  
16 pursuant to this subsection, but who would be subject to a  
17 preexisting condition exclusion under the small employer health  
18 benefits plan, or who is a member of a small employer group who  
19 has been denied coverage under the small employer group health  
20 benefits plan for health reasons, may elect to purchase or continue  
21 coverage under an individual health benefits plan until such time as  
22 the group health benefits plan covering the small employer group of  
23 which the individual is a member complies with the provisions of  
24 P.L.1992, c.162 (C.17B:27A-17 et seq.).

25 (10) In a case in which an association made available a health  
26 benefits plan on or before March 1, 1994 and subsequently changed  
27 the issuing carrier between March 1, 1994 and the effective date of  
28 P.L.1995, c.340, the new issuing carrier shall be deemed to have  
29 been eligible to continue and renew the plan pursuant to paragraph  
30 (1) of this subsection.

31 (11) In a case in which an association, multiple employer  
32 arrangement or out-of-State trust made available a health benefits  
33 plan on or before March 1, 1994 and subsequently changes the  
34 issuing carrier for that plan after the effective date of P.L.1995,  
35 c.340, the new issuing carrier shall file the health benefits plan with  
36 the commissioner for approval in order to be deemed eligible to  
37 continue and renew that plan pursuant to paragraph (1) of this  
38 subsection.

39 (12) In a case in which a small employer purchased a health  
40 benefits plan directly from a carrier on or before March 1, 1994 and  
41 subsequently changes the issuing carrier for that plan after the  
42 effective date of P.L.1995, c.340, the new issuing carrier shall file  
43 the health benefits plan with the commissioner for approval in order  
44 to be deemed eligible to continue and renew that plan pursuant to  
45 paragraph (1) of this subsection.

46 Notwithstanding the provisions of subparagraph (b) of paragraph  
47 (6) of this subsection to the contrary, a small employer who changes  
48 its health benefits plan's issuing carrier pursuant to the provisions of

1 this paragraph, shall not, upon changing carriers, modify the benefit  
2 structure of that health benefits plan within six months of the date  
3 the issuing carrier was changed.

4 k. Effective immediately for a health benefits plan issued on or  
5 after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.)  
6 and effective on the first 12-month anniversary date of a health  
7 benefits plan in effect on the effective date of P.L.2005, c.248  
8 (C.17:48E-35.27 et al.), the health benefits plans required pursuant  
9 to this section, including any plans offered by a State approved or  
10 federally qualified health maintenance organization, shall contain  
11 benefits for expenses incurred in the following:

12 (1) Screening by blood lead measurement for lead poisoning for  
13 children, including confirmatory blood lead testing as specified by  
14 the Department of Health pursuant to section 7 of P.L.1995, c.316  
15 (C.26:2-137.1); and medical evaluation and any necessary medical  
16 follow-up and treatment for lead poisoned children.

17 (2) All childhood immunizations as recommended by the  
18 Advisory Committee on Immunization Practices of the United  
19 States Public Health Service and the Department of Health pursuant  
20 to section 7 of P.L.1995, c.316 (C.26:2-137.1). A carrier shall  
21 notify its insureds, in writing, of any change in the health care  
22 services provided with respect to childhood immunizations and any  
23 related changes in premium. Such notification shall be in a form  
24 and manner to be determined by the Commissioner of Banking and  
25 Insurance.

26 (3) Screening for newborn hearing loss by appropriate  
27 electrophysiologic screening measures and periodic monitoring of  
28 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373  
29 (C.26:2-103.1 et al.). Payment for this screening service shall be  
30 separate and distinct from payment for routine new baby care in the  
31 form of a newborn hearing screening fee as negotiated with the  
32 provider and facility.

33 The benefits provided pursuant to this subsection shall be  
34 provided to the same extent as for any other medical condition  
35 under the health benefits plan, except that a deductible shall not be  
36 applied for benefits provided pursuant to this subsection; however,  
37 with respect to a small employer health benefits plan that qualifies  
38 as a high deductible health plan for which qualified medical  
39 expenses are paid using a health savings account established  
40 pursuant to section 223 of the federal Internal Revenue Code of  
41 1986 (26 U.S.C. s.223), a deductible shall not be applied for any  
42 benefits that represent preventive care as permitted by that federal  
43 law, and shall not be applied as provided pursuant to section 16 of  
44 P.L.2005, c.248 (C.17B:27A-19.14). This subsection shall apply to  
45 all small employer health benefits plans in which the carrier has  
46 reserved the right to change the premium.

47 l. The board shall consider including benefits for speech-  
48 language pathology and audiology services, as rendered by speech-

1 language pathologists and audiologists within the scope of their  
2 practices, in at least one of the standard policies and in at least one  
3 of the five riders to be developed under this section.

4 m. Effective immediately for a health benefits plan issued on or  
5 after the effective date of P.L.2001, c.361 (C.17:48-6z et al.) and  
6 effective on the first 12-month anniversary date of a health benefits  
7 plan in effect on the effective date of P.L.2001, c.361 (C.17:48-6z  
8 et al.), the health benefits plans required pursuant to this section  
9 that provide benefits for expenses incurred in the purchase of  
10 prescription drugs shall provide benefits for expenses incurred in  
11 the purchase of specialized non-standard infant formulas, when the  
12 covered infant's physician has diagnosed the infant as having  
13 multiple food protein intolerance and has determined such formula  
14 to be medically necessary, and when the covered infant has not been  
15 responsive to trials of standard non-cow milk-based formulas,  
16 including soybean and goat milk. The coverage may be subject to  
17 utilization review, including periodic review, of the continued  
18 medical necessity of the specialized infant formula.

19 The benefits shall be provided to the same extent as for any other  
20 prescribed items under the health benefits plan.

21 This subsection shall apply to all small employer health benefits  
22 plans in which the carrier has reserved the right to change the  
23 premium.

24 n. Effective immediately for a health benefits plan issued on or  
25 after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.)  
26 and effective on the first 12-month anniversary date of a small  
27 employer health benefits plan in effect on the effective date of  
28 P.L.2005, c.248 (C.17:48E-35.27 et al.), the health benefits plans  
29 required pursuant to this section that qualify as high deductible  
30 health plans for which qualified medical expenses are paid using a  
31 health savings account established pursuant to section 223 of the  
32 federal Internal Revenue Code of 1986 (26 U.S.C. s.223), including  
33 any plans offered by a State approved or federally qualified health  
34 maintenance organization, shall contain benefits for expenses  
35 incurred in connection with any medically necessary benefits  
36 provided in-network that represent preventive care as permitted by  
37 that federal law.

38 The benefits provided pursuant to this subsection shall be  
39 provided to the same extent as for any other medical condition  
40 under the health benefits plan, except that no deductible shall be  
41 applied for benefits provided pursuant to this subsection. This  
42 subsection shall apply to all small employer health benefits plans in  
43 which the carrier has reserved the right to change the premium.  
44 (cf: P.L.2012, c.17, s.58)

45  
46 4. Section 4 of P.L.1992, c.162 (C.17B:27A-20) is amended to  
47 read as follows:

1 4. Plans required to be offered under **【this act】** P.L.1992, c.162  
2 (C.17B:27A-17 et seq.) may be subject to coinsurance and  
3 deductibles, which may vary by selected portions of the coverage,  
4 except that no **【deductible applicable to any portion of the coverage**  
5 **shall exceed \$250 for an individual or family unit during any**  
6 **benefit year, and no coinsurance applicable to any portion of the**  
7 **coverage shall exceed \$500 for an individual or family unit during**  
8 **any benefit year, unless provided by the board pursuant to section**  
9 **17 of P.L.1992, c.162 (C.17B:27A-33)】** cost-sharing shall exceed  
10 the maximum out-of-pocket limits established in the federal Patient  
11 Protection and Affordable Care Act, Pub.L.111-148, as amended by  
12 the federal "Health Care and Education Reconciliation Act of  
13 2010," Pub.L.111-152.  
14 (cf: P.L.1993, c.162, s.3.)  
15

16 5. (New section) a. The board shall annually review the small  
17 employer health benefits plans offered pursuant to P.L.1992, c.162  
18 (C.17B:27A-17 et seq.) to ensure that each plan meets the  
19 requirements of section 2 of P.L.2019, c.354 (C.17B:27A-19.30),  
20 provides consumer choice and affordability, and maintains a  
21 relative level of consistency compared to previous years and to  
22 other plans in the small employer market. The board shall publish  
23 the findings of its review on the website of the Department of  
24 Banking and Insurance.

25 b. The board shall annually adjust the design of the small  
26 employer health benefits plans, including the out-of-pocket limits  
27 under those plans, to ensure premium affordability and to align the  
28 plans with the requirements of section 2 of P.L.2019, c.354  
29 (C.17B:27A-19.30). The adjustment shall be based on the annual  
30 review conducted pursuant to subsection a. of this section. The  
31 board may consider proposals for adjustments to plan design to  
32 improve affordability from carriers offering small employer health  
33 benefits plans pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).  
34

35 6. Section 7 of P.L.1992, c.162 (C.17B:27A-23) is amended to  
36 read as follows:

37 7. Every policy or contract issued to small employers in this  
38 State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) shall be  
39 renewable with respect to all eligible employees or dependents at  
40 the option of the policy or contract holder, or small employer except  
41 that a carrier may discontinue or not renew a health benefits plan in  
42 accordance with the provisions of this section:

43 a. A carrier may discontinue such coverage only if:

44 (1) The policyholder, contract holder, or employer has failed to  
45 pay premiums or contributions in accordance with the terms of the  
46 health benefits plan or the carrier has not received timely premium  
47 payments; or

- 1 (2) The policyholder, contract holder, or employer has  
2 performed an act or practice that constitutes fraud or made an  
3 intentional misrepresentation of material fact under the terms of the  
4 coverage;
- 5 b. (Deleted by amendment, P.L.1997, c.146).
- 6 c. The number of employees covered under the health benefits  
7 plan is less than the number or percentage of employees required by  
8 participation requirements under the health benefits policy or  
9 contract;
- 10 d. Noncompliance with a carrier's employment contribution  
11 requirements;
- 12 e. Any carrier doing business pursuant to the provisions of  
13 **【this act】** P.L.1992, c.162 (C17B:27A-17 et seq.) ceases doing  
14 business in the small employer market, if the following conditions  
15 are satisfied:
- 16 (1) The carrier gives notice to cease doing business in the small  
17 employer market to the commissioner not later than eight months  
18 prior to the date of the planned withdrawal from the small employer  
19 market, during which time the carrier shall continue to be governed  
20 by **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) with respect  
21 to business written pursuant to **【this act】** P.L.1992, c.162  
22 (C.17B:27A-17 et seq.) For the purposes of this subsection, "date  
23 of withdrawal" means the date upon which the first notice to small  
24 employers is sent by the carrier pursuant to paragraph (2) of this  
25 subsection;
- 26 (2) No later than two months following the date of the  
27 notification to the commissioner that the carrier intends to cease  
28 doing business in the small employer market, the carrier shall mail a  
29 notice to every small business employer insured by the carrier, and  
30 all covered persons, that the policy or contract of insurance will not  
31 be renewed. This notice shall be sent by certified mail to the small  
32 business employer not less than six months in advance of the  
33 effective date of the nonrenewal date of the policy or contract;
- 34 (3) **【Any carrier that ceases to do business pursuant to this act**  
35 **shall be prohibited from writing new business in the small employer**  
36 **and individual health benefits plan markets for a period of five**  
37 **years from the date of termination of the last health insurance**  
38 **coverage not so renewed】** (Deleted by amendment,  
39 P.L. .c. (pending before the Legislature as this bill).
- 40 f. In the case of policies or contracts issued in connection with  
41 membership in an association or trust of employers, an employer  
42 ceases to maintain its membership in the association or trust, but  
43 only if such coverage is terminated under this provision uniformly  
44 without regard to any health status-related factor relating to any  
45 covered individual;
- 46 g. (Deleted by amendment, P.L.1995, c.50).

1 h. A decision by the small employer carrier to cease offering  
2 and not renew a particular type of group health benefits plan in the  
3 small employer market, if the board discontinues a standard health  
4 benefits plan or as permitted or required pursuant to subsection j. of  
5 section 3 of P.L.1992, c.162 (C.17B:27A-19), and pursuant to the  
6 regulations adopted by the commissioner;

7 i. In the case of a health maintenance organization plan issued  
8 to a small employer:

9 (1) an eligible person who no longer resides, lives, or works in  
10 the carrier's approved service area, but only if coverage is  
11 terminated under this paragraph uniformly without regard to any  
12 health status-related factor of covered individuals; or

13 (2) a small employer that no longer has any enrollee in  
14 connection with such plan who lives, resides, or works in the  
15 service area of the carrier and the carrier would deny enrollment  
16 with respect to such plan pursuant to subsection a. of section 10 of  
17 P.L.1992, c.162 (C.17B:27A-26).

18 (cf: P.L.2008, c.38, s.23)

19  
20 7. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to  
21 read as follows:

22 9. a. (1) (Deleted by amendment, P.L.1997, c.146).

23 (2) (Deleted by amendment, P.L.1997, c.146).

24 (3) (a) For all policies or contracts providing health benefits  
25 plans for small employers issued pursuant to section 3 of P.L.1992,  
26 c.162 (C.17B:27A-19), and including policies or contracts offered  
27 by a carrier to a small employer who is a member of a Small  
28 Employer Purchasing Alliance pursuant to the provisions of  
29 P.L.2001, c.225 (C.17B:27A-25.1 et al.) the premium rate charged  
30 by a carrier to the highest rated small group purchasing a small  
31 employer health benefits plan issued pursuant to section 3 of  
32 P.L.1992, c.162 (C.17B:27A-19) shall not be greater than **[200%]**  
33 300% of the premium rate charged for the lowest rated small group  
34 purchasing that same health benefits plan; provided, however, that  
35 the only factors upon which the rate differential may be based are  
36 age**[, gender]** and geography. Such factors shall be applied in a  
37 manner consistent with regulations adopted by the commissioner.  
38 For the purposes of this paragraph (3), policies or contracts offered  
39 by a carrier to a small employer who is a member of a Small  
40 Employer Purchasing Alliance shall be rated separately from the  
41 carrier's other small employer health benefits policies or contracts.

42 (b) A health benefits plan issued pursuant to subsection j. of  
43 section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in  
44 accordance with the provisions of section 7 of P.L.1995, c.340  
45 (C.17B:27A-19.3), for the purposes of meeting the requirements of  
46 this paragraph.

47 (4) (Deleted by amendment, P.L.1994, c.11).

1 (5) Any policy or contract issued after January 1, 1994 to a  
2 small employer who was not previously covered by a health  
3 benefits plan issued by the issuing small employer carrier, shall be  
4 subject to the same premium rate restrictions as provided in  
5 paragraph (3) of this subsection, which rate restrictions shall be  
6 effective on the date the policy or contract is issued.

7 (6) The board shall establish, pursuant to section 17 of  
8 P.L.1993, c.162 (C.17B:27A-51):

9 (a) up to six geographic territories, none of which is smaller  
10 than a county; and

11 (b) age classifications which, at a minimum, shall be in five-  
12 year increments.

13 b. (Deleted by amendment, P.L.1993, c.162).

14 c. (Deleted by amendment, P.L.1995, c.298).

15 d. Notwithstanding any other provision of law to the contrary,  
16 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a  
17 carrier which provides a health benefits plan to one or more small  
18 employers through a policy issued to an association or trust of  
19 employers.

20 A carrier which provides a health benefits plan to one or more  
21 small employers through a policy issued to an association or trust of  
22 employers after the effective date of P.L.1992, c.162 (C.17B:27A-  
23 17 et seq.), shall be required to offer small employer health benefits  
24 plans to non-association or trust employers in the same manner as  
25 any other small employer carrier is required pursuant to P.L.1992,  
26 c.162 (C.17B:27A-17 et seq.).

27 e. Nothing contained herein shall prohibit the use of premium  
28 rate structures to establish different premium rates for individuals  
29 and family units.

30 f. No insurance contract or policy subject to **【this act】**  
31 P.L.1992, c.162 (C.17B:27A-17 et seq.), including a contract or  
32 policy entered into with a small employer who is a member of a  
33 Small Employer Purchasing Alliance pursuant to the provisions of  
34 P.L.2001, c.225 (C.17B:27A-25.1 et al.), may be entered into unless  
35 and until the carrier has made an informational filing with the  
36 commissioner of a schedule of premiums, not to exceed 12 months  
37 in duration, to be paid pursuant to such contract or policy, of the  
38 carrier's rating plan and classification system in connection with  
39 such contract or policy, and of the actuarial assumptions and  
40 methods used by the carrier in establishing premium rates for such  
41 contract or policy.

42 g. (1) Beginning January 1, 1995, a carrier desiring to increase  
43 or decrease premiums for any policy form or benefit rider offered  
44 pursuant to subsection i. of section 3 of P.L.1992, c.162  
45 (C.17B:27A-19) subject to **【this act】** P.L.1992, c.162 (C.17B:27A-  
46 17 et seq.) may implement such increase or decrease upon making  
47 an informational filing with the commissioner of such increase or  
48 decrease, along with the actuarial assumptions and methods used by

1 the carrier in establishing such increase or decrease, provided that  
2 the anticipated minimum loss ratio for all policy forms shall not be  
3 less than 80% of the premium therefor as provided in paragraph (2)  
4 of this subsection. The commissioner may disapprove any  
5 informational filing on a finding that it is incomplete and not in  
6 substantial compliance with P.L.1992, c.162 (C.17B:27A-17 et  
7 seq.), or that the rates are inadequate or unfairly discriminatory.  
8 Until December 31, 1996, the informational filing shall also include  
9 the carrier's rating plan and classification system in connection with  
10 such increase or decrease.

11 (2) Each calendar year, a carrier shall return, in the form of  
12 aggregate benefits for all of the standard policy forms offered by  
13 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
14 (C.17B:27A-19), at least 80% of the aggregate premiums collected  
15 for all of the standard policy forms, other than alliance policy  
16 forms, and at least 80% of the aggregate premiums collected for all  
17 of the non-standard policy forms during that calendar year. A  
18 carrier shall return at least 80% of the premiums collected for all of  
19 the alliances during that calendar year, which loss ratio may be  
20 calculated in the aggregate for all of the alliances or separately for  
21 each alliance. Carriers shall annually report, no later than August  
22 1st of each year, the loss ratio calculated pursuant to this section for  
23 all of the standard, other than alliance policy forms, non-standard  
24 policy forms and alliance policy forms for the previous calendar  
25 year, provided that a carrier may annually report the loss ratio  
26 calculated pursuant to this section for all of the alliances in the  
27 aggregate or separately for each alliance. In each case where the  
28 loss ratio fails to substantially comply with the 80% loss ratio  
29 requirement, the carrier shall issue a dividend or credit against  
30 future premiums for all policyholders with the standard, other than  
31 alliance policy forms, nonstandard policy forms or alliance policy  
32 forms, as applicable, in an amount sufficient to assure that the  
33 aggregate benefits paid in the previous calendar year plus the  
34 amount of the dividends and credits shall equal 80% of the  
35 aggregate premiums collected for the respective policy forms in the  
36 previous calendar year. All dividends and credits must be  
37 distributed by December 31 of the year following the calendar year  
38 in which the loss ratio requirements were not satisfied. The annual  
39 report required by this paragraph shall include a carrier's calculation  
40 of the dividends and credits applicable to standard, other than  
41 alliance policy forms, non-standard policy forms and alliance policy  
42 forms, as well as an explanation of the carrier's plan to issue  
43 dividends or credits. The instructions and format for calculating  
44 and reporting loss ratios and issuing dividends or credits shall be  
45 specified by the commissioner by regulation. Such regulations shall  
46 include provisions for the distribution of a dividend or credit in the  
47 event of cancellation or termination by a policyholder. For  
48 purposes of this paragraph, "alliance policy forms" means policies

1 purchased by small employers who are members of Small Employer  
2 Purchasing Alliances.

3 (3) The loss ratio of a health benefits plan issued pursuant to  
4 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall  
5 be calculated in accordance with the provisions of section 7 of  
6 P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the  
7 requirements of this subsection.

8 h. (Deleted by amendment, P.L.1993, c.162).

9 i. The provisions of **【this act】** P.L.1992, c.162 (C.17B:27A-17  
10 et seq.) shall apply to health benefits plans which are delivered,  
11 issued for delivery, renewed or continued on or after January 1,  
12 1994.

13 j. (Deleted by amendment, P.L.1995, c.340).

14 k. A carrier who negotiates a reduced premium rate with a  
15 Small Employer Purchasing Alliance for members of that alliance  
16 shall provide a reduction in the premium rate filed in accordance  
17 with paragraph (3) of subsection a. of this section, expressed as a  
18 percentage, which reduction shall be based on volume or other  
19 efficiencies or economies of scale and shall not be based on health  
20 status-related factors.

21 (cf: P.L.2008, c.38, s.24)

22

23 8. (New section) a. Except as provided in subsection b. of this  
24 section, a carrier that offers an individual health benefits plan that  
25 provides benefits for expenses incurred in the purchase of  
26 prescription drugs and is delivered, issued, executed, or renewed in  
27 this State, pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), may  
28 use a prescription drug formulary to limit or exclude coverage for  
29 prescription drugs, provided that the carrier demonstrates to the  
30 satisfaction of the board that utilization and medical review panels  
31 are in place to allow formulary flexibility when necessary.

32 b. A carrier that offers an individual health benefits plan that  
33 provides benefits for expenses incurred in the purchase of  
34 prescription drugs and is delivered, issued, executed, or renewed in  
35 this State, pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), shall  
36 not adopt a protocol, policy, or program that establishes the specific  
37 sequence in which prescription drugs for a specified medical  
38 condition, and medically appropriate for a particular patient, are  
39 required to be administered in order to be covered by a health  
40 benefits plan.

41

42 9. (New section) a. Except as provided in subsection b. of this  
43 section, a carrier that offers a small employer health benefits plan  
44 that provides benefits for expenses incurred in the purchase of  
45 prescription drugs and is delivered, issued, executed, or renewed in  
46 this State, pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), may  
47 use a prescription drug formulary to limit or exclude coverage for  
48 prescription drugs, provided that the carrier demonstrates to the

1 satisfaction of the board that utilization and medical review panels  
2 are in place to allow formulary flexibility when necessary.

3 b. A carrier that offers a small employer health benefits plan  
4 that provides benefits for expenses incurred in the purchase of  
5 prescription drugs and is delivered, issued, executed, or renewed in  
6 this State, pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), shall  
7 not adopt a protocol, policy, or program that establishes the specific  
8 sequence in which prescription drugs for a specified medical  
9 condition, and medically appropriate for a particular patient, are  
10 required to be administered in order to be covered by a health  
11 benefits plan.

12

13 10. Section 13 of P.L.1992, c.162 (C.17B:27A-29) is amended  
14 to read as follows:

15 13. a. [Within 60 days of the effective date of this act, the  
16 commissioner shall give notice to all members of the time and place  
17 for the initial organizational meeting, which shall take place within  
18 90 days of the effective date. The members shall elect the initial  
19 board, subject to the approval of the commissioner. The board shall  
20 consist of 10 elected public members and two ex officio members  
21 who include the Commissioner of Health and the commissioner or  
22 their designees. Initially, three of the public members of the board  
23 shall be elected for a three-year term, three shall be elected for a  
24 two-year term, and three shall be elected for a one-year term.  
25 Thereafter, all elected board members shall serve for a term of three  
26 years. The following categories shall be represented among the  
27 elected public members:

28 (1) Three carriers whose principal health insurance business is  
29 in the small employer market;

30 (2) One carrier whose principal health insurance business is in  
31 the large employer market;

32 (3) A health service corporation or a domestic stock insurer  
33 which converted from a health service corporation pursuant to the  
34 provisions of P.L.2001, c.131 (C.17:48E-49 et al.) and is primarily  
35 engaged in the business of issuing health benefit plans in this State;

36 (4) Two health maintenance organizations; and

37 (5) (Deleted by amendment, P.L.1995, c.298).

38 (6) (Deleted by amendment, P.L.1995, c.298).

39 (7) Three persons representing small employers, at least one of  
40 whom represents minority small employers.

41 No carrier shall have more than one representative on the board.

42 The board shall hold an election for the two members added  
43 pursuant to P.L.1995, c.298 within 90 days of the date of enactment  
44 of that act. Initially, one of the two new members shall serve for a  
45 term of one year and one of the two new members shall serve for a  
46 term of two years. Thereafter, the new members shall serve for a  
47 term of three years. The terms of the risk-assuming carrier and  
48 reinsuring carrier shall terminate upon the election of the two new

1 members added pursuant to P.L.1995, c.298, notwithstanding the  
2 provisions of this section to the contrary.

3 In addition to the 10 elected public members, the ~~the~~ The board  
4 shall ~~include six~~ consist of 12 public members appointed by the  
5 Governor ~~with the advice and consent of the Senate~~ who shall  
6 include:

7 (1) Two carriers that sell plans in the small employer market;

8 (2) Two carriers that sell plans in the individual market or the  
9 small employer market;

10 (3) Two representatives of or individuals employed by  
11 businesses that purchase in small employer health benefits plans;

12 (4) Two individuals who are licensed health care providers;

13 (5) Two insurance producers licensed to sell health insurance  
14 pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.);

15 (6) One representative of organized labor; and

16 ~~One physician licensed to practice medicine and surgery in this~~  
17 ~~State; and~~

18 ~~Two persons who represent the general public and are not~~  
19 ~~employees of a health benefits plan provider.~~

20 (7) One representative of an association representing small  
21 business in the State.

22 The commissioner, or the commissioner's designee, shall serve  
23 on the board as an ex officio member.

24 The public members shall be appointed for a term of three years,  
25 except that of the members first appointed, ~~two~~ four shall be  
26 appointed for a term of one year, ~~two~~ four for a term of two years  
27 and ~~two~~ four for a term of three years.

28 A vacancy in the membership of the board shall be filled for an  
29 unexpired term in the manner provided for the ~~original election~~  
30 ~~or~~ appointment, as appropriate.

31 b. ~~If the initial board is not elected at the organizational~~  
32 ~~meeting, the commissioner shall appoint the public members within~~  
33 ~~15 days of the organizational meeting, in accordance with the~~  
34 ~~provisions of paragraphs (1) through (7) of subsection a. of this~~  
35 ~~section.] (Deleted by amendment, P.L. , c. ) (pending before~~  
36 ~~the Legislature as this bill).~~

37 c. (Deleted by amendment, P.L.1995, c.298).

38 d. All meetings of the board shall be subject to the  
39 requirements of the "Open Public Meetings Act," P.L.1975, c.231  
40 (C.10:4-6 et seq.).

41 e. At least two copies of the minutes of every meeting of the  
42 board shall be delivered forthwith to the commissioner.

43 (cf: P.L.2012, c.17, s.60.)

44

45 11. (New section) a. A small employer taxpayer shall be  
46 allowed a credit against the tax imposed pursuant to section 5 of  
47 P.L.1945, c.162 (C.54:10A-5) in the amount provided in subsection

1 b. of this section if the taxpayer paid during the privilege period for  
2 employees' health benefits plan premiums for a health benefits plan  
3 obtained:

4 (1) through the New Jersey Small Employer Health Benefits  
5 Program, established pursuant to section 12 of P.L.1992, c.162  
6 (C.17B:27A-28), or

7 (2) through a multiple employer welfare arrangement subject to  
8 P.L.2001, c.352 (C.17B:27C-1 et seq.), provided that the health  
9 benefits to be provided by the multiple employer welfare  
10 arrangement is at all times equal to or greater than benefits required  
11 to be provided in the lowest benefit level standard plan promulgated  
12 by the New Jersey Small Employer Health Benefits Program  
13 pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

14 As used in this section "small employer" has the same meaning  
15 as in section 1 of P.L.1992, c.162 (C.17B:27A-17).

16 b. (1) If the taxpayer paid 100 percent of each premium so that  
17 no portion of the premium is left for the employee to pay, the  
18 taxpayer shall be allowed \$250 for each employee with single  
19 coverage and \$500 for each employee with family coverage;

20 (2) if the taxpayer paid at least 50 percent but less than 100  
21 percent of each premium, the taxpayer shall be allowed a  
22 percentage of the amounts allowed in paragraph (1) of this  
23 subsection equal to the percentage of the premium that the taxpayer  
24 paid;

25 (3) if the taxpayer paid less than 50 percent of each premium, no  
26 credit shall be allowed for the premium paid for that employee.

27 c. The credit amount earned for each employee shall be reduced  
28 to a percentage equal to the percentage of the privilege period  
29 during which the taxpayer paid for that employee's health benefits  
30 plan premiums.

31 d. The total credit allowed pursuant to this section shall not  
32 exceed the total amount paid during the privilege period for  
33 employees' health benefits plan premiums through the New Jersey  
34 Small Employer Health Benefits Program or a multiple employer  
35 welfare arrangement.

36 e. The director shall prescribe the order of priority of the  
37 application of the credit allowed under this section and any other  
38 credits allowed by law against the tax imposed under section 5 of  
39 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
40 under this section against the tax imposed pursuant to section 5 of  
41 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
42 any other credits allowed by law, shall not exceed 50 percent of the  
43 tax liability otherwise due and shall not reduce the tax liability to an  
44 amount less than the statutory minimum provided in subsection (e)  
45 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any remaining credit  
46 shall not be carried forward to any subsequent privilege period.

47

1 12. (New section) a. A small employer taxpayer shall be  
2 allowed a credit against the tax imposed pursuant to the “New  
3 Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. in the amount  
4 provided in subsection b. of this section if the taxpayer paid during  
5 the taxable year for employees’ health benefits plan premiums for  
6 health benefits plan obtained:

7 (1) through the New Jersey Small Employer Health Benefits  
8 Program, established pursuant to section 12 of P.L.1992, c.162  
9 (C.17B:27A-28), or

10 (2) through a multiple employer welfare arrangement subject to  
11 P.L.2001, c.352 (C.17B:27C-1 et seq.), provided that the health  
12 benefits to be provided by the multiple employer welfare  
13 arrangement is at all times equal to or greater than benefits required  
14 to be provided in the lowest benefit level standard plan promulgated  
15 by the New Jersey Small Employer Health Benefits Program  
16 pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

17 As used in this section “small employer” has the same meaning  
18 as in section 1 of P.L.1992, c.162 (C.17B:27A-17).

19 b. (1) If the taxpayer paid 100 percent of each premium so that  
20 no portion of the premium is left for the employee to pay, the  
21 taxpayer shall be allowed \$250 for each employee with single  
22 coverage and \$500 for each employee with family coverage;

23 (2) if the taxpayer paid at least 50 percent but less than 100  
24 percent of each premium, the taxpayer shall be allowed a  
25 percentage of the amounts allowed in paragraph (1) of this  
26 subsection equal to the percentage of the premium that the taxpayer  
27 paid;

28 (3) if the taxpayer paid less than 50 percent of each premium, no  
29 credit shall be allowed for the premium paid for that employee.

30 c. The credit amount earned for each employee shall be reduced  
31 to a percentage equal to the percentage of the taxable year during  
32 which the taxpayer paid for that employee’s health benefits plan  
33 premiums.

34 d. The total credit allowed pursuant to this section shall not  
35 exceed the total amount paid during the taxable year for employees’  
36 health benefits plan premiums through the New Jersey Small  
37 Employer Health Benefits Program or a multiple employer welfare  
38 arrangement.

39 e. (1) A business entity that is classified as a partnership for  
40 federal income tax purposes shall not be allowed a credit pursuant  
41 to this section directly, but the amount of credit of a taxpayer in  
42 respect of a distributive share of entity income, shall be determined  
43 by allocating to the taxpayer that proportion of the credit acquired  
44 by the entity that is equal to the taxpayer’s share, whether or not  
45 distributed, of the total distributive income or gain of the entity for  
46 its taxable year ending within or with the taxpayer’s taxable year.

47 (2) A New Jersey S Corporation shall not be allowed a credit  
48 pursuant to this section directly, but the amount of credit of a

1 taxpayer in respect of a pro rata share of S Corporation income,  
2 shall be determined by allocating to the taxpayer that proportion of  
3 the credit acquired by the New Jersey S Corporation that is equal to  
4 the taxpayer's share, whether or not distributed, of the total pro rata  
5 share of S Corporation income of the New Jersey S Corporation for  
6 its privilege period ending within or with the taxpayer's taxable  
7 year.

8 f. The director shall prescribe the order of priority of the  
9 application of the credit allowed under this section and any other  
10 credits allowed by law against the tax imposed under the "New  
11 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. The amount  
12 of the credit applied under this section against the tax imposed  
13 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
14 et seq., for a taxable year, together with any other credits allowed  
15 by law, shall not exceed 50 percent of the tax liability otherwise  
16 due. Any remaining credit shall not be carried forward to any  
17 subsequent taxable year.

18

19 13. a. Sections 1 through 10 of this act shall take effect  
20 immediately.

21 b. Sections 11 and 12 of this act shall take effect immediately  
22 and apply to privilege periods and taxable years beginning after  
23 enactment.

24

25

26

#### STATEMENT

27

28 This bill revises various requirements for individual and small  
29 employer health benefits plans.

30 The bill removes a provision of law that requires health  
31 insurance carriers to offer individual health plans, through the  
32 Individual Health Coverage Program, as a condition of participation  
33 in the small employer health insurance market. The bill removes a  
34 provision of law that requires health insurance carriers that  
35 participate in the small employer health insurance market to  
36 participate in the Individual Health Coverage Program.

37 The bill also removes a 5-year prohibition on carriers re-entering  
38 the individual and small employer health insurance markets if the  
39 carrier ceases to offer either plan.

40 The bill modifies the age rating band by requiring that the  
41 premium rate charged by a carrier to the highest rated small group  
42 purchasing a small employer health benefits plan may not be greater  
43 than 300% of the premium rate charged for the lowest rated small  
44 group purchasing that same health benefits plan; provided, however,  
45 that the only factors upon which the rate differential may be based  
46 are age and geography. Current law provides that the rate of the  
47 highest rated small group may not be greater than 200% of the  
48 premium rate charged for the lowest rated small group.

1 The bill removes provisions of current law that provide certain  
2 caps on cost-sharing amounts in small employer health plans. The  
3 bill instead provides that cost-sharing may not exceed the maximum  
4 out-of-pocket limits established in the federal Patient Protection and  
5 Affordable Care Act. This bill also requires the board of directors  
6 of the New Jersey Small Employer Health Benefits Program to  
7 annually review and adjust certain requirements, including out-of-  
8 pocket limits, for small employer health benefits plans.

9 The bill provides that a carrier that offers an individual or small  
10 employer health benefits plan that provides benefits for expenses  
11 incurred in the purchase of prescription drugs may use a  
12 prescription drug formulary to limit or exclude coverage for  
13 prescription drugs, provided that the carrier demonstrates to the  
14 satisfaction of the board that utilization and medical review panels  
15 are in place to allow formulary flexibility when necessary, provided  
16 that the carrier may not adopt a protocol, policy, or program that  
17 establishes the specific sequence in which prescription drugs for a  
18 specified medical condition, and medically appropriate for a  
19 particular patient, are required to be administered in order to be  
20 covered by a health benefits plan.

21 The bill revises the membership of the New Jersey Small  
22 Employer Health Benefits Program Board. The bill provides that  
23 the board will consist of the following members:

- 24 (1) Two carriers that sell plans in the small employer market;
- 25 (2) Two carriers that sell plans in the small employer market or  
26 the individual market;
- 27 (3) Two representatives of or individuals employed by  
28 businesses that purchase in small employer health benefits plans;
- 29 (4) Two individuals who are licensed insurance brokers;
- 30 (5) Two individuals who are licensed health care providers;
- 31 (6) One individual representing organized labor; and
- 32 (7) One individual representing an association that represents  
33 small businesses in the State.

34 The bill allows small employers to claim a tax credit if they pay  
35 for their employees' health benefits plan premiums for (1) a plan  
36 obtained through the New Jersey Small Employer Health Benefits  
37 Program, or (2) multiple employer welfare arrangements whose  
38 health benefits is at all times equal to or greater than benefits  
39 required to be provided in the lowest benefit level standard plan  
40 promulgated by the New Jersey Small Employer Health Benefits  
41 Program.

42 An employer will be entitled to a credit equal to \$250 for each  
43 employee enrolled in a single plan and \$500 for each employee  
44 enrolled in a family plan. The employer may only claim the full  
45 amount of the credit if the employer pays the full premiums. The  
46 bill provides a reduced credit if the employer pays at least half of  
47 the amount of the premium. The credit is also reduced to account  
48 for employees that are not enrolled for the full taxable year.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2824**

**STATE OF NEW JERSEY**

DATED: JANUARY 26, 2023

The Senate Commerce Committee reports favorably Senate Committee Substitute for Senate No. 2824.

This Senate Committee Substitute requires the Department of Banking and Insurance (department) to conduct a study of:

(1) the impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and extend reinsurance to small businesses purchasing health insurance through the pooled market; and

(2) the creation of a small employer health insurance subsidy and sustainable funding sources for that subsidy, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2824**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 16, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2824 SCS.

This bill requires the Department of Banking and Insurance (department) to conduct a study of:

(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating creation of a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the commissioner, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department shall specifically examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. The study shall examine and illustrate the impact of the implementation schedule of any age rating ratio changes. Additionally, the study shall examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study shall include recommendations to the Legislature to support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

The bill also provides that the commissioner may engage the services of experts and consultants to assist with the preparation of the study.

PROPOSED COMMITTEE AMENDMENTS:

The committee amended the bill to include:

(1) a study of the actuarial impact of increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. Specifically, the department will examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. The study will also examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor;

(2) a study of other policies that could contribute to stabilizing the small employer health insurance market; and

(3) to provide that the commissioner may engage the services of experts and consultants to assist with the preparation of the study.

FISCAL IMPACT:

The Office of Legislative Services finds that the bill will result in a State expenditure increase in an amount that would likely be no more than \$120,000.

The Department of Banking and Insurance may experience a one-time workload increase, as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the creation of a small employer health insurance subsidy, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market. The bill permits the department to engage the services of experts and consultants to assist with the preparation of the study. The study is to be conducted and made public no later than one year following the effective date of the bill. Whether the impact of the bill is to be divided between two State fiscal years will depend on the effective date of the bill.

The Department of Banking and Insurance may incur negligible costs, depending whether any administrative costs incurred by the department can be absorbed within the department's current operating budget and staffing to conduct the study and write and publish the report. Department staff will be required to conduct the study and write and publish the report, which could require the use of employees' time that might otherwise be spent on other duties. The

department may also engage the services of experts and consultants to assist department staff in the preparation of the study.

If staff hours used for the study and report were to be equivalent to one full-time equivalent (FTE) employee for the maximum 12-month timeline, the salary, equipment, and fringe benefit costs for the single FTE would total up to \$120,000. Actual costs could differ based on the department's decisions about the level of staff support, and whether to use staff or experts and consultants.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2824**

# **STATE OF NEW JERSEY**

DATED: MARCH 23, 2023

The Assembly Appropriations Committee reports favorably Senate Bill No. 2824 (1R) SCS.

This bill requires the Department of Banking and Insurance (department) to conduct a study of:

(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating creation of a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the commissioner, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department shall specifically examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. The study shall examine and illustrate the impact of the implementation schedule of any age rating ratio changes. Additionally, the study shall examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study shall include recommendations to the Legislature to support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

The bill also provides that the commissioner may engage the services of experts and consultants to assist with the preparation of the study.

As reported by the committee, Senate Bill No. 2824 (SCS/1R) is identical to Assembly Bill No. 4294 (ACS), which was amended and reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in a one-time expenditure increase of at least \$120,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market.

If staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. The OLS notes, however, that additional full-time equivalent employee resources may be necessary to complete the study and issue the required report and that outside experts or consultants may be hired, as permitted by the bill.

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2824**

with Assembly Floor Amendments  
(Proposed by Assemblyman McKEON)

ADOPTED: MAY 25, 2023

This amendment provides for an appropriation of \$500,000 from the General Fund to the Department of Banking and Insurance to effectuate the purposes of the bill.

**LEGISLATIVE FISCAL ESTIMATE**  
[First Reprint]  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 2824**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: MARCH 27, 2023

**SUMMARY**

**Synopsis:** Requires DOBI to conduct study on impact of certain changes to individual and small group health insurance markets.

**Type of Impact:** One-time State Expenditure Increase, General Fund.

**Agencies Affected:** Department of Banking and Insurance.

**Office of Legislative Services Estimate**

<b>One-Time Fiscal Impact</b>	
<b>State Expenditure Increase</b>	At least \$120,000

- The Office of Legislative Services (OLS) estimates that the bill will result in a one-time expenditure increase of at least \$120,000 to the Department of Banking and Insurance due to increases to the department’s workload. The one-time expenditure will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market.
- If staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. The OLS notes, however, that additional full-time equivalent employee resources may be necessary to complete the study and issue the required report and that outside experts or consultants may be hired, as permitted by the bill.

## **BILL DESCRIPTION**

This bill requires the Department of Banking and Insurance to conduct a study of:

(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the department, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department shall specifically examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. Additionally, the study shall examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study shall include recommendations to the Legislature to support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

The bill authorizes the Department of Banking and Insurance to engage the services of experts and consultants to assist with the preparation of the study.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in a one-time State expenditure increase of at least \$120,000. The OLS notes that if staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. Any additional full-time equivalent resources needed to complete the study and issue the required report would result in this cost estimate being revised upwards. The OLS further notes that if the department hires experts or consultants to assist departmental staff in the preparation of the study, the cost estimate would increase further.

*Section: Commerce, Labor and Industry*

*Analyst: Christian Weisenbacher*  
*Senior Counsel*

*Approved: Thomas Koenig*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
[Second Reprint]  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 2824**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JUNE 29, 2023

**SUMMARY**

**Synopsis:** Requires DOBI to conduct study on impact of certain changes to individual and small group health insurance markets.

**Type of Impact:** One-time State Expenditure Increase, General Fund.

**Agencies Affected:** Department of Banking and Insurance.

**Office of Legislative Services Estimate**

<b>One-Time Fiscal Impact</b>	
<b>State Expenditure Increase</b>	Up to \$500,000

- The Office of Legislative Services (OLS) estimates that the bill will result in a one-time expenditure increase of up to \$500,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure increase will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market.
- The bill appropriates \$500,000 to the department to implement the provisions of the bill.

**BILL DESCRIPTION**

This bill requires the Department of Banking and Insurance to conduct a study of:

(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group

markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the department, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department shall specifically examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. Additionally, the study shall examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study shall include recommendations to the Legislature to support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

The bill authorizes the Department of Banking and Insurance to: request directly from any other department or agency of State government information or data that may be needed to conduct the study; request from any carrier participating in the Small Employer Health Benefits Program and Individual Health Coverage Program data necessary to conduct the study; and, engage the services of experts and consultants to assist with the preparation of the study. The bill appropriates \$500,000 to the department to carry out the provisions of the bill.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in a one-time expenditure increase of up to \$500,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure increase will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market. The bill appropriates \$500,000 to the department to implement the provisions of the bill.

*Section: Commerce, Labor, and Industry*

*Analyst: John Gaudio*  
*Assistant Fiscal Analyst*

*Approved: Thomas Koenig*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**ASSEMBLY, No. 4294**

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**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

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INTRODUCED JUNE 16, 2022

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**SYNOPSIS**

Revises various requirements for individual and small employer health benefits plans.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning small employer and individual health benefits  
 2 plans, amending P.L.1992, c.161 and P.L.1992, c.162, and  
 3 supplementing various parts of the statutory law.

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

7  
 8 1. Section 3 of P.L.1992, c.161 (C.17B:27A-4) is amended to  
 9 read as follows:

10 3. a. **[No later than 180 days after the effective date of this**  
 11 **section of P.L.2008, c.38, a carrier shall, as a condition of issuing**  
 12 **small employer health benefits plans in this State, also offer**  
 13 **individual health benefits plans. The plans shall be offered on an**  
 14 **open enrollment, modified community rated basis, pursuant to the**  
 15 **provisions of this act and P.L.2008, c.38. Every carrier that issues**  
 16 **small employer health benefits plans pursuant to P.L.1992, c.162**  
 17 **(C.17B:27A-17 et seq.) shall make a good faith effort to market**  
 18 **individual health benefits plans.]** (Deleted by amendment,  
 19 P.L. , c. (pending before the Legislature as this bill).

20 b. A carrier shall offer to an eligible person a choice of at least  
 21 three individual health benefits plans established by the board  
 22 pursuant to section 6 of P.L.1992, c.161 (C17B:27A-7).

23 c. (1) (Deleted by amendment, P.L.2019, c.359).

24 (2) (Deleted by amendment, P.L.2019, c.359).

25 (3) (Deleted by amendment, P.L.2019, c.359).

26 (4) (Deleted by amendment, P.L.2019, c.359).

27 (5) The provisions of section 13 of P.L.1985, c.236 (C.17:48E-  
 28 13), N.J.S.17B:26-1, and section 8 of P.L.1973, c.337 (C.26:2J-8)  
 29 with respect to the filing of policy forms shall not apply to health  
 30 plans issued on or after the effective date of **[this act]** P.L.1992,  
 31 c.161 (C.17B:27A-2 et al.).

32 (6) The provisions of section 27 of P.L.1985, c.236 (C.17:48E-  
 33 27) and section 7 of P.L.1988, c.71 (C.17:48E-27.1) with respect to  
 34 rate filings shall not apply to individual health plans issued on or  
 35 after the effective date of **[this act]** P.L.1992, c.161 (C.17B:27A-2  
 36 et al.).

37 d. Every group conversion contract or policy issued after the  
 38 effective date of **[this act]** P.L.1992, c.161 (C.17B:27A-2 et al.)  
 39 shall be issued pursuant to this section; **[except that this**  
 40 **requirement shall be issued pursuant to this section;]** except that  
 41 this requirement shall not apply to any group conversion contract or  
 42 policy in which a portion of the premium is chargeable to, or  
 43 subsidized by, the group policy from which the conversion is made.

44 e. (Deleted by amendment, P.L.2008, c.38).

45 f. (Deleted by amendment, P.L.2019, c.359).

46 (cf: P.L.2019, c.359, s.2)

**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.**

1       2. Section 5 of P.L.1992, c.161 (C.17B:27A-6) is amended to  
2 read as follows:

3       5. An individual health benefits plan issued pursuant to section  
4 3 of **【this act】** P.L.1992, c.161 (C.17B:27A-2 et al.) is subject to the  
5 following provisions:

6       a. The health benefits plan shall guarantee coverage for an  
7 eligible person and his dependents on a modified community rated  
8 basis.

9       b. A health benefits plan shall be renewable with respect to an  
10 eligible person and his dependents at the option of the policy or  
11 contract holder. A carrier may terminate a health benefits plan  
12 under the following circumstances:

13       (1) the policy or contract holder has failed to pay premiums in  
14 accordance with the terms of the policy or contract or the carrier has  
15 not received timely premium payments;

16       (2) the policy or contract holder has performed an act or practice  
17 that constitutes fraud or made an intentional misrepresentation of  
18 material fact under the terms of the coverage.

19       c. A carrier may not renew a health benefits plan only under  
20 the following circumstances:

21       (1) termination of eligibility of the policy or contract holder if  
22 the person is no longer a resident or becomes eligible for a group  
23 health benefits plan, group health plan, governmental plan or church  
24 plan;

25       (2) cancellation or amendment by the board of the specific  
26 individual health benefits plan;

27       (3) approval by the commissioner of a request by the individual  
28 carrier to not renew a particular type of health benefits plan, in  
29 accordance with rules adopted by the commissioner. After  
30 receiving approval by the commissioner, a carrier may not renew a  
31 type of health benefits plan only if the carrier: (a) provides notice to  
32 each covered individual provided coverage of this type of the  
33 nonrenewal at least 90 days prior to the date of the nonrenewal of  
34 the coverage; (b) offers to each individual provided coverage of this  
35 type the option to purchase any other individual health benefits plan  
36 currently being offered by the carrier; and (c) in exercising the  
37 option to not renew coverage of this type and in offering coverage  
38 as required under (b) above, the carrier acts uniformly without  
39 regard to any health status-related factor of enrolled individuals or  
40 individuals who may become eligible for coverage;

41       (4) approval by the commissioner of a request by the individual  
42 carrier to cease doing business in the individual health benefits  
43 market. A carrier may not renew all individual health benefits plans  
44 only if the carrier: (a) first receives approval from the  
45 commissioner; and (b) provides notice to each individual of the  
46 nonrenewal at least 180 days prior to the date of the expiration of  
47 such coverage**【**. A carrier ceasing to do business in the individual  
48 health benefits market may not provide for the issuance of any

1 health benefits plan in the individual or small employer markets  
2 during the five-year period beginning on the date of the termination  
3 of the last health benefits plan not so renewed】; and

4 (5) In the case of a health benefits plan made available by a  
5 health maintenance organization carrier, the carrier shall not be  
6 required to renew coverage to an eligible individual who no longer  
7 resides, lives, or works in the service area, or in an area for which  
8 the carrier is authorized to do business, but only if coverage is  
9 terminated under this paragraph uniformly without regard to any  
10 health status-related factor of covered individuals.

11 (cf: P.L.2008, c.38, s.14)

12

13 3. Section 3 of P.L.1992, c.162 (C.17B:27A-19) is amended to  
14 read as follows:

15 3. a. Except as provided in subsection f. of this section, every  
16 small employer carrier shall, as a condition of transacting business  
17 in this State, offer to every small employer at least three of the  
18 health benefit plans established by the board, as provided in this  
19 section【, and also offer and make a good faith effort to market  
20 individual health benefits plans as provided in section 3 of  
21 P.L.1992, c.161 (C.17B:27A-4)】. The board shall establish a  
22 standard policy form for each of the plans, which except as  
23 otherwise provided in subsection j. of this section, shall be the only  
24 plans offered to small groups on or after January 1, 1994. One  
25 policy form shall contain the benefits provided for in sections 55,  
26 57, and 59 of P.L.1991, c. 187 (C.17:48E-22.2, 17B:26B-2 and  
27 26:2J-4.3). In the case of indemnity carriers, one policy form shall  
28 be established which contains benefits and cost sharing levels which  
29 are equivalent to the health benefits plans of health maintenance  
30 organizations pursuant to the “Health Maintenance Organization  
31 Act of 1973,” Pub.L.93-222 (42 U.S.C. s.300e et seq.). The  
32 remaining policy forms shall contain basic hospital and medical-  
33 surgical benefits, including, but not limited to:

34 (1) Basic inpatient and outpatient hospital care;

35 (2) Basic and extended medical-surgical benefits;

36 (3) Diagnostic tests, including X-rays;

37 (4) Maternity benefits, including prenatal and postnatal care;

38 and

39 (5) Preventive medicine, including periodic physical  
40 examinations and inoculations.

41 At least three of the forms shall provide for major medical  
42 benefits in varying lifetime aggregates, one of which shall provide  
43 at least \$1,000,000 in lifetime aggregate benefits. The policy forms  
44 provided pursuant to this section shall contain benefits representing  
45 progressively greater actuarial values.

46 Notwithstanding the provisions of this subsection to the contrary,  
47 the board also may establish additional policy forms by which a  
48 small employer carrier, other than a health maintenance

1 organization, may provide indemnity benefits or health maintenance  
2 organization enrollees by direct contract with the enrollees' small  
3 employer through a dual arrangement with the health maintenance  
4 organization. The dual arrangement shall be filed with the  
5 commissioner for approval. The additional policy forms shall be  
6 consistent with the general requirements of P.L.1992, c.162  
7 (C.17B:27A-17 et seq.).

8 b. Initially, a carrier shall offer a plan within 90 days of the  
9 approval of such plan by the commissioner. Thereafter, the plans  
10 shall be available to all small employers on a continuing basis.  
11 Every small employer which elects to be covered under any health  
12 benefits plan who pays the premium therefor and who satisfies the  
13 participation requirements of the plan shall be issued a policy or  
14 contract by the carrier.

15 c. The carrier may establish a premium payment plan which  
16 provides installment payments and which may contain reasonable  
17 provisions to ensure payment security, provided that provisions to  
18 ensure payment security are uniformly applied.

19 d. In addition to the standard policies described in subsection a.  
20 of this section, the board may develop up to five rider packages.  
21 Any such package which a carrier chooses to offer shall be issued to  
22 a small employer who pays the premium therefor, and shall be  
23 subject to rating methodology set forth in section 9 of P.L.1992,  
24 c.162 (C.17B:27A-25).

25 e. (Deleted by amendment, P.L.2008, c.38).

26 f. Notwithstanding the provisions of this section to the  
27 contrary, a health maintenance organization which is a qualified  
28 health maintenance organization pursuant to the "Health  
29 Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C.  
30 s.300e et seq.) shall be permitted to offer health benefits plans  
31 formulated by the board and approved by the commissioner which  
32 are in accordance with the provisions of that law in lieu of the five  
33 plans required pursuant to this section.

34 Notwithstanding the provisions of this section to the contrary, a  
35 health maintenance organization which is approved pursuant to  
36 P.L.1973, c.337 (C.26:2J-1 et seq.) shall be permitted to offer health  
37 benefits plans formulated by the board and approved by the  
38 commissioner which are in accordance with the provisions of that  
39 law in lieu of the plans required pursuant to this section, except that  
40 the plans shall provide the same level of benefits as required for a  
41 federally qualified health maintenance organization, including any  
42 requirements concerning copayments by enrollees.

43 g. A carrier shall not be required to own or control a health  
44 maintenance organization or otherwise affiliate with a health  
45 maintenance organization in order to comply with the provisions of  
46 this section, but the carrier shall be required to offer at least three of  
47 the benefits plans which are formulated by the board and approved  
48 by the commissioner, including one plan which contains benefits

1 and cost sharing levels that are equivalent to those required for  
2 health maintenance organizations.

3 h. Notwithstanding the provisions of subsection a. of this  
4 section to the contrary, the board may modify the benefits provided  
5 for in sections 55, 57 and 59 of P.L.1991, c.187 (C.17:48E-22.2,  
6 17B:26B-2 and 26:2J-4.3).

7 i. (1) In addition to the rider packages provided for in  
8 subsection d. of this section, every carrier may offer, in connection  
9 with the health benefits plans required to be offered by this section,  
10 any number of riders which may revise the coverage offered by the  
11 plans in any way, provided, however, that any form of such rider or  
12 amendment thereof which decreases benefits or decreases the  
13 actuarial value of a plan shall be filed for informational purposes  
14 with the board and for approval by the commissioner before such  
15 rider may be sold. Any rider or amendment thereof which adds  
16 benefits or increases the actuarial value of a plan shall be filed with  
17 the board for informational purposes before such rider may be sold.  
18 The added premium or reduction in premium for each rider, as  
19 applicable, shall be listed separately from the premium for the  
20 standard plan.

21 The commissioner shall disapprove any rider filed pursuant to  
22 this subsection that is unjust, unfair, inequitable, unreasonably  
23 discriminatory, misleading, contrary to law or the public policy of  
24 this State. The commissioner shall not approve any rider which  
25 reduces benefits below those required by sections 55, 57 and 59 of  
26 P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3) and  
27 required to be sold pursuant to this section. The commissioner's  
28 determination shall be in writing and shall be appealable.

29 (2) The benefit riders provided for in paragraph (1) of this  
30 subsection shall be subject to the provisions of section 2, subsection  
31 b. of section 3, and sections 5, 7, 8, 9 and 11 of P.L.1992, c.162  
32 (C.17B:27A-18, 17B:27A-19, 17B:27A-22, 17B:27A-23, 17B:27A-  
33 24, 17B:27A-25, and 17B:27A-27).

34 j. (1) Notwithstanding the provisions of P.L.1992, c.162  
35 (C.17B:27A-17 et seq.) to the contrary, a health benefits plan issued  
36 by or through a carrier, association, or multiple employer  
37 arrangement prior to January 1, 1994 or, if the requirements of  
38 subparagraph (c) of paragraph (6) of this subsection are met, issued  
39 by or through an out-of-State trust prior to January 1, 1994, at the  
40 option of a small employer policy or contract holder, may be  
41 renewed or continued after February 28, 1994, or in the case of such  
42 a health benefits plan whose anniversary date occurred between  
43 March 1, 1994 and the effective date of P.L.1994, c.11 (C.17B:27A-  
44 19.1 et al.), may be reinstated within 60 days of that anniversary  
45 date and renewed or continued if, beginning on the first 12-month  
46 anniversary date occurring on or after the sixtieth day after the  
47 board adopts regulations concerning the implementation of the  
48 rating factors permitted by section 9 of P.L.1992, c.162

1 (C.17B:27A-25) and, regardless of the situs of delivery of the health  
2 benefits plan, the health benefits plan renewed, continued or  
3 reinstated pursuant to this subsection complies with the provisions  
4 of section 2, subsection b. of section 3, and sections 6, 7, 8, 9 and  
5 11 of P.L.1992, c.162 (C.17B:27A-18, 17B:27A-19, 17B:27A-22,  
6 17B:27A-23, 17B:27A-24, 17B:27A-25 and 17B:27A-27) and  
7 section 7 of P.L.1995, c.340 (C17B:27A-19.3).

8 Nothing in this subsection shall be construed to require an  
9 association, multiple employer arrangement or out-of-State trust to  
10 provide health benefits coverage to small employers that are not  
11 contemplated by the organizational documents, bylaws, or other  
12 regulations governing the purpose and operation of the association,  
13 multiple employer arrangement or out-of-State trust.  
14 Notwithstanding the foregoing provision to the contrary, an  
15 association, multiple employer arrangement or out-of-State trust  
16 that offers health benefits coverage to its members' employees and  
17 dependents:

18 (a) shall offer coverage to all eligible employees and their  
19 dependents within the membership of the association, multiple  
20 employer arrangement or out-of-State trust;

21 (b) shall not use actual or expected health status in determining  
22 its membership; and

23 (c) shall make available to its small employer members at least  
24 one of the standard benefits plans, as determined by the  
25 commissioner, in addition to any health benefits plan permitted to  
26 be renewed or continued pursuant to this subsection.

27 (2) Notwithstanding the provisions of this subsection to the  
28 contrary, a carrier or out-of-State trust which writes the health  
29 benefits plans required pursuant to subsection a. of this section shall  
30 be required to offer those plans to any small employer, association  
31 or multiple employer arrangement.

32 (3) (a) A carrier, association, multiple employer arrangement, or  
33 out-of-State trust may withdraw a health benefits plan marketed to  
34 small employers that was in effect on December 31, 1993 with the  
35 approval of the commissioner. The commissioner shall approve a  
36 request to withdraw a plan, consistent with regulations adopted by  
37 the commissioner, only on the grounds that retention of the plan  
38 would cause an unreasonable financial burden to the issuing carrier,  
39 taking into account the rating provisions of section 9 of P.L.1992,  
40 c.162 (C.17B:27A-25) and section 7 of P.L.1995, c.340  
41 (C.17B:27A-19.3).

42 (b) A carrier which has renewed, continued or reinstated a  
43 health benefits plan pursuant to this subsection that has not been  
44 newly issued to a new small employer group since January 1, 1994,  
45 may, upon approval of the commissioner, continue to establish its  
46 rates for that plan based on the loss experience of that plan if the  
47 carrier does not issue that health benefits plan to any new small  
48 employer groups.

1 (4) (Deleted by amendment, P.L.1995, c.340).

2 (5) A health benefits plan that otherwise conforms to the  
3 requirements of this subsection shall be deemed to be in compliance  
4 with this subsection, notwithstanding any change in the plan's  
5 deductible or copayment.

6 (6) (a) Except as otherwise provided in subparagraphs (b) and  
7 (c) of this paragraph, a health benefits plan renewed, continued or  
8 reinstated pursuant to this subsection shall be filed with the  
9 commissioner for informational purposes within 30 days after its  
10 renewal date. No later than 60 days after the board adopts  
11 regulations concerning the implementation of the rating factors  
12 permitted by section 9 of P.L.1992, c.162 (C.17B:27A-25) the filing  
13 shall be amended to show any modifications in the plan that are  
14 necessary to comply with the provisions of this subsection. The  
15 commissioner shall monitor compliance of any such plan with the  
16 requirements of this subsection, except that the board shall enforce  
17 the loss ratio requirements.

18 (b) A health benefits plan filed with the commissioner pursuant  
19 to subparagraph (a) of this paragraph may be amended as to its  
20 benefit structure if the amendment does not reduce the actuarial  
21 value and benefits coverage of the health benefits plan below that of  
22 the lowest standard health benefits plan established by the board  
23 pursuant to subsection a. of this section. The amendment shall be  
24 filed with the commissioner for approval pursuant to the terms of  
25 sections 4, 8, 12 and 25 of P.L.1995, c.73 (C.17:48-8.2, 17:48A-9.2,  
26 17:48E-13.2 and 26:2J-43), N.J.S.17B:26-1 and N.J.S.17B:27-49, as  
27 applicable, and shall comply with the provisions of sections 2 and 9  
28 of P.L.1992, c.162 (C.17B:27A-18 and 17B:27A-25) and section 7  
29 of P.L.1995, c.340 (C.17B:27A-19.3).

30 (c) A health benefits plan issued by a carrier through an out-of-  
31 State trust shall be permitted to be renewed or continued pursuant to  
32 paragraph (1) of this subsection upon approval by the commissioner  
33 and only if the benefits offered under the plan are at least equal to  
34 the actuarial value and benefits coverage of the lowest standard  
35 health benefits plan established by the board pursuant to subsection  
36 a. of this section. For the purposes of meeting the requirements of  
37 this subparagraph, carriers shall be required to file with the  
38 commissioner the health benefits plans issued through an out-of-  
39 State trust no later than 180 days after the date of enactment of  
40 P.L.1995, c.340. A health benefits plan issued by a carrier through  
41 an out-of-State trust that is not filed with the commissioner pursuant  
42 to this subparagraph, shall not be permitted to be continued or  
43 renewed after the 180-day period.

44 (7) Notwithstanding the provisions of P.L.1992, c.162  
45 (C.17B:27A-17 et seq.) to the contrary, an association, multiple  
46 employer arrangement or out-of-State trust may offer a health  
47 benefits plan authorized to be renewed, continued or reinstated  
48 pursuant to this subsection to small employer groups that are

1 otherwise eligible pursuant to paragraph (1) of subsection j. of this  
2 section during the period for which such health benefits plan is  
3 otherwise authorized to be renewed, continued or reinstated.

4 (8) Notwithstanding the provisions of P.L.1992, c.162  
5 (C.17B:27A-17 et seq.) to the contrary, a carrier, association,  
6 multiple employer arrangement or out-of-State trust may offer  
7 coverage under a health benefits plan authorized to be renewed,  
8 continued or reinstated pursuant to this subsection to new  
9 employees of small employer groups covered by the health benefits  
10 plan in accordance with the provisions of paragraph (1) of this  
11 subsection.

12 (9) Notwithstanding the provisions of P.L.1992, c.162  
13 (C.17B:27A-17 et seq.) or P.L.1992, c.161 (C.17B:27A-2 et al.) to  
14 the contrary, any individual, who is eligible for small employer  
15 coverage under a policy issued, renewed, continued or reinstated  
16 pursuant to this subsection, but who would be subject to a  
17 preexisting condition exclusion under the small employer health  
18 benefits plan, or who is a member of a small employer group who  
19 has been denied coverage under the small employer group health  
20 benefits plan for health reasons, may elect to purchase or continue  
21 coverage under an individual health benefits plan until such time as  
22 the group health benefits plan covering the small employer group of  
23 which the individual is a member complies with the provisions of  
24 P.L.1992, c.162 (C.17B:27A-17 et seq.).

25 (10) In a case in which an association made available a health  
26 benefits plan on or before March 1, 1994 and subsequently changed  
27 the issuing carrier between March 1, 1994 and the effective date of  
28 P.L.1995, c.340, the new issuing carrier shall be deemed to have  
29 been eligible to continue and renew the plan pursuant to paragraph  
30 (1) of this subsection.

31 (11) In a case in which an association, multiple employer  
32 arrangement or out-of-State trust made available a health benefits  
33 plan on or before March 1, 1994 and subsequently changes the  
34 issuing carrier for that plan after the effective date of P.L.1995,  
35 c.340, the new issuing carrier shall file the health benefits plan with  
36 the commissioner for approval in order to be deemed eligible to  
37 continue and renew that plan pursuant to paragraph (1) of this  
38 subsection.

39 (12) In a case in which a small employer purchased a health  
40 benefits plan directly from a carrier on or before March 1, 1994 and  
41 subsequently changes the issuing carrier for that plan after the  
42 effective date of P.L.1995, c.340, the new issuing carrier shall file  
43 the health benefits plan with the commissioner for approval in order  
44 to be deemed eligible to continue and renew that plan pursuant to  
45 paragraph (1) of this subsection.

46 Notwithstanding the provisions of subparagraph (b) of paragraph  
47 (6) of this subsection to the contrary, a small employer who changes  
48 its health benefits plan's issuing carrier pursuant to the provisions of

1 this paragraph, shall not, upon changing carriers, modify the benefit  
2 structure of that health benefits plan within six months of the date  
3 the issuing carrier was changed.

4 k. Effective immediately for a health benefits plan issued on or  
5 after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.)  
6 and effective on the first 12-month anniversary date of a health  
7 benefits plan in effect on the effective date of P.L.2005, c.248  
8 (C.17:48E-35.27 et al.), the health benefits plans required pursuant  
9 to this section, including any plans offered by a State approved or  
10 federally qualified health maintenance organization, shall contain  
11 benefits for expenses incurred in the following:

12 (1) Screening by blood lead measurement for lead poisoning for  
13 children, including confirmatory blood lead testing as specified by  
14 the Department of Health pursuant to section 7 of P.L.1995, c.316  
15 (C.26:2-137.1); and medical evaluation and any necessary medical  
16 follow-up and treatment for lead poisoned children.

17 (2) All childhood immunizations as recommended by the  
18 Advisory Committee on Immunization Practices of the United  
19 States Public Health Service and the Department of Health pursuant  
20 to section 7 of P.L.1995, c.316 (C.26:2-137.1). A carrier shall  
21 notify its insureds, in writing, of any change in the health care  
22 services provided with respect to childhood immunizations and any  
23 related changes in premium. Such notification shall be in a form  
24 and manner to be determined by the Commissioner of Banking and  
25 Insurance.

26 (3) Screening for newborn hearing loss by appropriate  
27 electrophysiologic screening measures and periodic monitoring of  
28 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373  
29 (C.26:2-103.1 et al.). Payment for this screening service shall be  
30 separate and distinct from payment for routine new baby care in the  
31 form of a newborn hearing screening fee as negotiated with the  
32 provider and facility.

33 The benefits provided pursuant to this subsection shall be  
34 provided to the same extent as for any other medical condition  
35 under the health benefits plan, except that a deductible shall not be  
36 applied for benefits provided pursuant to this subsection; however,  
37 with respect to a small employer health benefits plan that qualifies  
38 as a high deductible health plan for which qualified medical  
39 expenses are paid using a health savings account established  
40 pursuant to section 223 of the federal Internal Revenue Code of  
41 1986 (26 U.S.C. s.223), a deductible shall not be applied for any  
42 benefits that represent preventive care as permitted by that federal  
43 law, and shall not be applied as provided pursuant to section 16 of  
44 P.L.2005, c.248 (C.17B:27A-19.14). This subsection shall apply to  
45 all small employer health benefits plans in which the carrier has  
46 reserved the right to change the premium.

47 l. The board shall consider including benefits for speech-  
48 language pathology and audiology services, as rendered by speech-

1 language pathologists and audiologists within the scope of their  
2 practices, in at least one of the standard policies and in at least one  
3 of the five riders to be developed under this section.

4 m. Effective immediately for a health benefits plan issued on or  
5 after the effective date of P.L.2001, c.361 (C.17:48-6z et al.) and  
6 effective on the first 12-month anniversary date of a health benefits  
7 plan in effect on the effective date of P.L.2001, c.361 (C.17:48-6z  
8 et al.), the health benefits plans required pursuant to this section  
9 that provide benefits for expenses incurred in the purchase of  
10 prescription drugs shall provide benefits for expenses incurred in  
11 the purchase of specialized non-standard infant formulas, when the  
12 covered infant's physician has diagnosed the infant as having  
13 multiple food protein intolerance and has determined such formula  
14 to be medically necessary, and when the covered infant has not been  
15 responsive to trials of standard non-cow milk-based formulas,  
16 including soybean and goat milk. The coverage may be subject to  
17 utilization review, including periodic review, of the continued  
18 medical necessity of the specialized infant formula.

19 The benefits shall be provided to the same extent as for any other  
20 prescribed items under the health benefits plan.

21 This subsection shall apply to all small employer health benefits  
22 plans in which the carrier has reserved the right to change the  
23 premium.

24 n. Effective immediately for a health benefits plan issued on or  
25 after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.)  
26 and effective on the first 12-month anniversary date of a small  
27 employer health benefits plan in effect on the effective date of  
28 P.L.2005, c.248 (C.17:48E-35.27 et al.), the health benefits plans  
29 required pursuant to this section that qualify as high deductible  
30 health plans for which qualified medical expenses are paid using a  
31 health savings account established pursuant to section 223 of the  
32 federal Internal Revenue Code of 1986 (26 U.S.C. s.223), including  
33 any plans offered by a State approved or federally qualified health  
34 maintenance organization, shall contain benefits for expenses  
35 incurred in connection with any medically necessary benefits  
36 provided in-network that represent preventive care as permitted by  
37 that federal law.

38 The benefits provided pursuant to this subsection shall be  
39 provided to the same extent as for any other medical condition  
40 under the health benefits plan, except that no deductible shall be  
41 applied for benefits provided pursuant to this subsection. This  
42 subsection shall apply to all small employer health benefits plans in  
43 which the carrier has reserved the right to change the premium.

44 (cf: P.L.2012, c.17, s.58)

45

46 4. Section 4 of P.L.1992, c.162 (C.17B:27A-20) is amended to  
47 read as follows:

1       4. Plans required to be offered under **【this act】** P.L.1992, c.162  
2 (C.17B:27A-17 et seq.) may be subject to coinsurance and  
3 deductibles, which may vary by selected portions of the coverage,  
4 except that no **【deductible applicable to any portion of the coverage**  
5 **shall exceed \$250 for an individual or family unit during any**  
6 **benefit year, and no coinsurance applicable to any portion of the**  
7 **coverage shall exceed \$500 for an individual or family unit during**  
8 **any benefit year, unless provided by the board pursuant to section**  
9 **17 of P.L.1992, c.162 (C.17B:27A-33)】** cost-sharing shall exceed  
10 the maximum out-of-pocket limits established in the federal Patient  
11 Protection and Affordable Care Act, Pub.L.111-148, as amended by  
12 the federal "Health Care and Education Reconciliation Act of  
13 2010," Pub.L.111-152.  
14 (cf: P.L.1993, c.162, s.3.)  
15

16       5. (New section) a. The board shall annually review the small  
17 employer health benefits plans offered pursuant to P.L.1992, c.162  
18 (C.17B:27A-17 et seq.) to ensure that each plan meets the  
19 requirements of section 2 of P.L.2019, c.354 (C.17B:27A-19.30),  
20 provides consumer choice and affordability, and maintains a  
21 relative level of consistency compared to previous years and to  
22 other plans in the small employer market. The board shall publish  
23 the findings of its review on the website of the Department of  
24 Banking and Insurance.

25       b. The board shall annually adjust the design of the small  
26 employer health benefits plans, including the out-of-pocket limits  
27 under those plans, to ensure premium affordability and to align the  
28 plans with the requirements of section 2 of P.L.2019, c.354  
29 (C.17B:27A-19.30). The adjustment shall be based on the annual  
30 review conducted pursuant to subsection a. of this section. The  
31 board may consider proposals for adjustments to plan design to  
32 improve affordability from carriers offering small employer health  
33 benefits plans pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).  
34

35       6. Section 7 of P.L.1992, c.162 (C.17B:27A-23) is amended to  
36 read as follows:

37       7. Every policy or contract issued to small employers in this  
38 State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) shall be  
39 renewable with respect to all eligible employees or dependents at  
40 the option of the policy or contract holder, or small employer except  
41 that a carrier may discontinue or not renew a health benefits plan in  
42 accordance with the provisions of this section:

43       a. A carrier may discontinue such coverage only if:

44       (1) The policyholder, contract holder, or employer has failed to  
45 pay premiums or contributions in accordance with the terms of the  
46 health benefits plan or the carrier has not received timely premium  
47 payments; or

- 1 (2) The policyholder, contract holder, or employer has  
2 performed an act or practice that constitutes fraud or made an  
3 intentional misrepresentation of material fact under the terms of the  
4 coverage;
- 5 b. (Deleted by amendment, P.L.1997, c.146).
- 6 c. The number of employees covered under the health benefits  
7 plan is less than the number or percentage of employees required by  
8 participation requirements under the health benefits policy or  
9 contract;
- 10 d. Noncompliance with a carrier's employment contribution  
11 requirements;
- 12 e. Any carrier doing business pursuant to the provisions of  
13 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) ceases doing  
14 business in the small employer market, if the following conditions  
15 are satisfied:
- 16 (1) The carrier gives notice to cease doing business in the small  
17 employer market to the commissioner not later than eight months  
18 prior to the date of the planned withdrawal from the small employer  
19 market, during which time the carrier shall continue to be governed  
20 by **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) with respect  
21 to business written pursuant to **【this act】** P.L.1992, c.162  
22 (C.17B:27A-17 et seq.) For the purposes of this subsection, "date  
23 of withdrawal" means the date upon which the first notice to small  
24 employers is sent by the carrier pursuant to paragraph (2) of this  
25 subsection;
- 26 (2) No later than two months following the date of the  
27 notification to the commissioner that the carrier intends to cease  
28 doing business in the small employer market, the carrier shall mail a  
29 notice to every small business employer insured by the carrier, and  
30 all covered persons, that the policy or contract of insurance will not  
31 be renewed. This notice shall be sent by certified mail to the small  
32 business employer not less than six months in advance of the  
33 effective date of the nonrenewal date of the policy or contract;
- 34 (3) **【Any carrier that ceases to do business pursuant to this act**  
35 **shall be prohibited from writing new business in the small employer**  
36 **and individual health benefits plan markets for a period of five**  
37 **years from the date of termination of the last health insurance**  
38 **coverage not so renewed】** (Deleted by amendment,  
39 P.L. .c. (pending before the Legislature as this bill).
- 40 f. In the case of policies or contracts issued in connection with  
41 membership in an association or trust of employers, an employer  
42 ceases to maintain its membership in the association or trust, but  
43 only if such coverage is terminated under this provision uniformly  
44 without regard to any health status-related factor relating to any  
45 covered individual;
- 46 g. (Deleted by amendment, P.L.1995, c.50).
- 47 h. A decision by the small employer carrier to cease offering  
48 and not renew a particular type of group health benefits plan in the

1 small employer market, if the board discontinues a standard health  
2 benefits plan or as permitted or required pursuant to subsection j. of  
3 section 3 of P.L.1992, c.162 (C.17B:27A-19), and pursuant to the  
4 regulations adopted by the commissioner;

5 i. In the case of a health maintenance organization plan issued  
6 to a small employer:

7 (1) an eligible person who no longer resides, lives, or works in  
8 the carrier's approved service area, but only if coverage is  
9 terminated under this paragraph uniformly without regard to any  
10 health status-related factor of covered individuals; or

11 (2) a small employer that no longer has any enrollee in  
12 connection with such plan who lives, resides, or works in the  
13 service area of the carrier and the carrier would deny enrollment  
14 with respect to such plan pursuant to subsection a. of section 10 of  
15 P.L.1992, c.162 (C.17B:27A-26).

16 (cf: P.L.2008, c.38, s.23)

17

18 7. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to  
19 read as follows:

20 9. a. (1) (Deleted by amendment, P.L.1997, c.146).

21 (2) (Deleted by amendment, P.L.1997, c.146).

22 (3) (a) For all policies or contracts providing health benefits  
23 plans for small employers issued pursuant to section 3 of P.L.1992,  
24 c.162 (C.17B:27A-19), and including policies or contracts offered  
25 by a carrier to a small employer who is a member of a Small  
26 Employer Purchasing Alliance pursuant to the provisions of  
27 P.L.2001, c.225 (C.17B:27A-25.1 et al.) the premium rate charged  
28 by a carrier to the highest rated small group purchasing a small  
29 employer health benefits plan issued pursuant to section 3 of  
30 P.L.1992, c.162 (C.17B:27A-19) shall not be greater than **【200%】**  
31 300% of the premium rate charged for the lowest rated small group  
32 purchasing that same health benefits plan; provided, however, that  
33 the only factors upon which the rate differential may be based are  
34 age**【, gender】** and geography. Such factors shall be applied in a  
35 manner consistent with regulations adopted by the commissioner.  
36 For the purposes of this paragraph (3), policies or contracts offered  
37 by a carrier to a small employer who is a member of a Small  
38 Employer Purchasing Alliance shall be rated separately from the  
39 carrier's other small employer health benefits policies or contracts.

40 (b) A health benefits plan issued pursuant to subsection j. of  
41 section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in  
42 accordance with the provisions of section 7 of P.L.1995, c.340  
43 (C.17B:27A-19.3), for the purposes of meeting the requirements of  
44 this paragraph.

45 (4) (Deleted by amendment, P.L.1994, c.11).

46 (5) Any policy or contract issued after January 1, 1994 to a  
47 small employer who was not previously covered by a health  
48 benefits plan issued by the issuing small employer carrier, shall be

1 subject to the same premium rate restrictions as provided in  
2 paragraph (3) of this subsection, which rate restrictions shall be  
3 effective on the date the policy or contract is issued.

4 (6) The board shall establish, pursuant to section 17 of  
5 P.L.1993, c.162 (C.17B:27A-51):

6 (a) up to six geographic territories, none of which is smaller  
7 than a county; and

8 (b) age classifications which, at a minimum, shall be in five-  
9 year increments.

10 b. (Deleted by amendment, P.L.1993, c.162).

11 c. (Deleted by amendment, P.L.1995, c.298).

12 d. Notwithstanding any other provision of law to the contrary,  
13 **【this act】** P.L.1992, c.162 (C.17B:27A-17 et seq.) shall apply to a  
14 carrier which provides a health benefits plan to one or more small  
15 employers through a policy issued to an association or trust of  
16 employers.

17 A carrier which provides a health benefits plan to one or more  
18 small employers through a policy issued to an association or trust of  
19 employers after the effective date of P.L.1992, c.162 (C.17B:27A-  
20 17 et seq.), shall be required to offer small employer health benefits  
21 plans to non-association or trust employers in the same manner as  
22 any other small employer carrier is required pursuant to P.L.1992,  
23 c.162 (C.17B:27A-17 et seq.).

24 e. Nothing contained herein shall prohibit the use of premium  
25 rate structures to establish different premium rates for individuals  
26 and family units.

27 f. No insurance contract or policy subject to **【this act】**  
28 P.L.1992, c.162 (C.17B:27A-17 et seq.), including a contract or  
29 policy entered into with a small employer who is a member of a  
30 Small Employer Purchasing Alliance pursuant to the provisions of  
31 P.L.2001, c.225 (C.17B:27A-25.1 et al.), may be entered into unless  
32 and until the carrier has made an informational filing with the  
33 commissioner of a schedule of premiums, not to exceed 12 months  
34 in duration, to be paid pursuant to such contract or policy, of the  
35 carrier's rating plan and classification system in connection with  
36 such contract or policy, and of the actuarial assumptions and  
37 methods used by the carrier in establishing premium rates for such  
38 contract or policy.

39 g. (1) Beginning January 1, 1995, a carrier desiring to increase  
40 or decrease premiums for any policy form or benefit rider offered  
41 pursuant to subsection i. of section 3 of P.L.1992, c.162  
42 (C.17B:27A-19) subject to **【this act】** P.L.1992, c.162 (C.17B:27A-  
43 17 et seq.) may implement such increase or decrease upon making  
44 an informational filing with the commissioner of such increase or  
45 decrease, along with the actuarial assumptions and methods used by  
46 the carrier in establishing such increase or decrease, provided that  
47 the anticipated minimum loss ratio for all policy forms shall not be  
48 less than 80% of the premium therefor as provided in paragraph (2)

1 of this subsection. The commissioner may disapprove any  
2 informational filing on a finding that it is incomplete and not in  
3 substantial compliance with P.L.1992, c.162 (C.17B:27A-17 et  
4 seq.), or that the rates are inadequate or unfairly discriminatory.  
5 Until December 31, 1996, the informational filing shall also include  
6 the carrier's rating plan and classification system in connection with  
7 such increase or decrease.

8 (2) Each calendar year, a carrier shall return, in the form of  
9 aggregate benefits for all of the standard policy forms offered by  
10 the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162  
11 (C.17B:27A-19), at least 80% of the aggregate premiums collected  
12 for all of the standard policy forms, other than alliance policy  
13 forms, and at least 80% of the aggregate premiums collected for all  
14 of the non-standard policy forms during that calendar year. A  
15 carrier shall return at least 80% of the premiums collected for all of  
16 the alliances during that calendar year, which loss ratio may be  
17 calculated in the aggregate for all of the alliances or separately for  
18 each alliance. Carriers shall annually report, no later than August  
19 1st of each year, the loss ratio calculated pursuant to this section for  
20 all of the standard, other than alliance policy forms, non-standard  
21 policy forms and alliance policy forms for the previous calendar  
22 year, provided that a carrier may annually report the loss ratio  
23 calculated pursuant to this section for all of the alliances in the  
24 aggregate or separately for each alliance. In each case where the  
25 loss ratio fails to substantially comply with the 80% loss ratio  
26 requirement, the carrier shall issue a dividend or credit against  
27 future premiums for all policyholders with the standard, other than  
28 alliance policy forms, nonstandard policy forms or alliance policy  
29 forms, as applicable, in an amount sufficient to assure that the  
30 aggregate benefits paid in the previous calendar year plus the  
31 amount of the dividends and credits shall equal 80% of the  
32 aggregate premiums collected for the respective policy forms in the  
33 previous calendar year. All dividends and credits must be  
34 distributed by December 31 of the year following the calendar year  
35 in which the loss ratio requirements were not satisfied. The annual  
36 report required by this paragraph shall include a carrier's calculation  
37 of the dividends and credits applicable to standard, other than  
38 alliance policy forms, non-standard policy forms and alliance policy  
39 forms, as well as an explanation of the carrier's plan to issue  
40 dividends or credits. The instructions and format for calculating  
41 and reporting loss ratios and issuing dividends or credits shall be  
42 specified by the commissioner by regulation. Such regulations shall  
43 include provisions for the distribution of a dividend or credit in the  
44 event of cancellation or termination by a policyholder. For  
45 purposes of this paragraph, "alliance policy forms" means policies  
46 purchased by small employers who are members of Small Employer  
47 Purchasing Alliances.

1 (3) The loss ratio of a health benefits plan issued pursuant to  
2 subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall  
3 be calculated in accordance with the provisions of section 7 of  
4 P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the  
5 requirements of this subsection.

6 h. (Deleted by amendment, P.L.1993, c.162).

7 i. The provisions of **【this act】** P.L.1992, c.162 (C.17B:27A-17  
8 et seq.) shall apply to health benefits plans which are delivered,  
9 issued for delivery, renewed or continued on or after January 1,  
10 1994.

11 j. (Deleted by amendment, P.L.1995, c.340).

12 k. A carrier who negotiates a reduced premium rate with a  
13 Small Employer Purchasing Alliance for members of that alliance  
14 shall provide a reduction in the premium rate filed in accordance  
15 with paragraph (3) of subsection a. of this section, expressed as a  
16 percentage, which reduction shall be based on volume or other  
17 efficiencies or economies of scale and shall not be based on health  
18 status-related factors.

19 (cf: P.L.2008, c.38, s.24)

20  
21 8. (New section) a. Except as provided in subsection b. of this  
22 section, a carrier that offers an individual health benefits plan that  
23 provides benefits for expenses incurred in the purchase of  
24 prescription drugs and is delivered, issued, executed, or renewed in  
25 this State, pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), may  
26 use a prescription drug formulary to limit or exclude coverage for  
27 prescription drugs, provided that the carrier demonstrates to the  
28 satisfaction of the board that utilization and medical review panels  
29 are in place to allow formulary flexibility when necessary.

30 b. A carrier that offers an individual health benefits plan that  
31 provides benefits for expenses incurred in the purchase of  
32 prescription drugs and is delivered, issued, executed, or renewed in  
33 this State, pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), shall  
34 not adopt a protocol, policy, or program that establishes the specific  
35 sequence in which prescription drugs for a specified medical  
36 condition, and medically appropriate for a particular patient, are  
37 required to be administered in order to be covered by a health  
38 benefits plan.

39  
40 9. (New section) a. Except as provided in subsection b. of this  
41 section, a carrier that offers a small employer health benefits plan  
42 that provides benefits for expenses incurred in the purchase of  
43 prescription drugs and is delivered, issued, executed, or renewed in  
44 this State, pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), may  
45 use a prescription drug formulary to limit or exclude coverage for  
46 prescription drugs, provided that the carrier demonstrates to the  
47 satisfaction of the board that utilization and medical review panels  
48 are in place to allow formulary flexibility when necessary.

1       b. A carrier that offers a small employer health benefits plan  
2 that provides benefits for expenses incurred in the purchase of  
3 prescription drugs and is delivered, issued, executed, or renewed in  
4 this State, pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), shall  
5 not adopt a protocol, policy, or program that establishes the specific  
6 sequence in which prescription drugs for a specified medical  
7 condition, and medically appropriate for a particular patient, are  
8 required to be administered in order to be covered by a health  
9 benefits plan.

10  
11       10. Section 13 of P.L.1992, c.162 (C.17B:27A-29) is amended  
12 to read as follows:

13       13. a. **W**ithin 60 days of the effective date of this act, the  
14 commissioner shall give notice to all members of the time and place  
15 for the initial organizational meeting, which shall take place within  
16 90 days of the effective date. The members shall elect the initial  
17 board, subject to the approval of the commissioner. The board shall  
18 consist of 10 elected public members and two ex officio members  
19 who include the Commissioner of Health and the commissioner or  
20 their designees. Initially, three of the public members of the board  
21 shall be elected for a three-year term, three shall be elected for a  
22 two-year term, and three shall be elected for a one-year term.  
23 Thereafter, all elected board members shall serve for a term of three  
24 years. The following categories shall be represented among the  
25 elected public members:

26       (1) Three carriers whose principal health insurance business is  
27 in the small employer market;

28       (2) One carrier whose principal health insurance business is in  
29 the large employer market;

30       (3) A health service corporation or a domestic stock insurer  
31 which converted from a health service corporation pursuant to the  
32 provisions of P.L.2001, c.131 (C.17:48E-49 et al.) and is primarily  
33 engaged in the business of issuing health benefit plans in this State;

34       (4) Two health maintenance organizations; and

35       (5) (Deleted by amendment, P.L.1995, c.298).

36       (6) (Deleted by amendment, P.L.1995, c.298).

37       (7) Three persons representing small employers, at least one of  
38 whom represents minority small employers.

39       No carrier shall have more than one representative on the board.

40       The board shall hold an election for the two members added  
41 pursuant to P.L.1995, c.298 within 90 days of the date of enactment  
42 of that act. Initially, one of the two new members shall serve for a  
43 term of one year and one of the two new members shall serve for a  
44 term of two years. Thereafter, the new members shall serve for a  
45 term of three years. The terms of the risk-assuming carrier and  
46 reinsuring carrier shall terminate upon the election of the two new  
47 members added pursuant to P.L.1995, c.298, notwithstanding the  
48 provisions of this section to the contrary.

1 In addition to the 10 elected public members, the ~~the~~ board  
 2 shall ~~include six~~ consist of 12 public members appointed by the  
 3 Governor ~~with the advice and consent of the Senate~~ who shall  
 4 include:

5 (1) Two carriers that sell plans in the small employer market;

6 (2) Two carriers that sell plans in the individual market or the  
 7 small employer market;

8 (3) Two representatives of or individuals employed by  
 9 businesses that purchase in small employer health benefits plans;

10 (4) Two individuals who are licensed health care providers;

11 (5) Two insurance producers licensed to sell health insurance  
 12 pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.);

13 (6) One representative of organized labor; and

14 ~~One physician licensed to practice medicine and surgery in this~~  
 15 ~~State; and~~

16 ~~Two persons who represent the general public and are not~~  
 17 ~~employees of a health benefits plan provider.~~

18 (7) One representative of an association representing small  
 19 business in the State.

20 The commissioner, or the commissioner's designee, shall serve  
 21 on the board as an ex officio member.

22 The public members shall be appointed for a term of three years,  
 23 except that of the members first appointed, ~~two~~ four shall be  
 24 appointed for a term of one year, ~~two~~ four for a term of two years  
 25 and ~~two~~ four for a term of three years.

26 A vacancy in the membership of the board shall be filled for an  
 27 unexpired term in the manner provided for the ~~original election~~  
 28 ~~or~~ appointment, as appropriate.

29 b. ~~If the initial board is not elected at the organizational~~  
 30 ~~meeting, the commissioner shall appoint the public members within~~  
 31 ~~15 days of the organizational meeting, in accordance with the~~  
 32 ~~provisions of paragraphs (1) through (7) of subsection a. of this~~  
 33 ~~section.~~ (Deleted by amendment, P.L. , c. ) (pending before  
 34 the Legislature as this bill).

35 c. (Deleted by amendment, P.L.1995, c.298).

36 d. All meetings of the board shall be subject to the  
 37 requirements of the "Open Public Meetings Act," P.L.1975, c.231  
 38 (C.10:4-6 et seq.).

39 e. At least two copies of the minutes of every meeting of the  
 40 board shall be delivered forthwith to the commissioner.

41 (cf: P.L.2012, c.17, s.60.)

42  
 43 11. (New section) a. A small employer taxpayer shall be  
 44 allowed a credit against the tax imposed pursuant to section 5 of  
 45 P.L.1945, c.162 (C.54:10A-5) in the amount provided in subsection  
 46 b. of this section if the taxpayer paid during the privilege period for

1 employees' health benefits plan premiums for a health benefits plan  
2 obtained:

3 (1) through the New Jersey Small Employer Health Benefits  
4 Program, established pursuant to section 12 of P.L.1992, c.162  
5 (C.17B:27A-28), or

6 (2) through a multiple employer welfare arrangement subject to  
7 P.L.2001, c.352 (C.17B:27C-1 et seq.), provided that the health  
8 benefits to be provided by the multiple employer welfare  
9 arrangement is at all times equal to or greater than benefits required  
10 to be provided in the lowest benefit level standard plan promulgated  
11 by the New Jersey Small Employer Health Benefits Program  
12 pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

13 As used in this section "small employer" has the same meaning  
14 as in section 1 of P.L.1992, c.162 (C.17B:27A-17).

15 b. (1) If the taxpayer paid 100 percent of each premium so that  
16 no portion of the premium is left for the employee to pay, the  
17 taxpayer shall be allowed \$250 for each employee with single  
18 coverage and \$500 for each employee with family coverage;

19 (2) if the taxpayer paid at least 50 percent but less than 100  
20 percent of each premium, the taxpayer shall be allowed a  
21 percentage of the amounts allowed in paragraph (1) of this  
22 subsection equal to the percentage of the premium that the taxpayer  
23 paid;

24 (3) if the taxpayer paid less than 50 percent of each premium, no  
25 credit shall be allowed for the premium paid for that employee.

26 c. The credit amount earned for each employee shall be  
27 reduced to a percentage equal to the percentage of the privilege  
28 period during which the taxpayer paid for that employee's health  
29 benefits plan premiums.

30 d. The total credit allowed pursuant to this section shall not  
31 exceed the total amount paid during the privilege period for  
32 employees' health benefits plan premiums through the New Jersey  
33 Small Employer Health Benefits Program or a multiple employer  
34 welfare arrangement.

35 e. The director shall prescribe the order of priority of the  
36 application of the credit allowed under this section and any other  
37 credits allowed by law against the tax imposed under section 5 of  
38 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
39 under this section against the tax imposed pursuant to section 5 of  
40 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
41 any other credits allowed by law, shall not exceed 50 percent of the  
42 tax liability otherwise due and shall not reduce the tax liability to an  
43 amount less than the statutory minimum provided in subsection (e)  
44 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any remaining credit  
45 shall not be carried forward to any subsequent privilege period.

46

47 12. (New section) a. A small employer taxpayer shall be  
48 allowed a credit against the tax imposed pursuant to the "New

1 Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. in the amount  
2 provided in subsection b. of this section if the taxpayer paid during  
3 the taxable year for employees’ health benefits plan premiums for  
4 health benefits plan obtained:

5 (1) through the New Jersey Small Employer Health Benefits  
6 Program, established pursuant to section 12 of P.L.1992, c.162  
7 (C.17B:27A-28), or

8 (2) through a multiple employer welfare arrangement subject to  
9 P.L.2001, c.352 (C.17B:27C-1 et seq.), provided that the health  
10 benefits to be provided by the multiple employer welfare  
11 arrangement is at all times equal to or greater than benefits required  
12 to be provided in the lowest benefit level standard plan promulgated  
13 by the New Jersey Small Employer Health Benefits Program  
14 pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

15 As used in this section “small employer” has the same meaning  
16 as in section 1 of P.L.1992, c.162 (C.17B:27A-17).

17 b. (1) If the taxpayer paid 100 percent of each premium so that  
18 no portion of the premium is left for the employee to pay, the  
19 taxpayer shall be allowed \$250 for each employee with single  
20 coverage and \$500 for each employee with family coverage;

21 (2) if the taxpayer paid at least 50 percent but less than 100  
22 percent of each premium, the taxpayer shall be allowed a  
23 percentage of the amounts allowed in paragraph (1) of this  
24 subsection equal to the percentage of the premium that the taxpayer  
25 paid;

26 (3) if the taxpayer paid less than 50 percent of each premium, no  
27 credit shall be allowed for the premium paid for that employee.

28 c. The credit amount earned for each employee shall be  
29 reduced to a percentage equal to the percentage of the taxable year  
30 during which the taxpayer paid for that employee’s health benefits  
31 plan premiums.

32 d. The total credit allowed pursuant to this section shall not  
33 exceed the total amount paid during the taxable year for employees’  
34 health benefits plan premiums through the New Jersey Small  
35 Employer Health Benefits Program or a multiple employer welfare  
36 arrangement.

37 e. (1) A business entity that is classified as a partnership for  
38 federal income tax purposes shall not be allowed a credit pursuant  
39 to this section directly, but the amount of credit of a taxpayer in  
40 respect of a distributive share of entity income, shall be determined  
41 by allocating to the taxpayer that proportion of the credit acquired  
42 by the entity that is equal to the taxpayer’s share, whether or not  
43 distributed, of the total distributive income or gain of the entity for  
44 its taxable year ending within or with the taxpayer’s taxable year.

45 (2) A New Jersey S Corporation shall not be allowed a credit  
46 pursuant to this section directly, but the amount of credit of a  
47 taxpayer in respect of a pro rata share of S Corporation income,  
48 shall be determined by allocating to the taxpayer that proportion of

1 the credit acquired by the New Jersey S Corporation that is equal to  
2 the taxpayer's share, whether or not distributed, of the total pro rata  
3 share of S Corporation income of the New Jersey S Corporation for  
4 its privilege period ending within or with the taxpayer's taxable  
5 year.

6 f. The director shall prescribe the order of priority of the  
7 application of the credit allowed under this section and any other  
8 credits allowed by law against the tax imposed under the "New  
9 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. The amount  
10 of the credit applied under this section against the tax imposed  
11 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
12 et seq., for a taxable year, together with any other credits allowed  
13 by law, shall not exceed 50 percent of the tax liability otherwise  
14 due. Any remaining credit shall not be carried forward to any  
15 subsequent taxable year.

16

17 13. a. Sections 1 through 10 of this act shall take effect  
18 immediately.

19 b. Sections 11 and 12 of this act shall take effect immediately  
20 and apply to privilege periods and taxable years beginning after  
21 enactment.

22

23

24

#### STATEMENT

25

26 This bill revises various requirements for individual and small  
27 employer health benefits plans.

28 The bill removes a provision of law that requires health  
29 insurance carriers to offer individual health plans, through the  
30 Individual Health Coverage Program, as a condition of participation  
31 in the small employer health insurance market. The bill removes a  
32 provision of law that requires health insurance carriers that  
33 participate in the small employer health insurance market to  
34 participate in the Individual Health Coverage Program.

35 The bill also removes a 5-year prohibition on carriers re-entering  
36 the individual and small employer health insurance markets if the  
37 carrier ceases to offer either plan.

38 The bill modifies the age rating band by requiring that the  
39 premium rate charged by a carrier to the highest rated small group  
40 purchasing a small employer health benefits plan may not be greater  
41 than 300% of the premium rate charged for the lowest rated small  
42 group purchasing that same health benefits plan; provided, however,  
43 that the only factors upon which the rate differential may be based  
44 are age and geography. Current law provides that the rate of the  
45 highest rated small group may not be greater than 200% of the  
46 premium rate charged for the lowest rated small group.

47 The bill removes provisions of current law that provide certain  
48 caps on cost-sharing amounts in small employer health plans. The

1 bill instead provides that cost-sharing may not exceed the maximum  
2 out-of-pocket limits established in the federal Patient Protection and  
3 Affordable Care Act. This bill also requires the board of directors  
4 of the New Jersey Small Employer Health Benefits Program to  
5 annually review and adjust certain requirements, including out-of-  
6 pocket limits, for small employer health benefits plans.

7 The bill provides that a carrier that offers an individual or small  
8 employer health benefits plan that provides benefits for expenses  
9 incurred in the purchase of prescription drugs may use a  
10 prescription drug formulary to limit or exclude coverage for  
11 prescription drugs, provided that the carrier demonstrates to the  
12 satisfaction of the board that utilization and medical review panels  
13 are in place to allow formulary flexibility when necessary, provided  
14 that the carrier may not adopt a protocol, policy, or program that  
15 establishes the specific sequence in which prescription drugs for a  
16 specified medical condition, and medically appropriate for a  
17 particular patient, are required to be administered in order to be  
18 covered by a health benefits plan.

19 The bill revises the membership of the New Jersey Small  
20 Employer Health Benefits Program Board. The bill provides that  
21 the board will consist of the following members:

- 22 (1) Two carriers that sell plans in the small employer market;
- 23 (2) Two carriers that sell plans in the small employer market or  
24 the individual market;
- 25 (3) Two representatives of or individuals employed by  
26 businesses that purchase in small employer health benefits plans;
- 27 (4) Two individuals who are licensed insurance brokers;
- 28 (5) Two individuals who are licensed health care providers;
- 29 (6) One individual representing organized labor; and
- 30 (7) One individual representing an association that represents  
31 small businesses in the State.

32 The bill allows small employers to claim a tax credit if they pay  
33 for their employees' health benefits plan premiums for (1) a plan  
34 obtained through the New Jersey Small Employer Health Benefits  
35 Program, or (2) multiple employer welfare arrangements whose  
36 health benefits is at all times equal to or greater than benefits  
37 required to be provided in the lowest benefit level standard plan  
38 promulgated by the New Jersey Small Employer Health Benefits  
39 Program.

40 An employer will be entitled to a credit equal to \$250 for each  
41 employee enrolled in a single plan and \$500 for each employee  
42 enrolled in a family plan. The employer may only claim the full  
43 amount of the credit if the employer pays the full premiums. The  
44 bill provides a reduced credit if the employer pays at least half of  
45 the amount of the premium. The credit is also reduced to account  
46 for employees that are not enrolled for the full taxable year.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 4294**

**STATE OF NEW JERSEY**

DATED: MARCH 9, 2023

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Committee Substitute for Assembly No. 4294.

This Assembly Committee Substitute requires the Department of Banking and Insurance (department) to conduct a study of:

(1) the impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and extend reinsurance to small businesses purchasing health insurance through the pooled market; and

(2) the creation of a small employer health insurance subsidy and sustainable funding sources for that subsidy, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment.

This committee substitute is identical to the Senate Committee Substitute for S2824.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 4294**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 23, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4294 ACS.

As amended, this Assembly Committee Substitute requires the Department of Banking and Insurance (department) to conduct a study of:

(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the commissioner, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department is to examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. The study is to examine and illustrate the impact of the implementation schedule of any age rating ratio changes and examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study is to include recommendations to the Legislature to

support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

As amended and reported by the committee the Assembly Committee Substitute for Assembly Bill No. 4294 is identical to the Senate Committee Substitute for Senate Bill No. 2824 (1R) which was also reported by the committee on this date.

#### PROPOSED COMMITTEE AMENDMENTS:

The committee amended the bill to include:

(1) a study of the actuarial impact of increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. Specifically, the department will examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. The study will also examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor;

(2) a study of other policies that could contribute to stabilizing the small employer health insurance market; and

(3) a provision stipulating that the commissioner may engage the services of experts and consultants to assist with the preparation of the study.

#### FISCAL IMPACT

The Office of Legislative Services (OLS) estimates that the bill will result in a one-time expenditure increase of at least \$120,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market.

If staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. The OLS notes, however, that additional full-time equivalent employee resources may be necessary to complete the study and issue the required report and that outside experts or consultants may be hired, as permitted by the bill.

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 4294**

with Assembly Floor Amendments  
(Proposed by Assemblyman McKEON)

ADOPTED: MAY 25, 2023

This amendment provides for an appropriation of \$500,000 from the General Fund to the Department of Banking and Insurance to effectuate the purposes of the bill.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 4294**

**STATE OF NEW JERSEY  
220th LEGISLATURE**

DATED: MARCH 29, 2023

## SUMMARY

- Synopsis:** Requires DOBI to conduct study on impact of certain changes to individual and small group health insurance markets.
- Type of Impact:** One-time State Expenditure Increase, General Fund.
- Agencies Affected:** Department of Banking and Insurance.

### Office of Legislative Services Estimate

<b>One-Time Fiscal Impact</b>	
<b>State Expenditure Increase</b>	At least \$120,000

- The Office of Legislative Services (OLS) estimates that the bill will result in a one-time expenditure increase of at least \$120,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market.
- If staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. The OLS notes, however, that additional full-time equivalent employee resources may be necessary to complete the study and issue the required report and that outside experts or consultants may be hired, as permitted by the bill.

## BILL DESCRIPTION

This bill requires the Department of Banking and Insurance to conduct a study of:

(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the department, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department shall specifically examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. Additionally, the study shall examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study shall include recommendations to the Legislature to support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

The bill authorizes the Department of Banking and Insurance to engage the services of experts and consultants to assist with the preparation of the study.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in a one-time State expenditure increase of at least \$120,000. The OLS notes that if staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. Any additional full-time equivalent resources needed to complete the study and issue the required report would result in this cost estimate being revised upwards. The OLS further notes that if the department hires experts or consultants to assist departmental staff in the preparation of the study, the cost estimate would increase further.

*Section:* Commerce, Labor and Industry  
*Analyst:* Christian Weisenbacher  
Senior Counsel  
*Approved:* Thomas Koenig  
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 4294**

**STATE OF NEW JERSEY  
220th LEGISLATURE**

DATED: MARCH 29, 2023

## SUMMARY

- Synopsis:** Requires DOBI to conduct study on impact of certain changes to individual and small group health insurance markets.
- Type of Impact:** One-time State Expenditure Increase, General Fund.
- Agencies Affected:** Department of Banking and Insurance.

### Office of Legislative Services Estimate

<b>One-Time Fiscal Impact</b>	
<b>State Expenditure Increase</b>	At least \$120,000

- The Office of Legislative Services (OLS) estimates that the bill will result in a one-time expenditure increase of at least \$120,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market.
- If staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. The OLS notes, however, that additional full-time equivalent employee resources may be necessary to complete the study and issue the required report and that outside experts or consultants may be hired, as permitted by the bill.

## BILL DESCRIPTION

This bill requires the Department of Banking and Insurance to conduct a study of:

(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the department, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department shall specifically examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. Additionally, the study shall examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study shall include recommendations to the Legislature to support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

The bill authorizes the Department of Banking and Insurance to engage the services of experts and consultants to assist with the preparation of the study.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in a one-time State expenditure increase of at least \$120,000. The OLS notes that if staff hours used for the study and report writing were to be equivalent to one full-time equivalent employee for the maximum one-year timeline, the salary and fringe benefit costs for the single full-time equivalent employee would total around \$120,000. Any additional full-time equivalent resources needed to complete the study and issue the required report would result in this cost estimate being revised upwards. The OLS further notes that if the department hires experts or consultants to assist departmental staff in the preparation of the study, the cost estimate would increase further.

*Section:* Commerce, Labor and Industry  
*Analyst:* Christian Weisenbacher  
Senior Counsel  
*Approved:* Thomas Koenig  
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
[Second Reprint]  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 4294**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JUNE 29, 2023

**SUMMARY**

**Synopsis:** Requires DOBI to conduct study on impact of certain changes to individual and small group health insurance markets.

**Type of Impact:** One-time State Expenditure Increase, General Fund.

**Agencies Affected:** Department of Banking and Insurance.

**Office of Legislative Services Estimate**

<b>One-Time Fiscal Impact</b>	
<b>State Expenditure Increase</b>	Up to \$500,000

- The Office of Legislative Services (OLS) estimates that the bill will result in a one-time expenditure increase of up to \$500,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure increase will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market.
- The bill appropriates \$500,000 to the department to implement the provisions of the bill.

**BILL DESCRIPTION**

This bill requires the Department of Banking and Insurance to conduct a study of:  
(1) the potential impact on the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program of pursuing an amendment to the waiver of

applicable provisions of the Affordable Care Act in order to merge the individual and small group markets and the availability and impact of extending reinsurance to small businesses purchasing health insurance through the pooled market;

(2) the costs and benefits of creating a small employer health insurance subsidy, and other affordability measures as deemed appropriate by the department, and sustainable funding sources for that subsidy and those measures, including consideration of the size of an effective and meaningful subsidy, an analysis of available sustainable funding sources, including an examination of the establishment of an assessment on other lines of insurance, the size of any such assessment, and how best to administer both the subsidy and a potential assessment;

(3) the actuarial impact that increasing the age rating ratio in the New Jersey Small Employer Health Benefits Program from 2:1 to various ranges up to 3:1. The department shall specifically examine the impact of any increase of the age rating ratio on consumers and overall premiums in the small group market, as well as any impact on market viability, competitiveness, enrollment, and any other factors that the department finds necessary. Additionally, the study shall examine the effect of geographic region ratings on premiums and whether it would be in the best interests of the small group market's viability and employers and employees to retain or eliminate this factor. The study shall include recommendations to the Legislature to support the health of the small group market and its eligible enrollees; and

(4) other policies that could contribute to stabilizing the small employer health insurance market.

The bill authorizes the Department of Banking and Insurance to: request directly from any other department or agency of State government information or data that may be needed to conduct the study; request from any carrier participating in the Small Employer Health Benefits Program and Individual Health Coverage Program data necessary to conduct the study; and, engage the services of experts and consultants to assist with the preparation of the study. The bill appropriates \$500,000 to the department to carry out the provisions of the bill.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in a one-time expenditure increase of up to \$500,000 to the Department of Banking and Insurance due to increases to the department's workload. The one-time expenditure increase will be realized as the bill requires a one-time study and the subsequent issuance of a report concerning the potential impact of the merger of the individual and small group health insurance markets, the costs and benefits of creating a small employer health insurance subsidy and other affordability measures, the adjustment of the age rating band in the small group market, and other policies that could contribute to stabilizing the small employer health insurance market. The bill appropriates \$500,000 to the department to implement the provisions of the bill.

*Section: Commerce, Labor, and Industry*

*Analyst: John Gaudioso*  
*Assistant Fiscal Analyst*

*Approved: Thomas Koenig*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

11/27/2023

**TRENTON** – Today, Governor Murphy signed the following bills into law:

**S-146/A-3328 (Diegnan, Corrado/Haider, Benson, Park)** - Requires certain transportation research to consider needs of individuals with physical, sensory, intellectual, and developmental disabilities

**S-1553/A-4525 (Beach, Ruiz/Lampitt, Jaffer, Jasey)** – Permits State Board of Education to authorize alternative teaching certificate

**S-2369/A-4017 (Singer, Madden/Benson, McKnight, Reynolds-Jackson)** – Establishes minimum NJ FamilyCare reimbursement rate for traumatic brain injury special care nursing facilities; establishes enhanced NJ FamilyCare reimbursement rate for nursing facilities under certain circumstances; makes an appropriation

**SCS for S-2824/ACS for A-4294 (Vitale, Pou/McKeon, McKnight, Stanley)** - Requires DOBI to conduct study on impact of certain changes to individual and small group health insurance markets

**S-3782/A-5398 (Lagana/Kennedy)** - Allows sale of malt alcoholic beverages in cans or bottles marked for deposit of another state

**S-3976/A-4934 (Greenstein, Cruz-Perez/Benson, Moen, Wimberly)** - Establishes Mobility and Transportation Innovation Pilot Program in DOT; appropriates \$2 million

Governor Murphy conditionally vetoed the following bills:

**SCS for S-524/ACS for A-1700 (Ruiz, Cunningham/Quijano, Mukherji, Atkins)** - **CONDITIONAL** - Creates Mental Health Diversion Program to divert eligible persons away from criminal justice system and into appropriate case management and mental health services

[Copy of Statement](#)

**S-2818/A-4394 (Turner/Kennedy)** - **CONDITIONAL** - Establishes "Working Group to Study Pricing of Motor Fuels by Retail Dealers"

[Copy of Statement](#)

**SCS for S-2848/A-4328 (Smith, Greenstein/DeAngelo, Karabinchak)** - **CONDITIONAL** - Revises criteria for remote net metering program established by BPU

[Copy of Statement](#)

**SCS for S-3038/ACS for A-4630 (Gopal, Greenstein/Calabrese, Mukherji, Moriarty)** - **CONDITIONAL** - Establishes sales and events privileges for certain alcoholic beverage manufacturers

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**S-3044/A-4716 (Diegnan, Greenstein/Stanley, Benson, Mukherji)** - **CONDITIONAL** - Makes supplemental appropriation of \$15 million to DEP for implementation of Electric School Program

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**S-3153/A-4548 (Codey/Kennedy, Haider, Stanley)** - **CONDITIONAL** - Authorizes schools to receive certain food waste from other schools, and provides exemption to such receiving schools from certain DEP permits, under certain conditions

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**S-3480/A-5137 (Vitale, Pou/McKeon, Park, Murphy)** - **CONDITIONAL** - "The Small Business Health Insurance Affordability Act"; revises certain requirements for individual and small employer health benefits plans

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**SCS for S-3756/ACS for A5363 (Scutari, Sarlo/Schaer, Wimberly)** - **CONDITIONAL** - Permits SHBP and SEHBP to award contracts for more claims administrators for each program plan; requires claims data and trend reports to be provided to certain persons

[Copy of Statement](#)

**S-3839/A-4061 (Greenstein, Steinhardt/Mukherji, Wirths, Space)** - **CONDITIONAL** - Requires Commissioner of Corrections to institute 10-minute shift overlap in State correctional facilities; appropriates \$13 million

[Copy of Statement](#)

**S-4011/A-5650 (Ruiz/Coughlin, Pintor Marin, Wimberly)** - **CONDITIONAL** - Modifies New Jersey Community-Anchored Development Program

[Copy of Statement](#)

Governor Murphy absolute vetoed the following bill:

**S-861/A-5460 (Zwicker, Steinhardt, Doherty/Freiman)** - **ABSOLUTE** - Allows municipalities to conduct annual event for open burning of Christmas trees

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