

S3807

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

Other:

March 22, 2019, letter referred to in Press Release

RWH/CL

§§1,2,4 -
C.17B:27A-57 to
17B:27A-59
§3 - T&E
§5 - Note

P.L. 2019, CHAPTER 141, *approved June 28, 2019*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, No. 5499

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

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. There is established in the Department of the Treasury a
8 nonlapsing revolving fund to be known as the “Health Insurance
9 Exchange Trust Fund.” This fund shall be the repository for monies
10 collected pursuant to subsection c. of this section, any federal
11 financial participation available, and other monies received as
12 grants or otherwise appropriated for the purposes of supporting
13 health insurance outreach and enrollment efforts through an
14 exchange. The monies in the fund shall be used only for the
15 purpose of supporting the exchange through initial start-up costs
16 associated with establishment of the exchange, exchange
17 operations, outreach, enrollment, and other means of supporting the
18 exchange¹, including any efforts that can increase market
19 stabilization and that may result in a net benefit to policyholders¹.

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

29 c. The commissioner may apply a monthly assessment to each
30 ¹individual¹ health benefits plan ¹**【offered by a carrier】** sold in the
31 individual market¹. The assessment shall be paid by the carrier and
32 deposited into the fund and shall be used only for the purpose of
33 supporting the exchange through initial start-up costs associated
34 with establishment of the exchange, exchange operations, outreach,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 13, 2019.

²Senate floor amendments adopted June 27, 2019.

1 enrollment, and other means of supporting the exchange¹, including
2 any efforts that can increase market stabilization and that may result
3 in a net benefit to policyholders¹. The assessment may be applied
4 at a rate of:

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

8 (2) 1 percent of the total monthly premium charged by a carrier
9 for each health benefits plan during any period that the State is on a
10 State-based exchange using the federal platform; or

11 (3) 3.5 percent of the total monthly premium charged by a
12 carrier for each health benefits plan during any period that the State
13 is on a State-based exchange. The commissioner shall have the
14 discretion to adjust this rate to ensure that the State-based exchange
15 is fully funded, but in no case shall the assessment be applied at a
16 rate that exceeds ~~5~~ 4¹ percent of the total monthly premium
17 charged by a carrier. If the commissioner determines it is
18 necessary to adjust the rate above 3.5 percent pursuant to this
19 paragraph, the commissioner shall, in advance of the adjustment,
20 post on the department's website a report describing the reasons and
21 justifications for the adjustment, which shall be consistent with the
22 purposes of supporting the exchange as provided in this section.¹

23 ~~Beginning on January 1,~~ After the¹ 2020 ¹plan year¹, the
24 commissioner shall ~~provide~~ notify¹ a carrier ~~with adequate~~
25 ~~notice~~¹ of its assessment rate for the subsequent year ~~to allow~~
26 at least 20 days prior to the date¹ the carrier ~~to adjust~~ is required
27 to file¹ its rate filing ~~based on the assessment rate~~ with the
28 department¹. In the case of an assessment for the 2020 plan year,
29 the commissioner shall notify carriers as soon as is practicable of
30 the assessment amount.¹

31 d. Any unexpended balance in the fund at the end of a year
32 shall be available for expenditure by the commissioner in the
33 subsequent year. The commissioner shall consider any unexpended
34 balance from a previous year when calculating the assessment
35 pursuant to subsection c. of this section.
36

37 2. a. Notwithstanding any other law to the contrary, the
38 Department of Banking and Insurance shall have the authority to
39 operate a State-based exchange and coordinate the operations of the
40 exchange with the operations of the New Jersey Individual Health
41 Coverage Program and the New Jersey Small Employer Health
42 Benefits Program, including reorganization of the boards, as the
43 commissioner deems appropriate. The department's authority to
44 regulate the insurance market shall be separate and distinct from the
45 department's duty to oversee exchange operations, to ensure the
46 best interests of and protection for consumers of the State. ¹The

1 commissioner may require that all plans in the individual and small
2 employer markets be made available for comparison on the State-
3 based exchange, but nothing in this section shall allow the
4 commissioner to require all plans in the individual and small
5 employer markets to be purchased exclusively on the State-based
6 exchange.¹ The department shall ²[also have the authority to]²
7 coordinate the operations of the exchange with the operations of the
8 State Medicaid program established pursuant to P.L.1968, c.413
9 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established
10 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) ²to determine
11 eligibility for those programs as soon as practicable².

12 b. The Commissioner of ²[Banking and Insurance shall]
13 Human Services², in consultation with the Commissioner of
14 ²[Human Services, examine whether federal financial participation
15 is available for the exchange as a State administrative expenditure
16 necessary for the proper and efficient administration of the State
17 Medicaid plan. If the commissioner, in consultation with the
18 Commissioner of Human Services, finds that federal financial
19 participation is available and practicable, the commissioners shall,
20 in consultation with one another, secure the maximum federal
21 financial participation available] Banking and Insurance, shall
22 submit a proposal for available federal financial participation funds
23 to the Centers for Medicare & Medicaid Services of the U.S.
24 Department of Health and Human Services pursuant to 42 C.F.R.
25 433.112 for the Medicaid eligibility platform and the exchange to
26 be integrated. Notwithstanding the foregoing, the Department of
27 Banking and Insurance may proceed to implement the provisions of
28 this act, including the operation of the State-based exchange².

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

33 ¹d. The Commissioner of Banking and Insurance shall establish
34 an advisory committee to provide advice to the commissioner
35 concerning the operation of the exchange. The advisory committee
36 shall include at least nine members, as follows:

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

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

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

43 (4) six public members, who shall be residents of the State,
44 appointed by the Commissioner of Banking and Insurance. Each
45 public member shall have demonstrated experience in one or more
46 of the following areas: health insurance consumer advocacy;

1 individual health insurance coverage; small employer health
2 insurance coverage; health benefits plan marketing; the provision of
3 health care services; or academic or professional research relating
4 to health insurance.¹

5
6 3. a. The Commissioner of Banking and Insurance shall
7 present a report to the Governor, and to the Legislature pursuant to
8 section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than June 1,
9 2022, which contains the commissioner's findings and
10 recommendations, including such recommendations for
11 administrative or legislative action as the commissioner deems
12 appropriate, and the status of any decisions or efforts pursuant to
13 subsection a. of section 2 of this act to coordinate the operations of
14 the exchange with:

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

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

22 b. The Commissioner of Banking and Insurance and the
23 Commissioner of Human Services shall present a report to the
24 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
25 c.164 (C.52:14-19.1), no later than June 1, 2022, which contains an
26 evaluation of the actions of those departments in securing federal
27 financial participation pursuant to subsection b. of section 2 of this
28 act, including details on any grants or federal funding matches
29 which were evaluated, any applications for grants or funding that
30 were made, any applications that were denied, and any funding that
31 was or may be received.

32
33 4. The Department of Banking and Insurance shall adopt rules
34 and regulations pursuant to the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
36 this act.

37
38 5. This act shall take effect on January 1, 2020, except the
39 commissioner may take any anticipatory administrative action in
40 advance as shall be necessary for the implementation of this act.

41
42
43
44
45 _____
46 Authorizes DOBI to establish State-based exchange for certain
47 health insurance plans; requires DHS to apply for federal funds for
integration of Medicaid eligibility platform and exchange.

ASSEMBLY, No. 5499

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Co-Sponsored by:

Assemblyman Caputo

SYNOPSIS

Authorizes DOBI to establish State-based exchange for certain health benefits plans.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/7/2019)

1 AN ACT concerning health insurance and supplementing P.L.1992,
2 c.161 (C.17B:27A-2 et seq.).

3

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

6

7 1. a. There is established in the Department of the Treasury a
8 nonlapsing revolving fund to be known as the “Individual Health
9 Insurance Exchange Trust Fund.” This fund shall be the repository
10 for monies collected pursuant to subsection c. of this section and
11 other monies received as grants or otherwise appropriated for the
12 purposes of supporting health insurance outreach, enrollment, and
13 reinsurance efforts. The monies in the fund shall be used only for
14 the purpose of supporting the exchange authorized in subsection d.
15 of this section through initial start-up costs associated with
16 establishment of the exchange, exchange operations, outreach,
17 enrollment, reinsurance, and other means of supporting the
18 exchange.

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

28 c. The commissioner may apply a monthly assessment to each
29 health benefits plan offered by a carrier. The assessment shall be
30 paid by the carrier and deposited into the fund and shall be used
31 only for the purpose of supporting the exchange through initial
32 start-up costs associated with establishment of the exchange,
33 exchange operations, outreach, enrollment, reinsurance, and other
34 means of supporting the exchange. The assessment may be applied
35 at a rate of:

36 (1) .5 percent of the total monthly premium charged by a carrier
37 for each health benefits plan during any period that the State is on a
38 federally-facilitated exchange;

39 (2) 1 percent of the total monthly premium charged by a carrier
40 for each health benefits plan during any period that the State is on a
41 State-based exchange using the federal platform; or

42 (3) 3.5 percent of the total monthly premium charged by a
43 carrier for each health benefits plan during any period that the State
44 is on a State-based exchange. The commissioner shall have the
45 discretion to adjust this rate to ensure that the State-based exchange
46 is fully funded.

47 d. Notwithstanding any other law to the contrary, the
48 Department of Banking and Insurance shall have the authority to:

1 (1) operate a State-based exchange in the department; and
2 (2) coordinate the exchange operations with the operations of
3 the New Jersey Individual Health Coverage Program and the New
4 Jersey Small Employer Health Benefits Program, including
5 reorganization of the boards, as the commissioner deems
6 appropriate.

7
8 2. The Department of Banking and Insurance shall adopt rules
9 and regulations pursuant to the “Administrative Procedure Act,”
10 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
11 this act.

12
13 3. This act shall take effect on January 1, 2020, except the
14 commissioner may take any anticipatory administrative action in
15 advance as shall be necessary for the implementation of this act.

16
17
18 STATEMENT

19
20 This bill authorizes the Department of Banking and Insurance to
21 establish, operate, and fund a State-based exchange for certain
22 health benefits plans.

23 Specifically, the bill establishes in the Department of the
24 Treasury a nonlapsing revolving fund to be known as the
25 “Individual Health Insurance Exchange Trust Fund.” This fund is
26 to be the repository for monies collected pursuant to the bill and
27 other monies received as grants or otherwise appropriated for the
28 purposes of supporting health insurance outreach, enrollment, and
29 reinsurance efforts. The monies in the fund are to be used only for
30 the purpose of supporting the exchange through initial start-up costs
31 associated with establishment of the exchange, exchange
32 operations, outreach, enrollment, reinsurance, and other means of
33 supporting the exchange.

34 The bill allows the Commissioner of Banking and Insurance to
35 apply a monthly assessment to each individual health benefits plan
36 offered by a carrier. The assessment is to be deposited into the fund
37 and is to be used only for the purpose of supporting the exchange
38 through initial start-up costs associated with establishment of the
39 exchange, exchange operations, outreach, enrollment, reinsurance,
40 and other means of supporting the exchange. The assessment may
41 be applied at a rate of:

42 (1) .5 percent of the total monthly premium charged by a carrier
43 for each health benefits plan during any period that the State is on a
44 federally-facilitated exchange;

45 (2) 1 percent of the total monthly premium charged by a carrier
46 for each health benefits plan during any period that the State is on a
47 State-based exchange using the federal platform; or

1 (3) 3.5 percent of the total monthly premium charged by a
2 carrier for each health benefits plan during any period that the State
3 is on a State-based exchange. The bill provides that the
4 commissioner has discretion to adjust this rate to ensure that the
5 State-based exchange is fully funded.

6 New Jersey's health insurance exchange is currently operated
7 through the federally-facilitated exchange. This bill takes into
8 account that the State may opt to establish either a State-based
9 exchange using the federal platform, or a wholly State-based
10 exchange.

11 The bill also specifically authorizes the department to operate a
12 State-based exchange in the department and to coordinate the
13 exchange operations with the operations of the New Jersey
14 Individual Health Coverage Program and the New Jersey Small
15 Employer Health Benefits Program, including reorganization of the
16 boards, as the commissioner deems appropriate.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 5499

STATE OF NEW JERSEY

DATED: JUNE 6, 2019

The Assembly Financial Institutions and Insurance Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 5499.

This substitute bill authorizes the Department of Banking and Insurance to establish, operate, and fund a State-based exchange for certain health benefits plans and to coordinate with the Department of Human Services securing any federal financial participation available for the exchange.

The bill establishes in the Department of the Treasury a nonlapsing revolving fund to be known as the "Health Insurance Exchange Trust Fund." The bill provides that the fund is to be the repository for monies collected pursuant to the bill, any federal financial participation available, and other monies received as grants or otherwise appropriated for the purposes of supporting health insurance outreach and enrollment through the exchange. The monies in the fund may be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange.

The bill provides that the State Treasurer is the custodian of the fund and all disbursements from the fund must be made by the State Treasurer upon vouchers signed by the Commissioner of Banking and Insurance. The monies in the fund are to be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury to the same extent that other trust funds that are in the custody of the State Treasurer are invested and reinvested, in the manner provided by law. Interest received on the monies in the fund is to be credited to the fund.

Under the bill, the commissioner may apply a monthly assessment to each health benefits plan offered by a carrier. The bill provides that the assessment is to be paid by the carrier and deposited into the fund and may be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means

of supporting the exchange. The assessment may be applied at a rate of:

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

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

(3) 3.5 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a State-based exchange. The bill provides that the commissioner has the discretion to adjust this rate to ensure that the State-based exchange is fully funded, but in no case may the assessment be applied at a rate that exceeds 5 percent of the total monthly premium charged by a carrier.

The bill requires the commissioner to provide carriers with adequate notice of their assessment rate for the subsequent year to allow carriers to adjust their rate filing based on the assessment rate beginning on January 1, 2020.

The bill provides that any unexpended balance in the fund at the end of a year is available for expenditure by the commissioner in the subsequent year. The commissioner must consider any unexpended balance from a previous year when calculating the assessment.

The bill provides that, notwithstanding any other law to the contrary, the Department of Banking and Insurance shall have the authority to operate a State-based exchange and coordinate the operations of the exchange with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The department's authority to regulate the insurance market shall be separate and distinct from the department's duty to oversee exchange operations, to ensure the best interests of and protection for consumers of the State. The department shall also have the authority to coordinate the operations of the exchange with the operations of the State Medicaid program and the NJ FamilyCare Program.

The bill requires the Commissioner of Banking and Insurance, in consultation with the Commissioner of Human Services, to examine whether federal financial participation is available for the exchange as a State administrative expenditure necessary for the proper and efficient administration of the State Medicaid plan. If federal financial participation is available and practicable, the commissioners are required to secure the maximum federal financial participation available.

The bill also provides that the Commissioner of Banking and Insurance has the authority to require that plans offered on the

exchange conform with standardized plan designs that provide for standardized cost-sharing for covered health services.

The bills requires the Commissioner of Banking and Insurance to present a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than June 1, 2022, which contains the commissioner's findings and recommendations, including any recommendations for administrative or legislative action the commissioner deems appropriate, and the status of any decisions or efforts to coordinate the operations of the exchange with:

(1) the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program; and

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

The bill also requires the Commissioner of Banking and Insurance and the Commissioner of Human Services to present a report to the Governor, and to the Legislature, no later than June 1, 2022, which contains an evaluation of the actions of those departments in securing federal financial participation, including details on any grants or federal funding matches which were evaluated, any applications for grants or funding that were made, any applications that were denied, and any funding that was or may be received.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 5499**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5499 ACS, with committee amendments.

As amended, this bill authorizes the Department of Banking and Insurance to establish, operate, and fund a State-based exchange for certain health benefits plans and to coordinate with the Department of Human Services securing any federal financial participation available for the exchange.

As amended, the bill establishes in the Department of the Treasury a nonlapsing revolving fund to be known as the “Health Insurance Exchange Trust Fund.” The bill provides that the fund is to be the repository for monies collected pursuant to the bill, any federal financial participation available, and other monies received as grants or otherwise appropriated for the purposes of supporting health insurance outreach and enrollment through the exchange. The monies in the fund may be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange, including any efforts that can increase market stabilization and that may result in a net benefit to policyholders.

The bill provides that the State Treasurer is the custodian of the fund and all disbursements from the fund must be made by the State Treasurer upon vouchers signed by the Commissioner of Banking and Insurance. The monies in the fund are to be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury to the same extent that other trust funds that are in the custody of the State Treasurer are invested and reinvested, in the manner provided by law. Interest received on the monies in the fund is to be credited to the fund.

Under the bill, the commissioner may apply a monthly assessment to each individual health benefits plan sold in the individual market. The bill provides that the assessment is to be paid by the carrier and deposited into the fund and may be used only for the purpose of supporting the exchange through initial start-up costs associated with

establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange, including any efforts that can increase market stabilization and that may result in a net benefit to policyholders. The assessment may be applied at a rate of:

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

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

(3) 3.5 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a State-based exchange. The bill provides that the commissioner has the discretion to adjust this rate to ensure that the State-based exchange is fully funded, but in no case may the assessment be applied at a rate that exceeds 4 percent of the total monthly premium charged by a carrier. If the commissioner determines it is necessary to adjust the rate above 3.5 percent pursuant to this paragraph, the commissioner is required to post on the department's website a report describing the reasons and justifications for the adjustment.

The bill requires the commissioner, after the 2020 plan year, to notify carriers of their assessment rate for the subsequent year at least 20 days prior to the date the carrier is required to file its rate filing with the department. In the case of an assessment for the 2020 plan year, the commissioner must notify carriers as soon as is practicable of the assessment amount.

The bill provides that any unexpended balance in the fund at the end of a year is available for expenditure by the commissioner in the subsequent year. The commissioner must consider any unexpended balance from a previous year when calculating the assessment.

The bill provides that, notwithstanding any other law to the contrary, the Department of Banking and Insurance must have the authority to operate a State-based exchange and coordinate the operations of the exchange with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The department's authority to regulate the insurance market is to be separate and distinct from the department's duty to oversee exchange operations, to ensure the best interests of and protection for consumers of the State. The commissioner may require that all plans in the individual and small employer markets be made available for comparison on the State-based exchange, but may not require all plans in the individual and small employer markets to be purchased exclusively on the State-based exchange. The department also has the authority to coordinate

the operations of the exchange with the operations of the State Medicaid program and the NJ FamilyCare Program.

The bill requires the Commissioner of Banking and Insurance, in consultation with the Commissioner of Human Services, to examine whether federal financial participation is available for the exchange as a State administrative expenditure necessary for the proper and efficient administration of the State Medicaid plan. If federal financial participation is available and practicable, the commissioners are required to secure the maximum federal financial participation available.

The bill also provides that the Commissioner of Banking and Insurance has the authority to require that plans offered on the exchange conform with standardized plan designs that provide for standardized cost-sharing for covered health services.

The bill requires the Commissioner of Banking and Insurance to establish an advisory committee to provide advice to the commissioner concerning the operation of the exchange. The advisory committee is to include at least nine members, as follows:

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

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

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

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

The bill requires the Commissioner of Banking and Insurance to present a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than June 1, 2022, which contains the commissioner's findings and recommendations, including any recommendations for administrative or legislative action the commissioner deems appropriate, and the status of any decisions or efforts to coordinate the operations of the exchange with:

(1) the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program; and

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

The bill also requires the Commissioner of Banking and Insurance and the Commissioner of Human Services to present a report to the Governor, and to the Legislature, no later than June 1, 2022, which

contains an evaluation of the actions of those departments in securing federal financial participation, including details on any grants or federal funding matches which were evaluated, any applications for grants or funding that were made, any applications that were denied, and any funding that was or may be received.

COMMITTEE AMENDMENTS:

The committee amendments:

- 1) Expand the permissible uses of monies in the fund to, instead of specifying reinsurance, include any efforts that can increase market stabilization and that may result in a net benefit to policyholders.
- 2) Provide that the Commissioner of Banking and Insurance may apply the monthly assessment to each individual health benefits plan sold in the individual market.
- 3) Provide that monthly assessment rate may not exceed 4 percent of the total monthly premium charged by a carrier.
- 4) Provide that, if the commissioner determines it is necessary to adjust the assessment rate above 3.5 percent, the commissioner must, in advance of the adjustment, post on the Department's website a report describing the reasons and justifications for the adjustment, which is consistent with the purposes of supporting the exchange as provided in the bill.
- 5) Require the commissioner, after the 2020 plan year, to notify carriers of their assessment rate for the subsequent year at least 20 days prior to the date the carrier is required to file its rate filing with the department. In the case of an assessment for the 2020 plan year, the commissioner must notify carriers as soon as is practicable of the assessment amount.
- 6) Provide that the commissioner may require all plans in the individual and small employer markets to be made available for comparison on the State-based exchange, but that the commissioner may not allow the commissioner to require all plans in the individual and small employer markets to be purchased exclusively on the State-based exchange.
- 7) Require the commissioner to establish an advisory committee to provide advice to the commissioner concerning the operation of the exchange.

FISCAL IMPACT:

The OLS determines that the State will incur an indeterminate expenditure increase from developing the State-based health insurance exchange. The amount of the capital expenditure, the duration of the payment period, and any rate of interest charged will depend on the terms of any contract into which the State may enter to develop and finance the exchange.

The State will also incur an indeterminate annual expenditure increase from operating the exchange, supporting related outreach and

enrollment efforts, and conducting market stabilization activities. The OLS has no information on the manner in which the Department of Banking and Insurance (DOBI) will exercise the substantial discretion the bill affords the department in carrying out these responsibilities.

Furthermore, the OLS estimates that the State will realize an annual revenue gain of at most \$61.8 million from the assessment on premiums that insurance carriers will collect from sales of individual health benefits plans through the State-based health insurance exchange. The amount of the revenue gain in any given year will vary, as the bill does not prescribe a specific assessment rate but authorizes DOBI to set a rate, not to exceed 4.0 percent, that fully funds the exchange. At the 4.0 percent maximum, the assessment will raise an estimated \$61.8 million per year. During the transitional phase when the State will remain on the federally-facilitated exchange, the assessment rate will be 0.5 percent applied to premiums insurance carriers will receive from sales of individual health benefits plans in New Jersey through the federally-facilitated exchange, which will raise an estimated \$7.7 million in annual State revenue starting in calendar year 2020.

The revenue estimates are based on information by the federal Centers for Medicare & Medicaid Services that the federal government collected \$54.1 million in calendar year 2018 from insurance carriers that sold individual health benefits plans in New Jersey through the federally-facilitated exchange. The federal user fee rate in 2018 equaled 3.5 percent of premiums. The OLS estimates are unadjusted for future changes in the total amount of premiums collected from exchange-based individual health benefits plan sales.

STATEMENT TO
[First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 5499

with Senate Floor Amendments
(Proposed by Senator POU)

ADOPTED: JUNE 27, 2019

These amendments provide that the Department of Banking and Insurance is required to coordinate the operations of the State-based exchange with the operations of the State Medicaid program and the NJ FamilyCare Program to determine eligibility for those programs as soon as practicable. This provision is intended to ensure that Medicaid eligibility determinations are being made on the exchange as soon as possible.

The amendments also require the Commissioner of Human Services, in consultation with the Commissioner of Banking and Insurance, to submit a proposal for available federal financial participation funds to the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services pursuant to 42 C.F.R. 433.112 for the Medicaid eligibility platform and the exchange to be integrated. Notwithstanding the foregoing, the Department of Banking and Insurance may proceed to implement the provisions of the bill, including the operation of the State-based exchange.

SENATE, No. 49

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 30, 2019

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Authorizes DOBI to establish State-based exchange for Medicaid and certain health insurance plans.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning health insurance and supplementing P.L.1992,
2 c.161 (C.17B:27A-2 et seq.).
3

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

7 1. a. There is established in the Department of the Treasury a
8 nonlapsing revolving fund to be known as the "Health Insurance
9 Exchange Trust Fund." This fund shall be the repository for monies
10 collected pursuant to subsection c. of this section, any federal
11 financial participation received for the administration of the State
12 Medicaid plan through the exchange, and other monies received as
13 grants or otherwise appropriated for the purposes of supporting
14 health insurance outreach, enrollment, and reinsurance efforts. The
15 monies in the fund shall be used only for the purpose of supporting
16 the exchange through initial start-up costs associated with
17 establishment of the exchange, exchange operations, outreach,
18 enrollment, reinsurance, and other means of supporting the
19 exchange.

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

29 c. The commissioner may apply a monthly assessment to each
30 health benefits plan offered by a carrier. The assessment shall be
31 paid by the carrier and deposited into the fund and shall be used
32 only for the purpose of supporting the exchange through initial
33 start-up costs associated with establishment of the exchange,
34 exchange operations, outreach, enrollment, reinsurance, and other
35 means of supporting the exchange. The assessment may be applied
36 at a rate of:

37 (1) .5 percent of the total monthly premium charged by a carrier
38 for each health benefits plan during any period that the State is on a
39 federally-facilitated exchange;

40 (2) 1 percent of the total monthly premium charged by a carrier
41 for each health benefits plan during any period that the State is on a
42 State-based exchange using the federal platform; or

43 (3) 3.5 percent of the total monthly premium charged by a
44 carrier for each health benefits plan during any period that the State
45 is on a State-based exchange. The commissioner shall have the
46 discretion to adjust this rate to ensure that the State-based exchange
47 is fully funded.

1 2. a. Notwithstanding any other law to the contrary, the
2 Department of Banking and Insurance shall have the authority to
3 operate a State-based exchange and coordinate the operations of the
4 exchange with the operations of the New Jersey Individual Health
5 Coverage Program and the New Jersey Small Employer Health
6 Benefits Program, including reorganization of the boards, as the
7 commissioner deems appropriate. The department shall also have
8 the authority to coordinate the operations of the exchange with the
9 operations of the State Medicaid program established pursuant to
10 P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ FamilyCare
11 Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

12 b. The Commissioner of Banking and Insurance shall, to the
13 extent practicable, secure the maximum federal financial
14 participation for the exchange as a State administrative expenditure
15 necessary for the proper and efficient administration of the State
16 Medicaid plan.

17 c. The commissioner shall have the authority to require that
18 plans offered on the exchange conform with standardized plan
19 designs that provide for standardized cost-sharing for covered
20 health services.

21

22 3. The commissioner shall present a report to the Governor,
23 and to the Legislature pursuant to section 2 of P.L.1991, c.164
24 (C.52:14-19.1), no later than January 1, 2022, which contains the
25 commissioner's findings and recommendations, including such
26 recommendations for administrative or legislative action as the
27 commissioner deems appropriate, concerning whether to:

28 a. continue the New Jersey Individual Health Coverage
29 Program established pursuant to P.L.1992, c.161 (C.17B:27A-2 et
30 seq.) and the New Jersey Small Employer Health Benefits Program
31 established pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), as
32 provided under current law;

33 b. revise these programs to reflect the provisions of this act; or

34 c. phase out these programs and transition the health care
35 coverage provided thereunder to coverage provided under health
36 benefits plans through the exchange, in which case the
37 commissioner shall specify a projected schedule for effecting this
38 transition in the most efficient and effective manner possible.

39

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

44

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

STATEMENT

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This bill authorizes the Department of Banking and Insurance to establish, operate, and fund a State-based exchange for Medicaid and certain health benefits plans.

Specifically, the bill establishes in the Department of the Treasury a nonlapsing revolving fund to be known as the “Health Insurance Exchange Trust Fund.” This fund is to be the repository for monies collected pursuant to the bill, any federal financial participation received for the administration of the State Medicaid plan through the exchange, and other monies received as grants or otherwise appropriated for the purposes of supporting health insurance outreach, enrollment, and reinsurance efforts. The monies in the fund are to be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, reinsurance, and other means of supporting the exchange.

The bill allows the Commissioner of Banking and Insurance to apply a monthly assessment to each individual health benefits plan offered by a carrier. The assessment is to be deposited into the fund and is to be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, reinsurance, and other means of supporting the exchange. The assessment may be applied at a rate of:

- (1) .5 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a federally-facilitated exchange;
- (2) 1 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a State-based exchange using the federal platform; or
- (3) 3.5 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a State-based exchange. The bill provides that the commissioner has discretion to adjust this rate to ensure that the State-based exchange is fully funded.

New Jersey’s health insurance exchange is currently operated through the federally-facilitated exchange. This bill takes into account that the State may opt to continue to use the federally-facilitated exchange, or to establish a State-based exchange using the federal platform or a wholly Stated-based exchange.

The bill specifically authorizes the department to operate a State-based exchange in the department and to coordinate the exchange operations with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The bill also authorizes the

1 department to coordinate the operations of the exchange with the
2 operations of the State Medicaid program and the NJ FamilyCare
3 program.

4 The bill authorizes the commissioner to require that plans offered
5 on the exchange conform with standardized plan designs that
6 provide for standardized cost-sharing for covered health services.

7 The bill provides that the commissioner shall, to the extent
8 practicable, secure the maximum federal financial participation for
9 the exchange as a State administrative expenditure necessary for the
10 proper and efficient administration of the State Medicaid plan.

11 The bill requires the commissioner to present a report to the
12 Governor and Legislature, no later than January 1, 2022, which
13 contains the commissioner's findings and recommendations,
14 including recommendations for administrative or legislative action
15 as the commissioner deems appropriate, concerning whether to
16 continue, revise, or phase out the New Jersey Individual Health
17 Coverage and Small Employer Health Benefits Programs.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 49 and 3807**

STATE OF NEW JERSEY

DATED: JUNE 3, 2019

The Senate Commerce Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 49 and 3807.

This substitute bill authorizes the Department of Banking and Insurance to establish, operate, and fund a State-based exchange for certain health benefits plans and to coordinate with the Department of Human Services.

The bill establishes in the Department of the Treasury a nonlapsing revolving fund to be known as the “Health Insurance Exchange Trust Fund.” The bill provides that the fund is to be the repository for monies collected pursuant to the bill, any federal financial participation available, and other monies received as grants or otherwise appropriated for the purposes of supporting health insurance outreach and enrollment through the exchange. The monies in the fund may be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange.

The bill provides that the State Treasurer is the custodian of the fund and all disbursements from the fund must be made by the State Treasurer upon vouchers signed by the Commissioner of Banking and Insurance. The monies in the fund are to be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury to the same extent that other trust funds that are in the custody of the State Treasurer are invested and reinvested, in the manner provided by law. Interest received on the monies in the fund is to be credited to the fund.

Under the bill, the commissioner may apply a monthly assessment to each health benefits plan offered by a carrier. The bill provides that the assessment is to be paid by the carrier and deposited into the fund and may be used only for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange.

The assessment may be applied at a rate of:

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

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

(3) 3.5 percent of the total monthly premium charged by a carrier for each health benefits plan during any period that the State is on a State-based exchange. The bill provides that the commissioner has the discretion to adjust this rate to ensure that the State-based exchange is fully funded, but in no case may the assessment be applied at a rate that exceeds 5 percent of the total monthly premium charged by a carrier.

The bill requires the commissioner to notify carriers of their assessment rate for the subsequent year at least 45 days prior to the date that carriers are required to file their rates with the department.

The bill provides that any unexpended balance in the fund at the end of a year is available for expenditure by the commissioner in the subsequent year. The commissioner must consider any unexpended balance from a previous year when calculating the assessment.

The bill provides that, notwithstanding any other law to the contrary, the Department of Banking and Insurance shall have the authority to operate a State-based exchange and coordinate the operations of the exchange with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The department's authority to regulate the insurance market shall be separate and distinct from the department's duty to oversee exchange operations, to ensure the best interests of and protection for consumers of the State. The department shall also have the authority to coordinate the operations of the exchange with the operations of the State Medicaid program and the NJ FamilyCare Program.

The bill requires the Commissioner of Banking and Insurance, in consultation with the Commissioner of Human Services, to examine whether federal financial participation is available for the exchange as a State administrative expenditure necessary for the proper and efficient administration of the State Medicaid plan. If federal financial participation is available and practicable, the commissioners are required to secure the maximum federal financial participation available.

The bill also provides that the Commissioner of Banking and Insurance has the authority to require that plans offered on the exchange conform with standardized plan designs that provide for standardized cost-sharing for covered health services.

The bills requires the Commissioner of Banking and Insurance to present a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than January 1, 2022, which contains the commissioner's findings and recommendations, including any recommendations for administrative or legislative action the commissioner deems appropriate, and the status of any decisions or efforts to coordinate the operations of the exchange with:

(1) the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program; and

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

The bill also requires the Commissioner of Banking and Insurance and the Commissioner of Human Services to present a report to the Governor, and to the Legislature, no later than January 1, 2022, which contains an evaluation of the actions of those departments in securing federal financial participation, including details on any grants or federal funding matches which were evaluated, any applications for grants or funding that were made, any applications that were denied, and any funding that was or may be received.

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 49 and 3807

with Senate Floor Amendments
(Proposed by Senator POU)

ADOPTED: JUNE 27, 2019

These Senate amendments:

1) Expand the permissible uses of monies in the Health Insurance Exchange Trust Fund to, instead of specifying reinsurance, include any efforts that can increase market stabilization and that may result in a net benefit to policyholders.

2) Provide that the Commissioner of Banking and Insurance may apply the monthly assessment to each individual health benefits plan sold in the individual market.

3) Provide that the monthly assessment rate may not exceed 4 percent of the total monthly premium charged by a carrier.

4) Provide that, if the commissioner determines it is necessary to adjust the assessment rate above 3.5 percent, the commissioner must, in advance of the adjustment, post on the department's website a report describing the reasons and justifications for the adjustment, which is consistent with the purposes of supporting the exchange as provided in the bill.

5) Require the commissioner, after the 2020 plan year, to notify carriers of their assessment rate for the subsequent year at least 20 days prior to the date the carrier is required to file its rate filing with the department. In the case of an assessment for the 2020 plan year, the commissioner must notify carriers as soon as is practicable of the assessment amount.

6) Provide that the commissioner may require all plans in the individual and small employer markets to be made available for comparison on the State-based exchange, but also provide that the commissioner may not require all plans in the individual and small employer markets to be purchased exclusively on the State-based exchange.

7) Provide that the department is required to coordinate the operations of the exchange with the operations of the State Medicaid program and the NJ FamilyCare Program to determine eligibility for those programs as soon as practicable. This provision is intended to ensure that Medicaid eligibility determinations are being made on the exchange as soon as possible.

8) Require the Commissioner of Human Services, in consultation with the Commissioner of Banking and Insurance, to submit a proposal for available federal financial participation funds to the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services pursuant to 42 C.F.R.

433.112 for the Medicaid eligibility platform and the exchange to be integrated. Notwithstanding the foregoing, the Department of Banking and Insurance may proceed to implement the provisions of the bill, including the operation of the State-based exchange.

9) Require the commissioner to establish an advisory committee to provide advice concerning the operation of the exchange.

10) Provide that certain reports required to be submitted by the Commissioners of Banking and Insurance and Human Services must be submitted by June 1, 2022.

SENATE, No. 3807

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 30, 2019

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senator Gopal

SYNOPSIS

Authorizes DOBI to establish State-based exchange for certain health benefits plans.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning health insurance and supplementing P.L.1992,
2 c.161 (C.17B:27A-2 et seq.).

3

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

6

7 1. a. There is established in the Department of the Treasury a
8 nonlapsing revolving fund to be known as the “Individual Health
9 Insurance Exchange Trust Fund.” This fund shall be the repository
10 for monies collected pursuant to subsection c. of this section and
11 other monies received as grants or otherwise appropriated for the
12 purposes of supporting health insurance outreach, enrollment, and
13 reinsurance efforts. The monies in the fund shall be used only for
14 the purpose of supporting the exchange authorized in subsection d.
15 of this section through initial start-up costs associated with
16 establishment of the exchange, exchange operations, outreach,
17 enrollment, reinsurance, and other means of supporting the
18 exchange.

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

28 c. The commissioner may apply a monthly assessment to each
29 health benefits plan offered by a carrier. The assessment shall be
30 paid by the carrier and deposited into the fund and shall be used
31 only for the purpose of supporting the exchange through initial
32 start-up costs associated with establishment of the exchange,
33 exchange operations, outreach, enrollment, reinsurance, and other
34 means of supporting the exchange. The assessment may be applied
35 at a rate of:

36 (1) .5 percent of the total monthly premium charged by a carrier
37 for each health benefits plan during any period that the State is on a
38 federally-facilitated exchange;

39 (2) 1 percent of the total monthly premium charged by a carrier
40 for each health benefits plan during any period that the State is on a
41 State-based exchange using the federal platform; or

42 (3) 3.5 percent of the total monthly premium charged by a
43 carrier for each health benefits plan during any period that the State
44 is on a State-based exchange. The commissioner shall have the
45 discretion to adjust this rate to ensure that the State-based exchange
46 is fully funded.

47 d. Notwithstanding any other law to the contrary, the
48 Department of Banking and Insurance shall have the authority to:

1 (1) operate a State-based exchange in the department; and
2 (2) coordinate the exchange operations with the operations of
3 the New Jersey Individual Health Coverage Program and the New
4 Jersey Small Employer Health Benefits Program, including
5 reorganization of the boards, as the commissioner deems
6 appropriate.

7
8 2. The Department of Banking and Insurance shall adopt rules
9 and regulations pursuant to the “Administrative Procedure Act,”
10 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
11 this act.

12
13 3. This act shall take effect on January 1, 2020, except the
14 commissioner may take any anticipatory administrative action in
15 advance as shall be necessary for the implementation of this act.

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18 STATEMENT

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20 This bill authorizes the Department of Banking and Insurance to
21 establish, operate, and fund a State-based exchange for certain
22 health benefits plans.

23 Specifically, the bill establishes in the Department of the
24 Treasury a nonlapsing revolving fund to be known as the
25 “Individual Health Insurance Exchange Trust Fund.” This fund is
26 to be the repository for monies collected pursuant to the bill and
27 other monies received as grants or otherwise appropriated for the
28 purposes of supporting health insurance outreach, enrollment, and
29 reinsurance efforts. The monies in the fund are to be used only for
30 the purpose of supporting the exchange through initial start-up costs
31 associated with establishment of the exchange, exchange
32 operations, outreach, enrollment, reinsurance, and other means of
33 supporting the exchange.

34 The bill allows the Commissioner of Banking and Insurance to
35 apply a monthly assessment to each individual health benefits plan
36 offered by a carrier. The assessment is to be deposited into the fund
37 and is to be used only for the purpose of supporting the exchange
38 through initial start-up costs associated with establishment of the
39 exchange, exchange operations, outreach, enrollment, reinsurance,
40 and other means of supporting the exchange. The assessment may
41 be applied at a rate of:

42 (1) .5 percent of the total monthly premium charged by a carrier
43 for each health benefits plan during any period that the State is on a
44 federally-facilitated exchange;

45 (2) 1 percent of the total monthly premium charged by a carrier
46 for each health benefits plan during any period that the State is on a
47 State-based exchange using the federal platform; or

1 (3) 3.5 percent of the total monthly premium charged by a
2 carrier for each health benefits plan during any period that the State
3 is on a State-based exchange. The bill provides that the
4 commissioner has discretion to adjust this rate to ensure that the
5 State-based exchange is fully funded.

6 New Jersey's health insurance exchange is currently operated
7 through the federally-facilitated exchange. This bill takes into
8 account that the State may opt to establish either a State-based
9 exchange using the federal platform, or a wholly State-based
10 exchange.

11 The bill also specifically authorizes the department to operate a
12 State-based exchange in the department and to coordinate the
13 exchange operations with the operations of the New Jersey
14 Individual Health Coverage Program and the New Jersey Small
15 Employer Health Benefits Program, including reorganization of the
16 boards, as the commissioner deems appropriate.



Governor Phil Murphy

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Newark, N.J.

Governor Murphy Signs Legislation to Establish State-Based Health Exchange in New Jersey

06/27/2019

TRENTON – Acting to improve health care access for New Jersey residents, Governor Phil Murphy today signed legislation to establish a State-Based Health Exchange in New Jersey. The law will allow New Jersey greater control over its health insurance market and the ability to establish stronger protections against the Trump Administration's sabotage of the Affordable Care Act.

"New Jersey has advanced strong policies to protect access to health care for our residents, access which I believe is a human right. With this law, we take another step in securing the access families need to gaining more affordable health coverage. Creating our own exchange will allow us to take actions that protect residents in our state, and will ensure we are in the best position in New Jersey to defend against the Trump Administration's assault on the Affordable Care Act," **said Governor Phil Murphy**. "I want to thank the many tireless advocates that helped get this legislation over the finish line. This bill makes it so that New Jersey can continue its work to ensure that all residents have access to the coverage and care they deserve."

Currently, New Jersey uses the federal exchange, or Marketplace, which provides a platform for consumers to shop for and enroll in coverage. Transitioning to a State-Based Exchange (SBE) will give the state more control over the open enrollment period; access to data that can be used to better regulate the market, conduct targeted outreach and inform policy decisions; and allow user fees to fund exchange operations, consumer assistance, outreach and advertising. By redirecting the assessment on premiums, currently paid to the federal government to utilize a Federally Facilitated Exchange (FFE), New Jersey can operate an exchange that is tailored and efficient for New Jersey residents.

To fund the operation of the SBE, the law will transfer the current federal exchange user fee, which is presently set at 3.5% of premiums, to a 3.5% State-Based Exchange user fee – a rate that currently generates over \$50 million a year. The transfer of the user fee to New Jersey will allow the state to dedicate funding towards outreach and enrollment efforts, which have been reduced at the federal level, as it transitions to an SBE for 2021.

"Establishing a State-Based Exchange is critical to improving access to coverage for New Jersey families. The federal government has cut the enrollment period, and slashed funding for outreach, advertising and navigators that provide critical assistance to residents in our communities," **said Department of Banking and Insurance Commissioner Marlene Caride**. "Funding sent to Washington to utilize the federal exchange will be better utilized right here in New Jersey, where we can establish policies that create greater stability, access and improved protections for residents. This is a milestone for our state, and I am proud to be part of an administration that is taking on the issues that are so important to the lives of our residents."

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"As someone whose life's work has focused on getting people affordable, quality health care coverage, I am delighted to be part of an Administration that is leading the way in protecting the Affordable Care Act and that the Governor and Legislature have worked together to protect affordable coverage in our state," **said New Jersey**

Department of Human Services Commissioner Carole Johnson, who worked on the Affordable Care Act as a senior health policy advisor in the Obama White House. "This is an important day for hard-working New Jerseyans. Governor Murphy is once again standing up for the health care needs of us all."

"Establishing a state exchange and a single door application portal will streamline the process and work seamlessly for thousands of New Jerseyans," **said Senator Vitale, chair of the Senate Health, Human Services, and Senior Citizens Committee.**

"New Jersey's total Medicaid enrollment increased by 36 percent—nearly 460,000 people—in a little less than four years under the Affordable Care Act. To protect these residents and other who need access to affordable healthcare we must take action to stabilize New Jersey's market," **said Assemblyman Conaway.** "This will help ensure every resident has access to affordable healthcare for themselves and their families."

"Preserving affordability and access residents have come to benefit from under the Affordable Care Act will require these next steps," **said Assemblyman McKeon.** "By doing this, we protect New Jersey families from any erroneous changes the Trump administration continues to make to the federal program. Healthcare and access to it should remain a right and not just privy those who can afford it."

"New Jersey had to take swift action to protect healthcare access under the Affordable Care Act," **said Assemblywoman Pinkin.** "We can protect New Jersey families from any ill-advised changes to the successful federal program. A state-based exchange and a coordinated outreach program are key components to fighting against the discriminatory changes prohibiting residents with preexisting conditions and limiting women's access to contraceptives."

"We applaud the Governor for taking quick action and are excited that New Jersey health care consumers will be protected and have a more seamless and accessible enrolment process," **said Maura Collingsru, Healthcare Programs Director at New Jersey Citizen Action.** "Both NJ Citizen Action and our NJ For Healthcare partners look forward to working with the Governor and the State to ensure the exchanges success."

"With the creation of a state exchange, New Jersey is cementing itself as a national leader in keeping health coverage affordable," **said Ray Castro of NJ Policy Perspective.** "A state exchange will allow New Jersey to cover more residents, reduce premiums, and qualify for more federal funds. This is a huge victory for the thousands of uninsured New Jerseyans and those who are struggling to afford their health insurance. States across the country should look to New Jersey as an example of how to ensure quality, affordable health coverage, regardless of what the Trump administration does to undermine the Affordable Care Act."

The law provides that the Department of Banking and Insurance shall coordinate the operations of the exchange with the operations of the State Medicaid program and the NJ FamilyCare Program to determine eligibility for the programs as soon as practicable. The Commissioner of Human Services, in consultation with the Commissioner of the Department of Banking and Insurance, shall submit a proposal for available federal financial participation funds to CMS for the Medicaid eligibility platform and the exchange to be integrated.

Under the law, the Commissioner of Banking and Insurance shall establish an advisory committee to provide advice to the commissioner concerning the operation of the exchange. The advisory committee shall include at least nine members, as follows: (1) The Commissioner of Banking and Insurance, or a designee, who shall serve ex-officio; (2) The Commissioner of Human Services, or a designee, who shall serve ex-officio; (3) the Commissioner of Health, or a designee, who shall serve ex-officio; and (4) six public members, who shall be residents of the State, appointed by the Commissioner of Banking and Insurance. Each public member shall have demonstrated experience in one or more of the following areas: health insurance consumer advocacy; individual health insurance coverage; small employer health insurance coverage; health benefits plan marketing; the provision of health care services; or academic or professional research relating to health insurance.

The Governor signed a Letter of Declaration in March notifying the Centers for Medicare and Medicaid Services of New Jersey's intent to create a State-Based Exchange for 2021. The letter may be found [here](#).

Primary sponsors of the legislation (A5499) include Assemblyman Herb Conaway Jr., Assemblyman John McKeon, Assemblywoman Nancy Pinkin, Senator Nellie Pou, Senator Nia H. Gill, Senator Joseph Vitale and Senator Vin Gopal.

Governor Phil Murphy

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State of New Jersey

OFFICE OF THE GOVERNOR

P.O. Box 001

TRENTON, NJ 08625-0001

PHILIP D. MURPHY
Governor

March 22, 2019

Randy Pate
Deputy Administrator & Director
CMS CCIIO
200 Independence Avenue SW, Suite 739H
Washington DC, 20201
SBMOversight@cms.hhs.gov

Dear Mr. Pate,

I am pleased to submit this Exchange Declaration of Intent Letter on behalf of the State of New Jersey. This letter is to inform you of New Jersey's intent to establish a State Based Health Benefit Exchange to be operational for plan year 2021.

I hereby designate the New Jersey Commissioner of Banking and Insurance, Marlene Caride, as the State's point of contact and authorize the Commissioner to bind the state and attest to complying with the requirements of being a State Based Exchange. Additionally, the Commissioner is authorized to sign the Blueprint Application which must be approved by the Department of Health and Human Services (HHS). It is further acknowledged that HHS and the State may agree to amend this Declaration of Intent Letter to include additional information necessary to establish the Exchange.

Thank you for your consideration and I look forward to working with you on a successful transition to a State Based Exchange.

Sincerely,

A handwritten signature in blue ink that reads "Philip D. Murphy".

Philip D. Murphy
Governor