

**SUBSTITUTE FOR
SENATE BILL NO. 633**

A bill to provide for the establishment of a state-based health insurance exchange as a nonprofit corporation; to create the board of exchange and prescribe its powers and duties; to provide for assessments and user fees; and to provide for the powers and duties of certain state and local governmental officers and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6

PART 1

GENERAL PROVISIONS

Sec. 101. This act may be cited as the "Michigan health insurance exchange act". The exchange shall foster a competitive market for health insurance in this state and serve as a market facilitator to promote the purchase and sale of qualified health

1 plans and to disseminate information regarding qualified health
2 plans to health benefit plan consumers.

3 Sec. 103. As used in this act:

4 (a) "Board" means the board created under section 201.

5 (b) "Conflict of interest" means that by taking any action or
6 making any decision or recommendation on a matter within the
7 authority of the board, a member of the board, or an immediate
8 family member, or any entity with which the member is affiliated,
9 or an immediate family member, would receive a pecuniary benefit or
10 detriment, unless the pecuniary benefit or detriment would apply to
11 the same degree to a class consisting of all persons within the
12 particular class in this state.

13 (c) "Director" means the director of the department of
14 insurance and financial services.

15 (d) "Enhanced direct enrollment" means a process by which an
16 approved entity approved by the director can provide a
17 comprehensive consumer experience including, the eligibility
18 application, exchange enrollment, and postenrollment year-round
19 customer service capabilities, for consumers and producers working
20 on behalf of consumers, directly on the entity's own website.

21 (e) "Exchange" means the nonprofit corporation organized under
22 section 203.

23 (f) "Executive director" means the executive director
24 appointed by the governor under section 207.

25 (g) "Facilitate enrollment" means to perform an act that is
26 only indirectly related to the sale, solicitation, or negotiation
27 of a health insurance policy and is to inform an individual of the
28 individual's eligibility for public assistance or to inform an
29 individual that the individual can purchase a health insurance

1 policy through a producer, the marketplace, a carrier offering a
2 qualified health plan, or another source, which act is in
3 compliance with federal law, state law, and the purposes of this
4 act.

5 (h) "Federal act" means the federal patient protection and
6 affordable care act, Public Law 111-148, as amended by the federal
7 health care and education reconciliation act of 2010, Public Law
8 111-152, and any regulations promulgated under those acts.

9 (i) "Federally recognized Indian tribe" means any of the
10 following:

11 (i) An Indian tribe as that term is defined in 25 USC 5130.

12 (ii) An Indian tribe as that term is defined in 25 USC 1603.

13 (iii) An Indian tribe, tribal organization, or inter-tribal
14 consortium, as those terms are defined in 25 USC 5301 to 5423.

15 Sec. 105. As used in this act:

16 (a) "Health carrier" or "carrier" means any of the following
17 entities that are subject to the insurance laws and regulations of
18 this state or otherwise subject to the jurisdiction of the
19 director:

20 (i) A health insurer operating under the insurance code of
21 1956, 1956 PA 218, MCL 500.100 to 500.8302.

22 (ii) A health maintenance organization operating under the
23 insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

24 (iii) A health care corporation operating under the nonprofit
25 health care corporation reform act, 1980 PA 350, MCL 550.1101 to
26 550.1704.

27 (iv) A nonprofit dental care corporation operating under 1963
28 PA 125, MCL 550.351 to 550.373.

29 (v) Any other entity providing a plan of health insurance,

1 health benefits, or health services.

2 (b) "Health insurance policy" means an expense-incurred
3 hospital, medical, or surgical policy, certificate, or contract.
4 Health insurance policy does not include a policy that provides
5 coverage only for excepted benefits as described in 42 USC 300gg-
6 91.

7 (c) "Immediate family" means any relation by blood or affinity
8 to the third degree.

9 (d) "Marketplace" means the platform operated by the exchange.
10 Sec. 107. As used in this act:

11 (a) "Producer" means insurance producer as defined in section
12 1201 of the insurance code of 1956, 1956 PA 218, MCL 500.1201.

13 (b) "Qualified dental plan" means a limited scope dental plan
14 that has been certified under section 215.

15 (c) "Qualified employer" means a small employer that elects to
16 make its full-time employees eligible for 1 or more qualified
17 health plans offered through the SHOP and, at the option of the
18 employer, some or all of its part-time employees, if the employer
19 meets any of the following:

20 (i) Has its principal place of business in this state and
21 elects to provide coverage through the SHOP to all of its eligible
22 employees, wherever employed.

23 (ii) Elects to provide coverage through the SHOP to all of its
24 eligible employees who are principally employed in this state.

25 (d) "Qualified health plan" means a health benefit plan that
26 has been certified under section 215.

27 (e) "Qualified individual" means that term as defined in 42
28 USC 18032.

29 Sec. 109. As used in this act:

1 (a) "SHOP" means the small business health options program
2 established by the exchange under section 211.

3 (b) "Small employer" means that term as defined in section
4 3701 of the insurance code of 1956, 1956 PA 218, MCL 500.3701.

5 (c) "State medical assistance program" means a program
6 established in this state under title XIX of the social security
7 act, 42 USC 1396 to 1396w-7, or under title XXI of the social
8 security act, 42 USC 1397aa to 1397mm.

9 PART 2

10 EXCHANGE

11 Sec. 201. (1) A board consisting of 12 members is created to
12 organize and govern the exchange. The board is the incorporator of
13 the exchange for the purposes of the nonprofit corporation act,
14 1982 PA 162, MCL 450.2101 to 450.3192. The director and the
15 director of the department of health and human services shall serve
16 as voting ex officio members of the board.

17 (2) The governor shall appoint the remaining 10 voting members
18 of the board as follows:

19 (a) One member, subject to advice and consent of the senate,
20 from among the insurers that offer health insurance policies
21 through the exchange that are a hospital plan corporation, a
22 professional health services plan corporation, or a parent,
23 affiliate, subsidiary, or other associated entity or successor of a
24 hospital plan corporation or a professional health services plan.

25 (b) One member, subject to advice and consent of the senate,
26 from among the carriers that offer health insurance policies
27 through the exchange that are not a hospital plan corporation, a
28 professional health services plan corporation, or a parent,
29 affiliate, subsidiary, or other associated entity or successor of a

1 hospital plan corporation or a professional health services plan.

2 (c) One member, subject to advice and consent of the senate,
3 with experience in health care public education and consumer
4 assistance activities.

5 (d) Two members, subject to advice and consent of the senate,
6 who are consumer representatives.

7 (e) One member, subject to advice and consent of the senate,
8 from a list of 3 candidates provided by the senate majority leader,
9 who has relevant experience in health benefits administration,
10 health care finance, health plan purchasing, health care delivery
11 system administration, public health, or health policy issues
12 related to the small group and individual markets and the
13 uninsured.

14 (f) One member, subject to advice and consent of the senate,
15 appointed from a list of 3 candidates provided by the senate
16 minority leader, who has relevant experience in health benefits
17 administration, health care finance, health plan purchasing, health
18 care delivery system administration, public health, or health
19 policy issues related to the small group and individual markets and
20 the uninsured.

21 (g) One member, subject to advice and consent of the senate,
22 appointed from a list of 3 candidates provided by the speaker of
23 the house of representatives, who has relevant experience in health
24 benefits administration, health care finance, health plan
25 purchasing, health care delivery system administration, public
26 health, or health policy issues related to the small group and
27 individual markets and the uninsured.

28 (h) One member, subject to advice and consent of the senate,
29 appointed from a list of 3 candidates provided by the minority

1 leader of the house of representatives, who has relevant experience
2 in health benefits administration, health care finance, health plan
3 purchasing, health care delivery system administration, public
4 health, or health policy issues related to the small group and
5 individual markets and the uninsured.

6 (i) One member, subject to advice and consent of the senate,
7 representing a nonprofit mutual disability insurer formed under
8 chapter 58 of the insurance code of 1956, 1956 PA 218, MCL 500.5800
9 to 500.5840.

10 (3) The governor shall consider the cultural, ethnic,
11 economic, and geographical diversity of this state so that the
12 board's composition reflects the communities of this state.

13 (4) A majority of the voting members of the board must not
14 have a conflict of interest as set forth in section 1321 of the
15 federal act and the regulations promulgated under that section.
16 Other than the individuals listed in subsections (2) (a), (2) (b),
17 and (2) (i), the voting members of the board listed in subsection
18 (2) must not have a conflict of interest.

19 (5) Each member of the board shall meet the requirements of
20 this act, the federal act, and all applicable state and federal
21 laws and regulations, to serve the public interest as well as the
22 interests of the individuals and small businesses seeking health
23 care coverage through the exchange, and to ensure the operational
24 well-being and fiscal solvency of the exchange.

25 (6) Except as otherwise provided in this subsection, an
26 appointed board member shall serve for a term of 4 years or until a
27 successor is appointed, whichever is later. For the initial members
28 appointed under subsection (2), 2 members must be appointed for 2-
29 year terms, 5 members must be appointed for 3-year terms, and 3

1 members must be appointed for 4-year terms. The length of the
2 initial term of each initial member must be determined by the
3 governor at the time of appointment.

4 (7) The executive director shall attend meetings of the board
5 but shall not be a member, shall not vote, and must not be counted
6 for purposes of establishing a quorum.

7 (8) The director shall call the first meeting of the board.
8 The director or the director's designee shall serve as chairperson
9 of the board. After the first meeting, the board shall meet at
10 least quarterly, or more frequently at the call of the chairperson
11 or if requested by 4 or more members.

12 (9) Six members of the board constitute a quorum for the
13 transaction of business at a meeting of the board. An affirmative
14 vote of 6 board members is necessary for official action of the
15 board.

16 (10) Meetings of the board are subject to the open meetings
17 act, 1976 PA 267, MCL 15.261 to 15.275. If there is a conflict
18 between the provisions of this act and those of the open meetings
19 act, 1976 PA 267, MCL 15.261 to 15.275, the provisions of the open
20 meetings act, 1976 PA 267, MCL 15.261 to 15.275, control.

21 (11) Board members shall serve without compensation. However,
22 board members may be reimbursed for their actual and necessary
23 expenses incurred in the performance of their official duties as
24 board members. The exchange shall pay for the reimbursements of
25 board members.

26 (12) The board shall adopt a code of ethics for its members
27 and for the officers and employees of the exchange. The board shall
28 include in the code of ethics policies and procedures requiring the
29 disclosure of relationships that may give rise to a conflict of

1 interest.

2 (13) A board member shall comply with the code of ethics
3 adopted under subsection (12) and declare any conflict of interest.
4 The board shall require that any board member with a direct or
5 indirect interest in any matter before the exchange disclose the
6 member's interest to the board before the board takes any action on
7 the matter. If a board member or a member of the board member's
8 immediate family, organizationally or individually, would derive
9 direct and specific benefit from a decision of the board, that
10 member shall recuse himself or herself from the discussion and vote
11 on the issue.

12 (14) The board may establish committees to obtain
13 recommendations concerning the operation and implementation of the
14 exchange in this state. Committees established by the board under
15 this subsection must be given a specific charge and may include
16 individuals who are not board members, including, but not limited
17 to, representatives of health care consumers, carriers, and health
18 care providers and other health industry representatives.

19 (15) There is no liability on the part of, and no cause of
20 action arises against, any member of the board for any lawful
21 action taken by the member in the performance of the member's
22 powers and duties under this act.

23 Sec. 203. (1) The initial board appointed under section 201
24 shall organize a nonprofit corporation, on a nonstock, directorship
25 basis, under the nonprofit corporation act, 1982 PA 162, MCL
26 450.2101 to 450.3192. The nonprofit corporation must be organized
27 not later than 60 days after the first board meeting to provide an
28 individual marketplace for qualified health plans in this state.
29 Before formation of the exchange, the director may take any action

1 necessary to effect a timely transition from a federally
2 administered exchange to the exchange established under this act,
3 including, but not limited to, taking steps that are necessary to
4 facilitate a state-based exchange on the federal platform that will
5 operate until the director determines that the exchange organized
6 under this act is adequately prepared to operate on the
7 marketplace.

8 (2) Subject to subsection (3), the exchange shall exercise all
9 the powers and duties necessary and appropriate to provide a
10 marketplace for qualified health plans in this state, including,
11 without limitation, the following:

12 (a) To contract with others, public or private, for the
13 provision of all or a portion of services necessary for the
14 management and operation of the exchange.

15 (b) To enter into contracts, give guarantees, incur
16 liabilities, borrow money at rates of interest as the exchange may
17 determine, issue its notes, bonds, and other obligations, and
18 secure any of its obligations by mortgage or pledge of any of its
19 property or an interest in the property, wherever situated.

20 (c) To sue and be sued in all courts and to participate in
21 actions and proceedings judicial, administrative, arbitral, or
22 otherwise, in the same manner as a natural person.

23 (d) To have a corporate seal, to alter the seal, and to use
24 the seal by causing it or a facsimile to be affixed, impressed, or
25 reproduced in any other manner.

26 (e) To adopt, amend, or repeal bylaws, including emergency
27 bylaws, relating to the purposes of the exchange, the conduct of
28 its affairs, its rights and powers, and the rights and powers of
29 its board members, corporate directors, or officers.

1 (f) To elect or appoint officers, employees, and other agents
2 of the exchange, to prescribe their duties, to fix their
3 compensation and the compensation of corporate directors, and to
4 indemnify corporate directors, officers, employees, and agents.

5 (g) To apply for, solicit, purchase, receive, take by grant,
6 gift, devise, bequest, or otherwise, lease, or otherwise acquire,
7 and to own, hold, improve, employ, use, and otherwise deal in and
8 with, real or personal property, or an interest in real or personal
9 property, wherever situated, either absolutely or in trust and
10 without limitation as to amount or value.

11 (h) To sell, convey, lease, exchange, transfer, or otherwise
12 dispose of, or to mortgage, pledge, or create a security interest
13 in, any of its property, or an interest in the property, wherever
14 situated.

15 (i) To purchase, take, receive, subscribe for, or otherwise
16 acquire, to own, hold, vote, or employ, to sell, lend, lease,
17 exchange, transfer, or otherwise dispose of, and to mortgage,
18 pledge, use, and otherwise deal in and with, bonds and other
19 obligations and shares or other securities, interests, memberships
20 issued by others, whether engaged in similar or different business,
21 governmental, or other activities, including banking corporations
22 or trust companies. The exchange shall not guarantee or become a
23 surety on a bond or other undertaking securing the deposit of
24 public money.

25 (j) To invest and reinvest its money, and take and hold real
26 and personal property as security for the payment of money loaned
27 or invested.

28 (k) To establish and carry out savings, thrift, and other
29 incentive and benefit plans, trusts, and provisions for any of its

1 corporate directors, officers, and employees. The marketplace shall
2 not establish and carry out pension plans.

3 (l) To purchase, receive, take, or otherwise acquire, to own,
4 hold, sell, lend, exchange, transfer, and otherwise dispose of, and
5 to pledge, use, and otherwise deal in and with its bonds and other
6 securities.

7 (m) To cease its corporate activities and dissolve under this
8 subdivision, the nonprofit corporation act, 1982 PA 162, MCL
9 450.2101 to 450.3192, and the federal act. On publication of the
10 public notice by the board, the exchange shall initiate steps to
11 cease operation of the marketplace and shall cease operations not
12 later than 15 months after publication of the notice. On
13 dissolution, the assets of the exchange must be distributed as
14 follows:

15 (i) All liabilities must be paid and discharged.

16 (ii) Assets remaining after subparagraph (i) is fulfilled must
17 be distributed as provided in a plan of action developed and
18 adopted by the board and approved by the director.

19 (n) To conduct its affairs, carry on its operations, and have
20 offices and exercise the powers granted by this act in any
21 jurisdiction within this state, and, for the transaction of
22 business, the receipt and payment of money, the care and custody of
23 property, and other incidental business matters, to transact
24 business, receive, collect, and disburse money, and to engage in
25 other incidental business matters as are naturally or properly
26 within the scope of its articles of incorporation.

27 (3) Other than a power or duty under section 261 of the
28 nonprofit corporation act, 1982 PA 162, MCL 450.2261, the exchange
29 has the powers and duties of a nonprofit corporation under the

1 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.
2 Subsection (2) controls regarding the powers and duties of the
3 exchange instead of section 261 of the nonprofit corporation act,
4 1982 PA 162, MCL 450.2261. If a conflict between a power or duty of
5 the exchange under this act conflicts with a power or duty under
6 other state law, this act controls.

7 Sec. 204. Beginning on the effective date of this act, an
8 entity shall not incorporate, file, register, or otherwise form in
9 this state using a name that is the same as or deceptively or
10 confusingly similar to the name of the exchange.

11 Sec. 207. The governor shall appoint an executive director to
12 manage the exchange. The executive director must be independent and
13 have no material relationship with the exchange.

14 Sec. 209. (1) The exchange shall make qualified health plans
15 available through its internet website and its toll-free telephone
16 hotline for review, purchase, and enrollment by qualified
17 individuals and qualified employers beginning on or before January
18 1, 2026.

19 (2) The exchange shall implement an enhanced direct enrollment
20 by the first open enrollment period in which the exchange's state-
21 based platform is operational.

22 (3) The exchange shall allow health insurance carriers or web
23 brokers to provide for automatic re-enrollment in a qualified
24 health plan. Health insurance carriers or web brokers, as
25 applicable, shall make a reasonable effort to notify enrollees
26 before automatic re-enrollment. Auto-enrollees may choose a
27 different qualified health plan during open enrollment, but have
28 until December 15 to choose a different qualified health plan with
29 no interruption in coverage.

1 (4) The exchange shall not make available any health benefit
2 plan that is not a qualified health plan. However, the exchange
3 shall allow a health carrier to offer a qualified dental plan that
4 provides limited scope dental benefits meeting the requirements of
5 section 9832(c)(2)(A) of the internal revenue code of 1986, 26 USC
6 9832, through the marketplace, either separately or in conjunction
7 with a qualified health plan, if the plan provides pediatric dental
8 benefits meeting the requirements of section 1302(b)(1)(J) of the
9 federal act. The exchange shall allow an individual to purchase a
10 qualified dental plan independently without that individual needing
11 to purchase a qualified health plan.

12 (5) The exchange or a carrier offering health benefit plans
13 and qualified dental plans through the marketplace shall not charge
14 an individual a fee or penalty for termination of coverage. This
15 subsection does not prohibit the exchange or a carrier from
16 refusing to re-enroll an individual whose coverage has been
17 terminated for nonpayment of premiums if the individual premium is
18 at least 90 days past due.

19 (6) A carrier shall not offer in any service area more than 4
20 nonstandardized plan options per any of the following:

21 (a) Network type.

22 (b) Metal level other than catastrophic plans.

23 (c) Inclusion of dental benefit coverage or vision benefit
24 coverage, or both.

25 Sec. 211. (1) The exchange shall do all of the following:

26 (a) Perform all duties and obligations of an exchange required
27 by federal law, state law, and the purposes of this act.

28 (b) Implement procedures consistent with section 215 for the
29 certification, recertification, and decertification of health

1 benefit plans as qualified health plans. The exchange shall do both
2 of the following:

3 (i) Contract with the department of insurance and financial
4 services to certify health benefit plans as qualified health plans
5 consistent with section 215.

6 (ii) Contract with qualified vendors to provide technology,
7 implementation, maintenance, and enhancement services needed to
8 operate the exchange. The exchange may coordinate as necessary with
9 the department of health and human services to meet the requirement
10 of this subparagraph.

11 (c) Make available in the marketplace qualified health plans
12 and all qualified dental plans consistent with section 215.

13 (d) Provide for the operation of a toll-free telephone
14 hotline, postal address, email address, or other means of
15 communication to accept complaints and grievances and respond to
16 requests for assistance in a manner that is linguistically
17 appropriate to the needs of the population being served. The
18 exchange shall work with carriers to establish a system to track
19 complaints and grievances.

20 (e) Any of the following for an enrollment period, but an
21 enrollment period must not be continuous:

22 (i) Provide at the least an annual enrollment period beginning
23 on November 1 and ending on January 15.

24 (ii) Provide a special enrollment period in accordance with 42
25 USC 18031, and any regulations promulgated under that section.

26 (iii) If the governor declares a state of emergency or state of
27 disaster under the emergency management act, 1976 PA 390, MCL
28 30.401 to 30.421, provide an enrollment period that a majority of
29 the board determines is necessary as a result of the declaration of

1 a state of emergency or state of disaster.

2 (iv) By a 3/4 vote of the board members then serving, provide
3 for not more than one 45-day enrollment period in addition to those
4 required under subparagraphs (i) to (iii) in a calendar year.

5 (f) Maintain an internet website through which enrollees and
6 prospective enrollees of qualified health plans may obtain
7 standardized comparative information on the plans. At the direction
8 of the board, the exchange shall also include on the internet
9 website information relative to individual health and wellness. The
10 exchange shall not modify the website information relative to
11 individual health and wellness more than quarterly and during an
12 open enrollment period.

13 (g) Assign a rating under the federal act to each qualified
14 health plan offered through the marketplace.

15 (h) Use a standardized format for presenting health benefit
16 options in the marketplace, including the use of the uniform
17 outline of coverage established under section 2715 of the public
18 health service act, 42 USC 300gg-15.

19 (i) Provide 1 standard application for insurance coverage to
20 all individuals applying for insurance coverage.

21 (j) Determine each individual applicant's eligibility for any
22 applicable health subsidy program, assess each individual
23 applicant's potential eligibility to enroll in a state medical
24 assistance program, and inform the applicant of the determination
25 and assessment.

26 (k) Share application enrollment information with a state
27 medical assistance program or any applicable health subsidy program
28 under the federal act and state law.

29 (l) Establish and make available by electronic means a

1 calculator to determine the actual cost of coverage after
2 application of any premium tax credit under section 36B of the
3 internal revenue code of 1986, 26 USC 36B, and any cost-sharing
4 reduction under section 1402 of the federal act.

5 (m) Adopt an annual operating revenue and expense budget
6 before the start of each fiscal year and make the budget available
7 on its website.

8 (n) Transfer all data and information required to be
9 transferred in compliance with federal and state law.

10 (o) Perform duties required of the exchange in compliance with
11 federal and state law related to determining eligibility for
12 premium tax credits or reduced cost-sharing.

13 (p) Select entities qualified to serve as navigators in
14 compliance with applicable law and award grants to enable
15 navigators to perform the duties established in section 1262(3) of
16 the insurance code of 1956, 1956 PA 218, MCL 500.1262.

17 (q) Coordinate with the department of health and human
18 services to refer individuals to state medical assistance programs.

19 (r) Subject to subsection (3), permit producers to do all of
20 the following:

21 (i) Receive commissions or other remuneration from a carrier
22 for enrolling consumers in a qualified health plan.

23 (ii) Enroll qualified individuals and qualified employers in
24 any qualified health plan. Upon enrollment by a producer under this
25 subparagraph, the exchange shall verify that enrollment with the
26 individual enrolled.

27 (iii) Assist individuals in applying for advance payments of
28 premium tax credits under section 36B of the internal revenue code
29 of 1986, 26 USC 36B, and cost-sharing reductions under section 1402

1 of the federal act.

2 (s) Subject to terms and conditions determined by the
3 exchange, allow a federally recognized Indian tribe to pay premiums
4 for qualified health plans on behalf of tribal members who are
5 qualified individuals enrolled in a qualified health plan.

6 (t) Consult with stakeholders relevant to carrying out the
7 activities required under this act. Stakeholders include, but are
8 not limited to, the following:

9 (i) Consumer representatives.

10 (ii) Individuals and entities with experience in facilitating
11 enrollment in qualified health plans.

12 (iii) Representatives of small businesses and self-employed
13 individuals.

14 (iv) The medical services administration of the department of
15 health and human services.

16 (v) Advocates for enrolling hard-to-reach populations.

17 (vi) Federally recognized Indian tribes.

18 (vii) Federally qualified health centers.

19 (u) Match, to the extent reasonably practicable, the
20 reconciliation standards established by the Centers for Medicare
21 and Medicaid Services for a health insurance exchange website
22 operated by the federal government.

23 (v) Educate consumers, including through outreach, a navigator
24 program and postenrollment support.

25 (w) If the exchange establishes a SHOP under subsection (2),
26 notify employees using the SHOP of potential eligibility for a
27 state medical assistance program.

28 (x) Ensure that all enrollee information possessed by any
29 person associated with the exchange is protected as required by the

1 health insurance portability and accountability act of 1996, Public
2 Law 104-191.

3 (2) The exchange may establish a small business health options
4 program through which qualified employers may access coverage for
5 their employees and federally recognized Indian tribes may access
6 coverage for their tribal members. If established, the SHOP must do
7 all of the following:

8 (a) Enable any qualified employer or federally recognized
9 Indian tribe to specify a level of coverage so that any of its
10 employees or tribal members may enroll in any qualified health plan
11 offered through the SHOP at the specified level of coverage.

12 (b) Provide a qualified employer or federally recognized
13 Indian tribe with the opportunity to establish a defined
14 contribution arrangement for the SHOP's employees or tribal members
15 to purchase a health benefit plan.

16 (3) Subsection (1)(r) does not require a qualified individual
17 or qualified employer to utilize a producer for any of the services
18 described in subsection (1)(r). However, a qualified individual or
19 qualified employer must not be penalized, either by premium cost or
20 coverage under a health benefit plan, for choosing to use the
21 services of a producer.

22 Sec. 213. (1) The board shall appoint from the board's members
23 an audit committee. The audit committee shall contract with an
24 external auditor for the preparation of at least 1 audit of the
25 financial statements of the exchange in every fiscal year. The
26 audit committee members shall not have contractual relationships
27 with the external auditor other than for the exchange audit.

28 (2) The audit committee shall do all of the following:

29 (a) Review the reports of the external auditor.

1 (b) Make the external auditor reports available to the board
2 and the general public.

3 (3) The exchange shall meet all of the following financial
4 integrity requirements:

5 (a) Keep an accurate accounting of all activities, receipts,
6 and expenditures and annually submit a report concerning those
7 accountings to the governor, the director, and the senate and house
8 of representatives appropriations committees and standing
9 committees on health policy.

10 (b) Fully cooperate with any investigation conducted by this
11 state or a federal agency pursuant to authority under federal or
12 state law, to do any of the following:

13 (i) Investigate the affairs of the marketplace.

14 (ii) Examine the properties and records of the exchange.

15 (iii) Require periodic reports in relation to the activities
16 undertaken by the exchange.

17 Sec. 215. (1) As provided in section 211, the exchange shall
18 contract with the department of insurance and financial services to
19 certify health insurance policies under this section. Subject to
20 subsection (2), the director shall certify a health insurance
21 policy as a qualified health plan if the health benefit plan meets
22 the requirements of federal law, state law, and the purposes of
23 this act.

24 (2) The director shall not certify a health insurance policy
25 as a qualified health plan unless the premium rates and contract
26 language have been approved by the director.

27 (3) The director shall require each carrier seeking
28 certification of a health insurance policy as a qualified health
29 plan to do all of the following:

1 (a) Make available to the public, in plain language, as that
2 term is defined in section 1311(e)(3)(B) of the federal act, and
3 submit to the exchange and the director accurate and timely
4 disclosure of all of the following:

5 (i) Claims payment policies and practices.

6 (ii) Periodic financial disclosures.

7 (iii) Data on enrollment.

8 (iv) Data on disenrollment.

9 (v) Data on the number of claims that are denied.

10 (vi) Data on rating practices.

11 (vii) Information on cost-sharing and payments with respect to
12 any out-of-network coverage.

13 (viii) Information on enrollee and participant rights under
14 title I of the federal act.

15 (ix) Other information as required to be in compliance with
16 federal law, state law, and the purposes of this act.

17 (b) Permit determination, in a timely manner on the request of
18 the individual, the level of cost-sharing, including deductibles,
19 copayments, and coinsurance, under the individual's plan or
20 coverage that the individual would be responsible for paying with
21 respect to the furnishing of a specific item or service by a
22 participating provider. At a minimum, this information must be made
23 available to the individual through a website and through other
24 means for individuals without access to the internet.

25 (4) The provisions of this act that are applicable to
26 qualified health plans apply to the extent relevant to qualified
27 dental plans except as modified in this subsection or by the board
28 as permitted by the federal act. A carrier offering a qualified
29 dental plan shall be licensed to offer dental coverage, but need

1 not be licensed to offer other health benefits. The qualified
2 dental plan must be limited to dental and oral health benefits,
3 without substantially duplicating the benefits typically offered by
4 health benefit plans without dental coverage, and must include, at
5 a minimum, the essential pediatric dental benefits required under
6 section 1302(b)(1)(J) of the federal act, and any other dental
7 benefits specified in compliance with federal law, state law, and
8 the purposes of this act. Carriers may jointly offer a
9 comprehensive plan through the marketplace in which the dental
10 benefits are provided by a carrier through a qualified dental plan
11 and the other benefits are provided by a carrier through a
12 qualified health plan, if the plans are priced separately and are
13 also made available for purchase separately at the same price.

14 Sec. 217. (1) Subject to section 221, the exchange shall
15 charge assessments or user fees and collect fees from carriers to
16 support the operation of the exchange under this act and the
17 reinsurance program established under section 3406nn of the
18 insurance code of 1956, 1956 PA 218, MCL 500.3406nn, except that
19 the exchange shall not assess or collect any form of obligation
20 other than an exchange user fee on total monthly premiums for
21 exchange policies and unless approved by unanimous consent of the
22 board, the fee must not exceed **the user fee for state-based**
23 **exchanges on the federal platform plus or minus 1%** of total monthly
24 premiums for on-exchange policies. By majority vote, the board may
25 decrease the fee under this section. By a 3/4 vote, the board may
26 increase the fee under this section. The exchange may generate
27 funding necessary to support its operations under this act. An
28 assessment or user fee charged to carriers under this section is
29 considered a licensing or regulatory fee for the purpose of

1 determining compliance with the medical loss ratio requirements of
2 the federal act. An assessment of a user fee may be used only for
3 the purposes directly related to the operation of the exchange or
4 any reinsurance program established under the law of this state.

5 (2) The exchange shall publish on its internet website the
6 financial information as required under the federal act.

7 (3) The board must approve by a majority vote any assessment
8 or user fee.

9 Sec. 218. (1) The exchange fund is created within the state
10 treasury.

11 (2) The state treasurer may receive money or other assets from
12 any source for deposit into the fund. The state treasurer shall
13 direct the investment of the fund. The state treasurer shall credit
14 to the fund interest and earnings from fund investments.

15 (3) Money in the fund at the close of the fiscal year must
16 remain in the fund and must not lapse to the general fund.

17 (4) The department of insurance and financial services is the
18 administrator of the fund for auditing purposes.

19 (5) The department of insurance and financial services shall
20 expend money from the fund, on appropriation, to do either of the
21 following:

22 (a) Operate the exchange.

23 (b) From money, other than money received from fees under this
24 act, assist health carriers for transition costs in the first year
25 the exchange operates.

26 Sec. 219. (1) This act does not preempt or supersede the
27 authority of the director to regulate the business of insurance
28 within this state or of the department of health and human services
29 to administer a state medical assistance program.

1 (2) Except as otherwise expressly provided in this act, all
2 carriers offering qualified health plans in this state shall comply
3 fully with all applicable health insurance laws of this state and
4 rules promulgated and orders issued by the director.

5 (3) Any standard or requirement adopted by the exchange under
6 the federal act or this act must be applied uniformly to all
7 carriers and health benefit plans in each insurance market to which
8 the standard or requirement applies.

9 (4) A carrier aggrieved by an action or decision of the
10 exchange may appeal to the director not more than 30 days after the
11 action or decision. After a hearing held on not less than 10 days'
12 written notice to the aggrieved carrier and the exchange, the
13 director shall issue an order approving the action or decision,
14 disapproving the action or decision, or directing the exchange to
15 give further consideration to the matter. Proceedings under this
16 subsection are subject to judicial review under the administrative
17 procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

18 Sec. 221. The director may promulgate rules that the director
19 determines are necessary to implement this act.

20 Enacting section 1. This act does not take effect unless
21 Senate Bill No. 637 of the 102nd Legislature is enacted into law.