

# SENATE BILL NO. 633

November 01, 2023, Introduced by Senator HERTEL and referred to the Committee on Health Policy.

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:**

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PART 1

GENERAL PROVISIONS

Sec. 101. This act may be cited as the "Michigan health

1 insurance exchange act". The exchange shall foster a competitive  
2 market for health insurance in this state and serve as a market  
3 facilitator to promote the purchase and sale of qualified health  
4 plans and to disseminate information regarding qualified health  
5 plans to health benefit plan consumers.

6 Sec. 103. As used in this act:

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

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

16 (c) "Director" means the director of the department of  
17 insurance and financial services.

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

24 (e) "Exchange" means the nonprofit corporation organized under  
25 section 203.

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

28 (g) "Facilitate enrollment" means to perform an act that is  
29 only indirectly related to the sale, solicitation, or negotiation

1 of a health insurance policy and is to inform an individual of the  
2 individual's eligibility for public assistance or to inform an  
3 individual that the individual can purchase a health insurance  
4 policy through a producer, the marketplace, a carrier offering a  
5 qualified health plan, or another source, which act is in  
6 compliance with federal law, state law, and the purposes of this  
7 act.

8 (h) "Federal act" means the federal patient protection and  
9 affordable care act, Public Law 111-148, as amended by the federal  
10 health care and education reconciliation act of 2010, Public Law  
11 111-152, and any regulations promulgated under those acts.

12 (i) "Federally recognized Indian tribe" means any of the  
13 following:

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

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

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

18 Sec. 105. As used in this act:

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

23 (i) A health insurer operating under the insurance code of  
24 1956, 1956 PA 218, MCL 500.100 to 500.8302.

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

27 (iii) A health care corporation operating under the nonprofit  
28 health care corporation reform act, 1980 PA 350, MCL 550.1101 to  
29 550.1704.

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

3 (v) Any other entity providing a plan of health insurance,  
4 health benefits, or health services.

5 (b) "Health insurance policy" means an expense-incurred  
6 hospital, medical, or surgical policy, certificate, or contract.  
7 Health insurance policy does not include a policy that provides  
8 coverage only for excepted benefits as described in 42 USC 300gg-  
9 91.

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

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

14 (a) "Producer" means insurance producer as defined in section  
15 1201 of the insurance code of 1956, 1956 PA 218, MCL 500.1201.

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

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

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

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

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

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

3 Sec. 109. As used in this act:

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

6 (b) "Small employer" means that term as defined in section  
7 3701 of the insurance code of 1956, 1956 PA 218, MCL 500.3701.

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

12 PART 2

13 EXCHANGE

14 Sec. 201. (1) A board consisting of 12 members is created to  
15 organize and govern the exchange. The board is the incorporator of  
16 the exchange for the purposes of the nonprofit corporation act,  
17 1982 PA 162, MCL 450.2101 to 450.3192. The director and the  
18 director of the department of health and human services shall serve  
19 as voting ex officio members of the board.

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

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

28 (b) One member, subject to advice and consent of the senate,  
29 from among the insurers that offer health insurance policies

1 through the exchange that are not a hospital plan corporation, a  
2 professional health services plan corporation, or a parent,  
3 affiliate, subsidiary, or other associated entity or successor of a  
4 hospital plan corporation or a professional health services plan.

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

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

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

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

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

1 individual markets and the uninsured.

2 (h) One member, subject to advice and consent of the senate,  
3 appointed from a list of 3 candidates provided by the minority  
4 leader of the house of representatives, who has relevant experience  
5 in health benefits administration, health care finance, health plan  
6 purchasing, health care delivery system administration, public  
7 health, or health policy issues related to the small group and  
8 individual markets and the uninsured.

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

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

16 (4) A majority of the voting members of the board must not  
17 have a conflict of interest as set forth in section 1321 of the  
18 federal act. Other than the individuals listed in subsections  
19 (2) (a) and (2) (b), the voting members of the board listed in  
20 subsection (2) must not have a conflict of interest.

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

27 (6) Except as otherwise provided in this subsection, an  
28 appointed board member shall serve for a term of 4 years or until a  
29 successor is appointed, whichever is later. For the initial members

1 appointed under subsection (2), 2 members must be appointed for 2-  
2 year terms, 5 members must be appointed for 3-year terms, and 3  
3 members must be appointed for 4-year terms. The length of the  
4 initial term of each initial member must be determined by the  
5 governor at the time of appointment.

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

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

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

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

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

28 (12) The board shall adopt a code of ethics for its members  
29 and for the officers and employees of the exchange. The board shall



1 include in the code of ethics policies and procedures requiring the  
2 disclosure of relationships that may give rise to a conflict of  
3 interest.

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

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

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

25 Sec. 203. (1) The initial board appointed under section 201  
26 shall organize a nonprofit corporation, on a nonstock, directorship  
27 basis, under the nonprofit corporation act, 1982 PA 162, MCL  
28 450.2101 to 450.3192. The nonprofit corporation must be organized  
29 not later than 60 days after the first board meeting to provide an

1 individual marketplace for qualified health plans in this state.  
2 Before formation of the exchange, the director may take any action  
3 necessary to effect a timely transition from a federally  
4 administered exchange to the exchange established under this act,  
5 including, but not limited to, taking steps that are necessary to  
6 facilitate a state-based exchange on the federal platform that will  
7 operate until the director determines that the exchange organized  
8 under this act is adequately prepared to operate on the  
9 marketplace.

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

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

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

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

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

28 (e) To adopt, amend, or repeal bylaws, including emergency  
29 bylaws, relating to the purposes of the exchange, the conduct of

1 its affairs, its rights and powers, and the rights and powers of  
2 its board members, corporate directors, or officers.

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

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

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

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

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

1           (k) To establish and carry out savings, thrift, and other  
2 incentive and benefit plans, trusts, and provisions for any of its  
3 corporate directors, officers, and employees. The marketplace shall  
4 not establish and carry out pension plans.

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

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

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

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

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

29           (3) Other than a power or duty under section 261 of the

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

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

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

16       Sec. 209. (1) The exchange shall make qualified health plans  
17 available through its internet website and its toll-free telephone  
18 hotline for review, purchase, and enrollment by qualified  
19 individuals and qualified employers beginning on or before January  
20 1, 2025.

21       (2) The exchange shall implement an enhanced direct enrollment  
22 for any approved health insurance carrier or web broker to directly  
23 enroll any prospective enrollee in a qualified health benefit plan  
24 through the exchange with or without assistance from a producer.  
25 The exchange shall implement the enhanced direct enrollment before  
26 the first open enrollment period in which the exchange is  
27 operational.

28       (3) The exchange shall not make available any health benefit  
29 plan that is not a qualified health plan. However, the exchange

1 shall allow a health carrier to offer a plan that provides limited  
2 scope dental benefits meeting the requirements of section  
3 9832(c)(2)(A) of the internal revenue code of 1986, 26 USC 9832,  
4 through the marketplace, either separately or in conjunction with a  
5 qualified health plan, if the plan provides pediatric dental  
6 benefits meeting the requirements of section 1302(b)(1)(J) of the  
7 federal act.

8 (4) The exchange or a carrier offering health benefit plans  
9 through the marketplace shall not charge an individual a fee or  
10 penalty for termination of coverage.

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

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

14 (b) Implement procedures consistent with section 215 for the  
15 certification, recertification, and decertification of health  
16 benefit plans as qualified health plans. The exchange shall  
17 contract with the department of insurance and financial services to  
18 certify health benefit plans as qualified health plans consistent  
19 with section 215.

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

22 (d) Provide for the operation of a toll-free telephone hotline  
23 to respond to requests for assistance in a manner that is  
24 linguistically appropriate to the needs of the population being  
25 served by the hotline.

26 (e) Any of the following for an enrollment period:

27 (i) Provide at the least an annual enrollment period beginning  
28 on November 1 and ending on December 15.

29 (ii) Provide a special enrollment period in accordance with 42

1 USC 18031, and any regulations promulgated under that section.

2 (iii) If the governor declares a state of emergency or state of  
3 disaster under the emergency management act, 1976 PA 390, MCL  
4 30.401 to 30.421, provide an enrollment period that a majority of  
5 the board determines is necessary as a result of the declaration of  
6 a state of emergency or state of disaster.

7 (iv) By a 3/4 vote of the board, provide any enrollment period.

8 (f) Maintain an internet website through which enrollees and  
9 prospective enrollees of qualified health plans may obtain  
10 standardized comparative information on the plans. At the direction  
11 of the board, the marketplace shall also include on the internet  
12 website information relative to individual health and wellness.

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 and inform each individual applicant of the  
22 applicant's eligibility to enroll in a state medical assistance  
23 program or any applicable health subsidy program under the federal  
24 act.

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

28 (l) Establish and make available by electronic means a  
29 calculator to determine the actual cost of coverage after

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

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

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

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

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

16 (q) Enroll individuals in qualified health plans and state  
17 medical assistance programs.

18 (r) Subject to subsection (2), permit producers to do all of  
19 the following:

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

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

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



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

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

8           (i) Consumer representatives.

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

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

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

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

16           (vi) Federally recognized Indian tribes.

17           (vii) Federally qualified health centers.

18           (u) Provide daily to carriers in an electronic format all  
19 enrollment and disenrollment information.

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

22           (w) Establish a small business health options program through  
23 which qualified employers may access coverage for their employees  
24 and federally recognized Indian tribes may access coverage for  
25 their tribal members. The SHOP must be established to do all of the  
26 following:

27           (i) Enable any qualified employer or federally recognized  
28 Indian tribe to specify a level of coverage so that any of its  
29 employees or tribal members may enroll in any qualified health plan

1 offered through the SHOP at the specified level of coverage.

2 (ii) Provide a qualified employer or federally recognized  
3 Indian tribe with the opportunity to establish a defined  
4 contribution arrangement for the SHOP's employees or tribal members  
5 to purchase a health benefit plan.

6 (x) Notify employees using the SHOP of potential eligibility  
7 for a state medical assistance program.

8 (2) Subsection (1)(r) does not require a qualified individual  
9 or qualified employer to utilize a producer for any of the services  
10 described in subsection (1)(r). However, a qualified individual or  
11 qualified employer must not be penalized, either by premium cost or  
12 coverage under a health benefit plan, for choosing to use the  
13 services of a producer.

14 Sec. 213. (1) The board shall appoint from the board's members  
15 an audit committee. The audit committee shall contract with an  
16 external auditor for the preparation of at least 1 audit of the  
17 financial statements of the exchange in every fiscal year. The  
18 audit committee members shall not have contractual relationships  
19 with the external auditor other than for the exchange audit.

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

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

22 (b) Make the external auditor reports available to the board  
23 and the general public.

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

26 (a) Keep an accurate accounting of all activities, receipts,  
27 and expenditures and annually submit a report concerning those  
28 accountings to the governor, the director, and the senate and house  
29 of representatives appropriations committees and standing

1 committees on health policy.

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

5 (i) Investigate the affairs of the marketplace.

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

7 (iii) Require periodic reports in relation to the activities  
8 undertaken by the exchange.

9 Sec. 215. (1) As provided in section 211, the exchange shall  
10 contract with the department of insurance and financial services to  
11 certify health insurance policies under this section. Subject to  
12 subsection (2), the director shall certify a health insurance  
13 policy as a qualified health plan if the health benefit plan meets  
14 the requirements of federal law, state law, and the purposes of  
15 this act.

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

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

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

26 (i) Claims payment policies and practices.

27 (ii) Periodic financial disclosures.

28 (iii) Data on enrollment.

29 (iv) Data on disenrollment.

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

2 (vi) Data on rating practices.

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

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

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

9 (b) Permit determination, in a timely manner on the request of  
10 the individual, the level of cost-sharing, including deductibles,  
11 copayments, and coinsurance, under the individual's plan or  
12 coverage that the individual would be responsible for paying with  
13 respect to the furnishing of a specific item or service by a  
14 participating provider. At a minimum, this information must be made  
15 available to the individual through a website and through other  
16 means for individuals without access to the internet.

17 (4) The provisions of this act that are applicable to  
18 qualified health plans apply to the extent relevant to qualified  
19 dental plans except as modified in this subsection or by the board  
20 as permitted by the federal act. A carrier offering a qualified  
21 dental plan shall be licensed to offer dental coverage, but need  
22 not be licensed to offer other health benefits. The qualified  
23 dental plan must be limited to dental and oral health benefits,  
24 without substantially duplicating the benefits typically offered by  
25 health benefit plans without dental coverage, and must include, at  
26 a minimum, the essential pediatric dental benefits required under  
27 section 1302(b)(1)(J) of the federal act, and any other dental  
28 benefits specified in compliance with federal law, state law, and  
29 the purposes of this act. Carriers may jointly offer a

1 comprehensive plan through the marketplace in which the dental  
2 benefits are provided by a carrier through a qualified dental plan  
3 and the other benefits are provided by a carrier through a  
4 qualified health plan, if the plans are priced separately and are  
5 also made available for purchase separately at the same price.

6       Sec. 217. (1) Subject to section 221, the exchange shall  
7 charge assessments or user fees and collect fees from carriers to  
8 support the operation of the exchange under this act and the  
9 reinsurance program established under section 3406nn of the  
10 insurance code of 1956, 1956 PA 218, MCL 500.3406nn, except that  
11 the exchange shall not assess or collect any form of obligation  
12 other than an exchange user fee on total monthly premiums for  
13 exchange policies and unless approved by unanimous consent of the  
14 board, the fee must not exceed 2.75% of total monthly premiums for  
15 on-exchange policies. By majority vote, the board may decrease the  
16 fee under this section. By a 3/4 vote, the board may increase the  
17 fee under this section. The exchange may generate funding necessary  
18 to support its operations under this act. An assessment or user fee  
19 charged to carriers under this section is considered a licensing or  
20 regulatory fee for the purpose of determining compliance with the  
21 medical loss ratio requirements of the federal act. An assessment  
22 of a user fee may be used only for the purposes directly related to  
23 the operation of the exchange or any reinsurance program  
24 established under the law of this state.

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

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

29       Sec. 218. (1) The exchange fund is created within the state

1 treasury.

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

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

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

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

13 (a) Operate the exchange.

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

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

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

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

29 Sec. 221. The director may promulgate rules that the director

1 determines are necessary to implement this act.

2 Enacting section 1. This act does not take effect unless

3 Senate Bill No. 637 of the 102nd Legislature is enacted into law.

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