

HOUSE BILL 1329

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By: **Delegates Mautz, Arikan, Hornberger, and McComas**

Introduced and read first time: February 7, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health Benefit Exchange – Establishment of Small Business Health**
3 **Insurance Subsidies Program**

4 FOR the purpose of requiring the Maryland Health Benefit Exchange, in consultation with
5 the Maryland Insurance Commissioner and as approved by the Board of Trustees of
6 the Exchange, to establish and implement a Small Business Health Insurance
7 Subsidies Program to provide subsidies to employers for the purchase of health
8 benefit plans offered on the Small Business Health Options Program (SHOP)
9 Exchange; altering the purposes for which certain premium tax revenues may be
10 used to include funding the establishment and operation of the Small Business
11 Health Insurance Subsidies Program; altering the purpose of the Maryland Health
12 Benefit Exchange Fund to include providing funding for the establishment and
13 operation of the Small Business Health Insurance Subsidies Program; providing that
14 the operation and administration of the Small Business Health Insurance Subsidies
15 Program may include certain functions delegated to certain third parties; altering
16 the contents of the Fund; altering the purposes for which the Fund may be used;
17 requiring the Board of Trustees of the Exchange to maintain a separate account
18 within the Fund for the Small Business Health Insurance Subsidies Program;
19 requiring certain funds to be transferred to the Small Business Health Insurance
20 Subsidies Program account under certain circumstances; authorizing certain funds
21 transferred to the Small Business Health Insurance Subsidies Program account to
22 be used only for the establishment and operation of the Small Business Health
23 Insurance Subsidies Program; prohibiting certain funds from reverting or being
24 credited to the General Fund or a special fund of the State; requiring the Governor
25 to include in the annual budget bill a certain appropriation to fund the establishment
26 and operation of the Small Business Health Insurance Subsidies Program;
27 authorizing certain allocated funds to be used only for the establishment and
28 operation of the Small Business Health Insurance Subsidies Program; requiring
29 certain funds to remain in a certain account under certain circumstances to be used
30 for a certain purpose; requiring the Small Business Health Insurance Subsidies
31 Program to be designed to reduce the amount that certain employers and employees

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



pay for certain health benefit plans offered on the Small Business Health Options Program (SHOP) Exchange; requiring the Exchange, in consultation with the Commissioner and as approved by the Board, to establish certain eligibility and payment parameters based on available funds; requiring the Small Business Health Insurance Subsidies Program to be funded in a certain manner; requiring the Exchange to adopt regulations on or before a certain date; and generally relating to the Small Business Health Insurance Subsidies Program.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 6–103.2, 31–107, and 31–107.2
Annotated Code of Maryland
(2017 Replacement Volume and 2019 Supplement)

BY adding to
Article – Insurance
Section 31–107.3 and 31–122
Annotated Code of Maryland
(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

6–103.2.

(a) (1) (i) Notwithstanding § 2–114 of this article, beginning January 1, [2015] **2021**, from the tax described in paragraph (2) of this subsection, a portion shall be distributed annually to the Maryland Health Benefit Exchange Fund established under § 31–107 of this article for the [sole] purpose of funding the operation and administration of the Maryland Health Benefit Exchange **AND, AS PROVIDED FOR IN §§ 31–107(H)(2) AND 31–107.2(D) OF THIS ARTICLE, THE ESTABLISHMENT AND OPERATION OF THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM.**

(ii) The operation and administration of the Maryland Health Benefit Exchange **AND THE ESTABLISHMENT AND OPERATION OF THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM** may include functions delegated by the Maryland Health Benefit Exchange to a third party under law or by contract.

(2) (i) The distribution under paragraph (1) of this subsection shall be allocated from the tax imposed on a person under § 6–102 of this subtitle on premiums for health insurance.

(ii) For purposes of this paragraph, “person” does not include:

1 1. a managed care organization authorized by Title 15,
2 Subtitle 1 of the Health – General Article; or

3 2. a for–profit health maintenance organization authorized
4 by Title 19, Subtitle 7 of the Health – General Article.

5 (b) For State fiscal year 2015 and each State fiscal year thereafter, the amount to
6 be distributed under subsection (a) of this section shall be sufficient to fully fund the
7 operation and administration of the Maryland Health Benefit Exchange for the State fiscal
8 year.

9 31–107.

10 (a) There is a Maryland Health Benefit Exchange Fund.

11 (b) (1) The purpose of the Fund is to:

12 (i) provide funding for the operation and administration of the
13 Exchange in carrying out the purposes of the Exchange under this title; [and]

14 (ii) provide funding for the establishment and operation of the State
15 Reinsurance Program authorized under this title; **AND**

16 **(III) PROVIDE FUNDING FOR THE ESTABLISHMENT AND**
17 **OPERATION OF THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM**
18 **AUTHORIZED UNDER THIS TITLE.**

19 (2) The operation and administration of the Exchange [and], the State
20 Reinsurance Program, **AND THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES**
21 **PROGRAM** may include functions delegated by the Exchange to a third party under law or
22 by contract.

23 (c) The Exchange shall administer the Fund.

24 (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of
25 the State Finance and Procurement Article.

26 (2) The State Treasurer shall hold the Fund separately, and the
27 Comptroller shall account for the Fund.

28 (e) The Fund consists of:

29 (1) any user fees or other assessments collected by the Exchange;

30 (2) all revenue deposited into the Fund that is received from the

1 distribution of the premium tax under § 6–103.2 of this article;

2 (3) income from investments made on behalf of the Fund;

3 (4) interest on deposits or investments of money in the Fund;

4 (5) money collected by the Board as a result of legal or other actions taken
5 by the Board on behalf of the Exchange or the Fund;

6 (6) money donated to the Fund;

7 (7) money awarded to the Fund through grants;

8 (8) any pass-through funds received from the federal government under a
9 waiver approved under § 1332 of the Affordable Care Act;

10 (9) any funds designated by the federal government to provide reinsurance
11 to carriers that offer individual health benefit plans in the State;

12 (10) any funds designated by the State to provide reinsurance to carriers
13 that offer individual health benefit plans in the State;

14 (11) any federal funds received in accordance with § 31–121 of this title for
15 the administration of small business tax credits; [and]

16 **(12) ANY FUNDS DESIGNATED BY THE STATE TO PROVIDE HEALTH**
17 **INSURANCE SUBSIDIES TO QUALIFIED EMPLOYERS OF SMALL BUSINESSES IN THE**
18 **STATE; AND**

19 **[(12)] (13)** any other money from any other source accepted for the benefit
20 of the Fund.

21 (f) The Fund may be used only:

22 (1) for the operation and administration of the Exchange in carrying out
23 the purposes authorized under this title; [and]

24 (2) for the establishment and operation of the State Reinsurance Program;

25 **AND**

26 **(3) FOR THE ESTABLISHMENT AND OPERATION OF THE SMALL**
27 **BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM.**

28 (g) (1) The Board shall maintain separate accounts within the Fund for
29 Exchange operations [and for], the State Reinsurance Program, **AND THE SMALL**
30 **BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM.**

(2) Accounts within the Fund shall contain the money that is intended to support the purpose for which each account is designated.

(3) **[Funds] EXCEPT AS PROVIDED FOR IN SUBSECTION (H)(2) OF THIS SECTION, FUNDS** received from the distribution of the premium tax under § 6–103.2 of this article shall be placed in the **[account for] Exchange operations ACCOUNT** and may be used only for the purpose of funding the operation and administration of the Exchange.

(4) The following funds may be used only for the purposes of funding the State Reinsurance Program:

(i) any pass-through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act;

(ii) any funds designated by the federal government to provide reinsurance to carriers that offer individual health benefit plans in the State; and

(iii) any funds designated by the State to provide reinsurance to carriers that offer individual health benefit plans in the State.

(5) FUNDS TRANSFERRED FROM THE EXCHANGE OPERATIONS ACCOUNT TO THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM ACCOUNT AS PROVIDED FOR IN SUBSECTION (H)(2) OF THIS SECTION MAY BE USED ONLY FOR THE ESTABLISHMENT AND OPERATION OF THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM.

(h) (1) Expenditures from the Fund for the purposes authorized by this subtitle may be made only:

(i) with an appropriation from the Fund approved by the General Assembly in the State budget; or

(ii) by the budget amendment procedure provided for in Title 7, Subtitle 2 of the State Finance and Procurement Article.

(2) **[Notwithstanding § 7–304 of the State Finance and Procurement Article, if] IF** the amount of the distribution from the premium tax under § 6–103.2 of this article exceeds in any State fiscal year the actual expenditures incurred for the operation and administration of the Exchange, funds in the Exchange operations account from the premium tax that remain unspent at the end of the State fiscal year shall **[revert to the General Fund of the State] BE TRANSFERRED TO THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM ACCOUNT.**

(3) If operating expenses of the Exchange may be charged to either State or non-State fund sources, the non-State funds shall be charged before State funds are

charged.

(i) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the Fund.

(3) [Except as provided in subsection (h)(2) of this section, no] **NO** part of the Fund may revert or be credited to the General Fund or any special fund of the State.

(j) A debt or an obligation of the Fund is not a debt of the State or a pledge of credit of the State.

31–107.2.

(a) (1) For State fiscal year 2015 and for each State fiscal year thereafter, from the funds received from the distribution of the premium tax under § 6–103.2 of this article, the Governor shall provide an appropriation in the State budget adequate to fully fund the operations of the Exchange.

(2) (i) For State fiscal year 2015, the appropriation shall be no less than \$10,000,000.

(ii) For each State fiscal year thereafter, the appropriation shall be no less than \$35,000,000.

(b) [Funds] **EXCEPT AS PROVIDED FOR IN SUBSECTION (D) OF THIS SECTION, FUNDS** allocated from the premium tax under subsection (a) of this section to provide the appropriation to the Exchange may be used only for the purpose of funding the operation and administration of the Exchange.

(c) If, in any State fiscal year, the amount of the allocation from the premium tax is insufficient to meet the actual expenditures incurred for the operation and administration of the Exchange, the Governor may provide an additional appropriation by deficiency appropriation.

(d) [Notwithstanding § 7–304 of the State Finance and Procurement Article, funds] **FUNDS** allocated to the Exchange under this section that remain unspent at the end of a fiscal year shall [revert to the General Fund of the State] **BE TRANSFERRED TO THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM ACCOUNT.**

31–107.3.

(A) (1) FOR FISCAL YEAR 2022 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE EXCHANGE TO FUND THE ESTABLISHMENT AND OPERATION OF THE SMALL

BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM IN AN AMOUNT NOT LESS THAN THE AMOUNT TRANSFERRED TO THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM ACCOUNT UNDER §§ 31-107(h)(2) AND 31-107.2(d) OF THIS SUBTITLE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR.

(B) FUNDS ALLOCATED TO PROVIDE THE APPROPRIATION UNDER SUBSECTION (A) OF THIS SECTION TO THE EXCHANGE MAY BE USED ONLY FOR THE PURPOSE OF FUNDING THE ESTABLISHMENT AND OPERATION OF THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM.

(C) FUNDS ALLOCATED TO THE EXCHANGE UNDER THIS SECTION THAT REMAIN UNSPENT AT THE END OF A FISCAL YEAR:

(1) MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE; AND

(2) SHALL REMAIN IN THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM ACCOUNT TO BE USED FOR THE PURPOSES SPECIFIED IN THIS SECTION.

31-122.

(A) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM TO PROVIDE SUBSIDIES TO QUALIFIED EMPLOYERS FOR THE PURCHASE OF HEALTH INSURANCE PLANS OFFERED TO ELIGIBLE EMPLOYEES ON THE SHOP EXCHANGE.

(B) THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM SHALL BE DESIGNED TO REDUCE THE AMOUNT QUALIFIED EMPLOYERS AND ELIGIBLE EMPLOYEES PAY FOR HEALTH BENEFIT PLANS OFFERED ON THE SHOP EXCHANGE.

(C) BASED ON AVAILABLE FUNDS, THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL ESTABLISH SUBSIDY ELIGIBILITY AND PAYMENT PARAMETERS FOR CALENDAR YEAR 2021 AND EACH SUBSEQUENT CALENDAR YEAR.

(D) (1) BEGINNING JANUARY 1, 2021, THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM SHALL BE FUNDED BY FUNDS TRANSFERRED TO THE SMALL BUSINESS HEALTH INSURANCE SUBSIDIES PROGRAM ACCOUNT AT THE END OF FISCAL YEAR 2020 AS PROVIDED FOR IN §§ 31-107(h)(2) AND 31-107.2(d) OF THIS SUBTITLE.

1 **(2) BEGINNING JANUARY 1, 2022, THE SMALL BUSINESS HEALTH**
2 **INSURANCE SUBSIDIES PROGRAM SHALL BE FUNDED IN ACCORDANCE WITH AN**
3 **APPROPRIATION MADE UNDER § 31-107.3(A) OF THIS SUBTITLE.**

4 **(E) ON OR BEFORE JANUARY 1, 2021, THE EXCHANGE SHALL ADOPT**
5 **REGULATIONS IMPLEMENTING THE PROVISIONS OF THIS SECTION.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
7 1, 2020.