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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1544 Session of  
2013

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INTRODUCED BY BAKER, MILLARD, SCHLEGEL CULVER, PICKETT, CUTLER,  
BIZZARRO, HELM, TALLMAN, CLYMER, COHEN AND C. HARRIS,  
JUNE 18, 2013

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REFERRED TO COMMITTEE ON HEALTH, JUNE 18, 2013

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AN ACT

1 Establishing the Health Insurance Exchange Task Force; setting  
2 limits on the expansion of Medicaid coverage; and imposing  
3 powers and duties on the Insurance Commissioner and the  
4 Secretary of Public Welfare.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Health  
9 Insurance Exchange Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Affordable Care Act." The Patient Protection and Affordable  
15 Care Act (Public Law 111-148, 124 Stat. 119) as amended by the  
16 Health Care and Education Reconciliation Act of 2010 (Public Law  
17 111-152, 124 Stat. 1029).

18 "Commissioner." The Insurance Commissioner of the

1 Commonwealth.

2 "Federally facilitated exchange." An exchange platform that  
3 is established by the Federal Government in compliance with the  
4 Patient Protection and Affordable Care Act (Public Law 111-148,  
5 124 Stat. 119).

6 "Secretary." The Secretary of Public Welfare of the  
7 Commonwealth.

8 "Task force." The Health Insurance Exchange Task Force  
9 established under this act.

10 Section 3. Limitation on expansion of Medicaid.

11 Expansion of access to Medicaid to the population set by a  
12 fixed percentage of the Federal poverty level, as proposed in  
13 the Affordable Care Act, shall only be accomplished after the  
14 initial report by the task force is issued.

15 Section 4. Federally facilitated exchange within the

16 Commonwealth prior to the task force report.

17 (a) Interaction with Federal Government.--Nothing in this  
18 act may be construed to impede the Governor's Office, the  
19 Department of Public Welfare and the Insurance Department from  
20 communicating and interacting with the Federal Government with  
21 respect to the establishment of a federally facilitated exchange  
22 for this Commonwealth.

23 (b) Operation of specific functions.--Subject to the  
24 requirements of this act, the Department of Public Welfare and  
25 the Insurance Department may operate specific functions of a  
26 federally facilitated exchange consistent with this section to  
27 enable the continuation of traditional areas of State regulation  
28 and authority.

29 (c) Objectives.--State agency activities relating to any  
30 federally facilitated exchange for this Commonwealth shall be

1 consistent with the following objectives:

2 (1) Promoting preservation of the private delivery of  
3 health coverage through commercial or nonprofit carriers and  
4 producers to the greatest degree possible under the  
5 Affordable Care Act and minimizing interference with the  
6 operation of these markets.

7 (2) Maximizing the funds spent on providing medical  
8 services while minimizing costs, including, but not limited  
9 to, administrative expenses.

10 (3) Promoting competition and consumer choice by  
11 advocating for the allowance of all health and dental plans  
12 that meet the minimum requirements necessary to be certified  
13 as qualified plans under the Affordable Care Act and to be  
14 offered in the exchange.

15 (4) Preserving to the greatest extent possible the  
16 State's insurance regulatory authority and the State's  
17 flexibility in determining Medicaid eligibility standards and  
18 program design and operation.

19 (5) Protecting the insurance requirements and directives  
20 established by the General Assembly that require insurance  
21 coverage for various illnesses, conditions, medical  
22 procedures, tests and treatments.

23 (6) Prohibiting the use of Federal or State funds for  
24 any procedures where State law forbids the use of those  
25 funds.

26 Section 4. Powers and duties of commissioner.

27 (a) Retention of authority.--In the event a federally  
28 facilitated exchange is established for the Commonwealth, the  
29 commissioner shall retain authority with respect to insurance  
30 products sold in this Commonwealth on the federally facilitated

1 exchange to the maximum extent possible by law, including, but  
2 not limited to, producer and insurer licensing, form and rate  
3 approval, reinsurance and other risk-sharing mechanisms, network  
4 adequacy, compliance with insurance requirements, mandates or  
5 directives established by law or regulation, industry  
6 assessments, internal grievance standards, external review and  
7 unfair trade practices.

8 (b) Enrollment permitted.--The commissioner shall,  
9 consistent with the requirements of the Affordable Care Act,  
10 allow producers to enroll individuals, employers or employees in  
11 qualified health plans offered through a federally facilitated  
12 exchange in this Commonwealth, including enrollment using  
13 Internet websites.

14 (c) Regulations.--The commissioner may promulgate  
15 regulations as necessary to perform the duties specified in this  
16 section and to protect against adverse selection by creating  
17 equity between a federally facilitated exchange and the  
18 commercial or nonprofit health insurance market.

19 (d) Review.--The commissioner shall establish a policy and  
20 procedure to review the enrollment of all individuals who are  
21 deemed to qualify for the Children's Health Insurance Program  
22 under Title XXI of the Social Security Act (49 Stat. 620, 42  
23 U.S.C. § 301 et seq.).

24 Section 5. Powers and duties of secretary.

25 (a) General rule.--The secretary may establish eligibility  
26 standards, enrollment procedures and outreach mechanisms for  
27 persons who are enrolled through a federally facilitated  
28 exchange in this Commonwealth in the Medicaid program under  
29 Title XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. §  
30 301 et seq.).

1 (b) Regulations.--The secretary may promulgate regulations  
2 as necessary to fulfill the purposes of this section.

3 Section 6. Health Insurance Exchange Task Force.

4 (a) Establishment.--The Health Insurance Exchange Task Force  
5 is established and shall consist of the following members:

6 (1) Four senators, two appointed by the President pro  
7 tempore of the Senate, in consultation with the Senate  
8 Majority Leader, and two senators appointed by the Senate  
9 Minority Leader.

10 (2) Four representatives, two representatives appointed  
11 by the Speaker of the House of Representatives, in  
12 consultation with the Majority Leader of the House of  
13 Representatives, and two representatives appointed by the  
14 Minority Leader of the House of Representatives.

15 (3) Two representatives from the business community in  
16 this Commonwealth appointed by the Governor.

17 (4) Two representatives from domestic insurance  
18 companies appointed by the Governor.

19 (5) One insurance producer appointed by the Governor.

20 (6) One medical provider appointed by the Governor.

21 (7) One person representing hospitals in this  
22 Commonwealth appointed by the Governor.

23 (8) One person representing consumers in this  
24 Commonwealth appointed by the Governor.

25 (9) The secretary, or a designee.

26 (10) The commissioner, or a designee.

27 (11) The Secretary of Health, or a designee.

28 (b) Study.--The task force shall conduct a study of whether  
29 to expand medical assistance coverage, including review of a  
30 regional exchange, as provided in the Affordable Care Act, or

1 whether to explore a Pennsylvania health insurance exchange. The  
2 study shall:

3 (1) Recommend whether the Commonwealth should proceed  
4 with Medicaid expansion, as proposed in the Affordable Care  
5 Act, including the following:

6 (i) Review current Medicaid benefits offered in this  
7 Commonwealth in relation to those offered in other  
8 states.

9 (ii) Review current costs and expenses incurred by  
10 the Commonwealth in addition to medical services.

11 (iii) Review costs associated with health care costs  
12 incurred by the states to those who would be eligible for  
13 Medicaid if access were expanded.

14 (iv) Identify items that shall be eliminated from  
15 the annual appropriation due to expansion of Medicaid.

16 (2) Evaluate how a Pennsylvania health insurance  
17 exchange would benefit from the operation of a private  
18 marketplace for health insurance by allowing consumers to  
19 comparison shop for health insurance and by reducing the  
20 marketing cost for health insurance without the intervention  
21 of the Federal or State government.

22 (3) Explore options being considered by other states for  
23 developing and operating health insurance exchange  
24 alternatives, emphasizing free-market solutions to expand  
25 health insurance coverage.

26 (4) Evaluate whether an alternative Pennsylvania health  
27 insurance exchange should offer a full scope of services or  
28 whether a more limited scope of services is appropriate.

29 (5) Recommend whether the Commonwealth should proceed  
30 with the development of a Commonwealth-specific health

1 insurance exchange if the related provisions in the  
2 Affordable Care Act are revised or repealed.

3 (6) Examine whether an exchange can be used to  
4 facilitate the sale of health insurance across state lines.

5 (c) Experts.--The task force shall have the authority to  
6 contract with experts and consultants as may be useful in  
7 conducting the study under subsection (b). The task force shall  
8 have the authority to request data and information, with no  
9 identifying information in order to protect patient privacy,  
10 from the Pennsylvania Health Care Cost Containment Council, the  
11 Department of Health, the Department of Public Welfare and the  
12 Insurance Department. Any requests by the task force shall take  
13 priority over any other report to be issued by the Pennsylvania  
14 Health Care Cost Containment Council.

15 (d) Costs of study.--The study under subsection (b) shall be  
16 paid for, to the extent possible, by a Federal grant awarded to  
17 the Commonwealth for planning and establishing insurance  
18 exchanges. The following shall apply:

19 (1) Information requested by the task force from the  
20 Pennsylvania Health Care Cost Containment Council shall be  
21 provided at no cost to the task force.

22 (2) Any request from the task force to the Pennsylvania  
23 Health Care Cost Containment Council shall be prioritized  
24 above any other report issued by Pennsylvania Health Care  
25 Cost Containment Council.

26 (e) Deadline.--An initial report shall be provided to the  
27 Governor, the Senate and the House of Representatives by  
28 December 1, 2013.

29 Section 7. Effective date.

30 This act shall take effect immediately.