

HOUSE BILL 709

J5, C3

2lr1675
CF SB 632

By: **Delegates R. Lewis, Lierman, and K. Young**

Introduced and read first time: January 31, 2022

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 30, 2022

CHAPTER _____

1 AN ACT concerning

2 **Maryland Health Benefit Exchange – Small Business and Nonprofit Health**
3 **Insurance Subsidies Program – Workgroup**

4 FOR the purpose of ~~establishing a Small Business and Nonprofit Health Insurance~~
5 ~~Subsidies Program in the State to provide subsidies to small business and nonprofit~~
6 ~~employers and their employees for the purchase of qualified health benefit plans on~~
7 ~~the Maryland Health Benefit Exchange~~ requiring the Maryland Health Benefit
8 Exchange to convene a workgroup to study and make recommendations relating to
9 the establishment of a Small Business and Nonprofit Health Insurance Subsidies
10 Program to provide subsidies to small businesses and nonprofit employers and their
11 employees for the purchase of health benefit plans; and generally relating to the
12 Maryland Health Benefit Exchange and subsidies for small businesses and
13 nonprofits.

14 ~~BY repealing and reenacting, with amendments,~~
15 ~~Article – Insurance~~
16 ~~Section 31-107~~
17 ~~Annotated Code of Maryland~~
18 ~~(2017 Replacement Volume and 2021 Supplement)~~

19 ~~BY adding to~~
20 ~~Article – Insurance~~
21 ~~Section 31-123~~
22 ~~Annotated Code of Maryland~~
23 ~~(2017 Replacement Volume and 2021 Supplement)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 (a) The Maryland Health Benefit Exchange shall convene a workgroup to study
4 and make recommendations relating to the establishment of a Small Business and
5 Nonprofit Health Insurance Subsidies Program to provide subsidies to small businesses
6 and nonprofit employers and their employees for the purchase of health benefit plans.

7 (b) The Exchange shall invite the following persons to participate in the
8 workgroup convened under subsection (a) of this section:

9 (1) individuals from the small business and nonprofit community,
10 including owners, employers, and employees;

11 (2) health insurance carrier representatives;

12 (3) licensed health insurance producers;

13 (4) representatives of business, nonprofit, consumer advocacy, and other
14 organizations; and

15 (5) any other person who expresses interest in participating in the
16 workgroup.

17 (c) The workgroup convened under subsection (a) of this section shall study and
18 make findings and recommendations regarding:

19 (1) the health insurance coverage needs of small employers, nonprofit
20 employers, and their employees;

21 (2) objectives and target metrics for the Program;

22 (3) the optimal scope and design features of a Small Business and
23 Nonprofit Health Insurance Subsidies Program, including:

24 (i) whether subsidies under the Program should be available for the
25 purchase of qualified health plans offered to small employers on the Exchange and the
26 purchase of health benefit plans offered to small employers outside the Exchange;

27 (ii) subsidy eligibility and payment parameters for the Program;

28 (iii) the administrative structure and infrastructure investments
29 required for implementation of the Program, including any requirements for the Exchange,
30 health insurance carriers, and any other entities involved in the implementation of the
31 Program; and

1 (iv) the duration of the Program;

2 (4) the cost to administer the Program, including the cost to provide
3 subsidies and operational costs; and

4 (5) the sources and levels of funding needed to support the Program.

5 (d) On or before October 1, 2022, the Exchange shall submit a report to the
6 Governor and, in accordance with § 2-1257 of the State Government Article, the Senate
7 Finance Committee and the House Health and Government Operations Committee that
8 includes the findings and recommendations of the workgroup required under this section.

9 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
10 Assembly that, beginning in fiscal year 2024 and in each fiscal year thereafter, the
11 Governor shall include in the annual budget bill an appropriation of funding to establish
12 and operate a Small Business and Nonprofit Health Insurance Subsidies Program with a
13 design as recommended by the workgroup under Section 1 of this Act.

14 ~~Article—Insurance~~

15 ~~§ 1-107.~~

16 (a) ~~There is a Maryland Health Benefit Exchange Fund.~~

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

18 (i) ~~provide funding for the operation and administration of the~~
19 ~~Exchange in carrying out the purposes of the Exchange under this subtitle;~~

20 (ii) ~~provide funding for the establishment and operation of the State~~
21 ~~Reinsurance Program authorized under this subtitle;~~

22 (iii) ~~provide funding for the Medical Assistance Program and the~~
23 ~~Senior Prescription Drug Assistance Program;~~

24 (iv) ~~provide funding for the establishment and operation of Health~~
25 ~~Equity Resource Communities under Title 20, Subtitle 14 of the Health—General Article;~~
26 ~~[and]~~

27 (v) ~~provide funding for the establishment and operation of the~~
28 ~~State-Based Young Adult Health Insurance Subsidies Pilot Program authorized under this~~
29 ~~subtitle; AND~~

30 (VI) ~~PROVIDE FUNDING FOR THE ESTABLISHMENT AND~~
31 ~~OPERATION OF THE SMALL BUSINESS AND NONPROFIT HEALTH INSURANCE~~
32 ~~SUBSIDIES PROGRAM AUTHORIZED UNDER THIS SUBTITLE.~~

~~(2) The operation and administration of the Exchange, the State Reinsurance Program, [and] the State-Based Young Adult Health Insurance Subsidies Pilot Program, AND THE SMALL BUSINESS AND NONPROFIT HEALTH INSURANCE SUBSIDIES PROGRAM may include functions delegated by the Exchange to a third party under law or by contract.~~

~~(e) The Exchange shall administer the Fund.~~

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

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

~~(e) The Fund consists of:~~

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

~~(2) all revenue deposited into the Fund that is received from the distribution of the premium tax under § 6-103.2 of this article;~~

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

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

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

~~(6) money donated to the Fund;~~

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

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

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

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

~~(11) any funds designated by the State to provide State-based health insurance subsidies to young adults in the State;~~

~~(12) ANY FEDERAL FUNDS AVAILABLE TO PROVIDE HEALTH INSURANCE SUBSIDIES TO QUALIFIED SMALL BUSINESS AND NONPROFIT~~

~~EMPLOYERS AND THEIR EMPLOYEES IN THE STATE, INCLUDING FUNDS FROM THE
FEDERAL AMERICAN RESCUE PLAN OF 2021;~~

~~[(12)] (13) any federal funds received in accordance with § 31-121 of this
subtitle for the administration of small business tax credits; and~~

~~[(13)] (14) any other money from any other source accepted for the benefit
of the Fund.~~

~~(f) (1) The Fund may be used only:~~

~~(i) 1. for the operation and administration of the Exchange in
carrying out the purposes authorized under this subtitle;~~

~~2. for the establishment and operation of the State
Reinsurance Program; and~~

~~3. for appropriations to the Health Equity Resource
Community Reserve Fund under § 20-1407 of the Health General Article;~~

~~(ii) in fiscal years 2021 and 2022, for the Medical Assistance
Program within the Medical Care Programs Administration of the Maryland Department
of Health;~~

~~(iii) in fiscal year 2022, for the Senior Prescription Drug Assistance
Program established under Title 15, Subtitle 10 of the Health General Article; [and]~~

~~(iv) for the establishment and operation of the State Based Young
Adult Health Insurance Subsidies Pilot Program; AND~~

~~(v) FOR THE ESTABLISHMENT AND OPERATION OF THE SMALL
BUSINESS AND NONPROFIT HEALTH INSURANCE SUBSIDIES PROGRAM.~~

~~(2) In each of fiscal years 2023 through 2025, the Governor shall:~~

~~(i) transfer \$15,000,000 to the Health Equity Resource Community
Reserve Fund; and~~

~~(ii) include the funds transferred in accordance with item (i) of this
paragraph in the annual budget bill as an appropriation to the Health Equity Resource
Community Reserve Fund under § 20-1407 of the Health General Article.~~

~~(g) (1) The Board shall maintain separate accounts within the Fund for
Exchange operations, for the State Reinsurance Program, [and] for the State Based Young
Adult Health Insurance Subsidies Pilot Program, AND FOR THE SMALL BUSINESS AND
NONPROFIT HEALTH INSURANCE SUBSIDIES PROGRAM.~~

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

3 ~~(3) Funds received from the distribution of the premium tax under §~~
4 ~~6-103.2 of this article shall be placed in the account for Exchange operations and may be~~
5 ~~used only for the purpose of funding the operation and administration of the Exchange.~~

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

8 ~~(i) any pass-through funds received from the federal government~~
9 ~~under a waiver approved under § 1332 of the Affordable Care Act to provide reinsurance to~~
10 ~~carriers that offer individual health benefit plans in the State;~~

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

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

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

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

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

21 ~~(2) Notwithstanding § 7-304 of the State Finance and Procurement Article,~~
22 ~~if the amount of the distribution from the premium tax under § 6-103.2 of this article~~
23 ~~exceeds in any State fiscal year the actual expenditures incurred for the operation and~~
24 ~~administration of the Exchange, funds in the Exchange operations account from the~~
25 ~~premium tax that remain unspent at the end of the State fiscal year shall revert to the~~
26 ~~General Fund of the State.~~

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

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

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

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

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

5 ~~31-123.~~

6 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
7 ~~INDICATED.~~

8 ~~(2) "PROGRAM" MEANS THE SMALL BUSINESS AND NONPROFIT~~
9 ~~HEALTH INSURANCE SUBSIDIES PROGRAM.~~

10 ~~(3) (I) "QUALIFIED EMPLOYER" MEANS AN EMPLOYER WITH~~
11 ~~FEWER THAN 25 FULL-TIME EQUIVALENT EMPLOYEES.~~

12 ~~(II) "QUALIFIED EMPLOYER" INCLUDES A NONPROFIT~~
13 ~~ORGANIZATION EMPLOYER WITH FEWER THAN 25 FULL-TIME EQUIVALENT~~
14 ~~EMPLOYEES.~~

15 ~~(B) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS~~
16 ~~APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A SMALL BUSINESS~~
17 ~~AND NONPROFIT HEALTH INSURANCE SUBSIDIES PROGRAM TO PROVIDE~~
18 ~~SUBSIDIES TO QUALIFIED EMPLOYERS AND THEIR EMPLOYEES FOR THE PURCHASE~~
19 ~~OF QUALIFIED HEALTH BENEFIT PLANS ON THE EXCHANGE.~~

20 ~~(C) THE PROGRAM REQUIRED UNDER THIS SECTION SHALL BE DESIGNED~~
21 ~~TO REDUCE THE AMOUNT THAT QUALIFIED EMPLOYERS AND THEIR EMPLOYEES PAY~~
22 ~~FOR QUALIFIED HEALTH BENEFIT PLANS ON THE EXCHANGE.~~

23 ~~(D) FOR CALENDAR YEARS 2024 THROUGH 2028, THE EXCHANGE, IN~~
24 ~~CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD,~~
25 ~~SHALL ESTABLISH SUBSIDY ELIGIBILITY AND PAYMENT PARAMETERS FOR THE~~
26 ~~PROGRAM.~~

27 ~~(E) SUBJECT TO AVAILABLE FUNDS, IN EACH OF FISCAL YEARS 2023~~
28 ~~THROUGH 2029, THE EXCHANGE MAY DESIGNATE FUNDS FROM THE FUND TO BE~~
29 ~~USED FOR THE PROGRAM SO THAT FOR CALENDAR YEARS 2024 THROUGH 2028 NOT~~
30 ~~MORE THAN:~~

31 ~~(1) \$45,000,000 IN ANNUAL SUBSIDIES MAY BE PROVIDED TO~~
32 ~~QUALIFIED EMPLOYERS AND THEIR EMPLOYEES WHO MEET THE SUBSIDY~~

1 ~~ELIGIBILITY AND PAYMENT PARAMETERS ESTABLISHED UNDER SUBSECTION (D) OF~~
 2 ~~THIS SECTION; AND~~

3 ~~(2) \$3,000,000 MAY BE SPENT IN SMALL BUSINESS OUTREACH~~
 4 ~~ACTIVITIES FOR THE PURPOSE OF EDUCATING QUALIFIED EMPLOYERS ABOUT THE~~
 5 ~~PROGRAM.~~

6 ~~(F) ON OR BEFORE JANUARY 1, 2023, THE EXCHANGE SHALL ADOPT~~
 7 ~~REGULATIONS CARRYING OUT THIS SECTION.~~

8 ~~(G) (1) THE EXCHANGE SHALL TRACK ON A MONTHLY BASIS~~
 9 ~~EXPENDITURES ON SUBSIDIES PROVIDED UNDER THE PROGRAM, INCLUDING:~~

10 ~~(I) THE AVERAGE NUMBER OF QUALIFIED EMPLOYERS AND~~
 11 ~~THEIR EMPLOYEES RECEIVING SUBSIDIES UNDER THE PROGRAM; AND~~

12 ~~(II) THE AVERAGE SUBSIDY AMOUNT RECEIVED BY QUALIFIED~~
 13 ~~EMPLOYERS AND THEIR EMPLOYEES UNDER THE PROGRAM.~~

14 ~~(2) THE INFORMATION TRACKED BY THE EXCHANGE UNDER~~
 15 ~~PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:~~

16 ~~(I) POSTED ON THE WEBSITE OF THE EXCHANGE;~~

17 ~~(II) INCLUDED IN THE ANNUAL REPORT REQUIRED UNDER §~~
 18 ~~31-119(D) OF THIS SUBTITLE; AND~~

19 ~~(III) ON OR BEFORE DECEMBER 1, 2028, REPORTED TO THE~~
 20 ~~SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT~~
 21 ~~OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE~~
 22 ~~GOVERNMENT ARTICLE.~~

23 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 24 ~~October~~ June 1, 2022. ~~§ Section 1 of this Act shall remain effective for a period of 7 years~~
 25 1 year and 1 month and, at the end of ~~September 30, 2029~~, June 30, 2023, Section 1 of this
 26 Act, with no further action required by the General Assembly, shall be abrogated and of no
 27 further force and effect.