



Senate Fiscal Agency
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Senate Bill 633 (Substitute S-3 as reported)
Senate Bills 634 and 638 (as reported without amendment)
Senate Bills 635 and 636 (Substitute S-1 as reported)
Senate Bill 637 (Substitute S-2 as reported)
Sponsor: Senator Kevin Hertel (S.B. 633 & 636)
Senator Sylvia Santana (S.B. 634)
Senator Erika Geiss (S.B. 635)
Senator Darrin Camilleri (S.B. 637)
Senator Veronica Klinefelt (S.B. 638)
Committee: Health Policy

CONTENT

Senate Bill 633 (S-3) would enact the "Michigan Health Insurance Exchange Act" to do the following:

- Create a 12-member Board to govern the Exchange.
- Require the initial Exchange Board to organize a nonprofit corporation within 60 days of the Board's first meeting to provide an individual marketplace for qualified health plans in the State.
- Allow the Board to create committees for recommendations concerning the operation and implementation of the Exchange.
- Prescribe the powers of the Exchange.
- Require the Exchange to make qualified health plans available through its website and hotline beginning on or before January 1, 2026.
- Require the Director of the Department of Insurance and Financial Services (DIFS) to certify a health benefit plan if the plan met the requirements of Federal law, State law, and the provisions of the Act.
- Require the Exchange to implement an enhanced direct enrollment by the first open enrollment period in which the exchange's state-based platform is operational.
- Require the Exchange to allow health insurance carriers or web brokers to provide for automatic re-enrollment in a qualified health plan.
- Prohibit the Exchange or a carrier offering health benefit plans through the marketplace from charging an individual a fee or penalty for termination of coverage.
- Require the Board to establish an audit committee to contract an external auditor to provide at least one audit of the financial statements of the Exchange in each fiscal year, among other things.
- Require the Exchange to charge assessment or user fees to health carriers to cover its operational costs.
- Require the Exchange to keep an accurate accounting of all activities, receipts, and expenditures and annually submit a report concerning those accountings to the Governor, Director, and the Senate and the House of Representatives.
- Create the Exchange Fund within the State Treasury.
- Specify that provisions of the Act that were applicable to qualified health plans also would apply to dental plans unless the dental plan were specifically modified otherwise.

Senate Bill 634 would amend Section 1261 of the Insurance Code to modify definitions in accordance with provisions of Senate Bill 633 (S-3).

Senate Bill 635 (S-1) would add Section 3406mm to the Insurance Code to require the DIFS Director to contract with the Exchange to certify qualified health and dental plans.

Senate Bill 636 (S-1) would amend Section 2212a of the Insurance Code to specify that a health insurer would have to provide to insureds upon enrollment in clear, complete, and accurate manner, as directed by DIFS, any information required by the Exchange created under Senate Bill 633 (S-3).

Senate Bill 637 (S-2) would add Section 3406nn to the Insurance Code to require DIFS to apply for a State Insurance Waiver to implement a State-Based Reinsurance Program and report to the Senate and House appropriations committees on money necessary to fund the Program.

Senate Bill 638 would repeal Section 3406w, which generally allows an insurer that delivers or renews a health insurance policy that provides coverage for prescription drugs to provide coverage for emergency and early refills that meet specified requirements until March 31, 2021.

Every bill except Senate Bill 638 is tie-barred to Senate Bill 633. Senate Bill 633 is tie-barred to Senate Bill 637.

MCL 500.1261 et al. (S.B. 634)
Proposed MCL 500.3406mm (S.B. 635)
MCL 500.2212a (S.B. 636)
Proposed MCL 500.3406nn (S.B. 637)
MCL 500.3406o (S.B. 638)

BRIEF RATIONALE

The Affordable Care Act introduced health insurance marketplaces, also known as exchanges, that are designed to allow individuals and families to shop for private health insurance plans or dental insurance coverage. According to testimony, switching to the state-based Exchange from the current Federal exchange that the State participates in would improve Michigan residents' access to healthcare and generate money for the State to reinvest into its own Exchange.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

Senate Bills 633 (S-3) & 637 (S-2)

The bills would have an indeterminate but significant fiscal impact on State government and an indeterminate fiscal impact on local units of government.

Senate Bill 633 (S-3) would require DIFS to implement a reinsurance program upon approval of a State Innovation Waiver. The impact to the State would include start-up costs and ongoing operational costs. In addition to DIFS, it is likely that other State departments would incur costs due to responsibilities associated with launching and operating the Exchange system. These responsibilities could include legal assistance and representation, information technology, and administrative assistance.

Estimates of annual costs of a reinsurance program in Michigan included in a 2022 actuarial study ranged from \$71.0 million to \$232.3 million, depending on the exact parameters of the program and the number of claims submitted. If the program successfully resulted in savings

compared to the Federal exchange, Michigan would receive a significant amount of Federal pass-through dollars each year. Based on the experience of other states in operating reinsurance programs, it is likely that these Federal funds would be sufficient to cover a substantial portion of the costs of running the program. The 2022 study suggested that approximately 65% to 70% of reinsurance costs would be paid through Federal pass-through funds. The State-based portion of any reinsurance program likely would be funded in part by assessments on the group health insurance market, user fees, and/or by a specific tax on providers or businesses. Based on the figures above, the State-based portion of the program likely would range from about \$30.0 to \$40.0 million over the first few years. This figure is similar to current costs for the State of Pennsylvania's exchange.

The exact costs of running a program would be significant but highly dependent on the details of the program. Start-up costs could potentially be amortized over a period of several fiscal years. Additionally, due to the non-profit structure and independent authority granted under the bill, it is possible that some funding would not be reflected in annual State appropriations. Under Senate Bill 633 (S-3), members of the Board would not receive a salary, benefits, or other compensation but could be reimbursed for actual and necessary expenses. Current appropriations to DIFS likely would be sufficient to cover certification duties.

A one-time appropriation of \$250,000 General Fund/General Purpose was included in the Fiscal Year 2020-21 budget to contract with a third-party for the actuarial cited above. The analyses included in the study would form part of the application for a waiver and likely would not need to be repeated. Other costs of completing an application likely would be sufficiently funded by existing appropriations; however, it is possible that data collection for the application and start-up period could require a contract with a third-party entity.

The Board would be required to contract with an external audit each fiscal year. While an exact estimate is unavailable at this time, the 2022 actuarial study estimated the cost of an annual audit of claim submissions and assessments by an external vendor at \$10,000 per audit. The cost of auditing the financial statements of the exchange could be higher in initial years.

Senate Bills 634 & 636 (S-1)

The bills would have no fiscal impact on State or local government.

Senate Bill 635 (S-1)

The bill likely would not have a significant fiscal impact on State or local units of government. The costs of contracting with the exchange for certification likely would be covered by existing appropriations to DIFS. Additional costs likely would be paid from the overall appropriations made for the establishment of the State exchange.

Senate Bill 638

The bill would have no fiscal impact on the Department of Health and Human Services. The expiration of the temporary requirement for health insurers to allow early and emergency refills of prescriptions under the Insurance Code expired on March 31, 2021. Any indeterminate cost increase resulting from the expiration of allowing early and emergency refills that lasted longer than the original scripts (60 to 90 days) would have been incurred at that time.

Date Completed: 3-26-24

Fiscal Analyst: John P. Maxwell; Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.