

By: Johnson

S.B. No. 344

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Health Insurance Exchange and premium assistance and cost-sharing reduction programs; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1511 to read as follows:

CHAPTER 1511. TEXAS HEALTH INSURANCE EXCHANGE AND PREMIUM ASSISTANCE AND COST-SHARING REDUCTION PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1511.001. DEFINITIONS. In this chapter:

(1) "Advance premium tax credit" means the premium assistance amount determined in accordance with the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152), or regulations or guidance promulgated under that law.

(2) "Board" means the board of directors of the Texas Health Insurance Exchange Authority.

(3) "Enrollee" means an individual who is enrolled in a qualified health plan.

(4) "Exchange" means the Texas Health Insurance Exchange established under this chapter.

(5) "Exchange assister" means an individual or

1 organization, including a navigator, who provides public education  
2 or assists consumers on behalf of the exchange. The term does not  
3 include a licensed insurance agent.

4 (6) "Exchange authority" means the Texas Health  
5 Insurance Exchange Authority established under this chapter.

6 (7) "Exchange fund" means the exchange revolving fund  
7 established under Section 1511.251.

8 (8) "Executive commissioner" means the executive  
9 commissioner of the Health and Human Services Commission.

10 (9) "Income," with respect to an individual, means the  
11 modified adjusted gross income attributed to the individual for  
12 purposes of determining the individual's eligibility for advance  
13 premium tax credits.

14 (10) "Navigator" means an individual or entity  
15 performing the activities and duties of a navigator as described by  
16 42 U.S.C. Section 18031 or any regulation enacted under that  
17 section.

18 (11) "Premium assistance and cost-sharing reduction  
19 fund" means the premium assistance and cost-sharing reduction  
20 revolving fund established under Section 1511.306.

21 (12) "Premium assistance or cost-sharing reduction  
22 program" means a premium assistance or cost-sharing reduction  
23 program established under Subchapter G.

24 (13) "Qualified health plan" has the meaning assigned  
25 by Section 1301(a), Patient Protection and Affordable Care Act (42  
26 U.S.C. Section 18021).

27 Sec. 1511.002. DEFINITION OF HEALTH BENEFIT PLAN. (a) In

1 this chapter, "health benefit plan" means an insurance policy,  
2 insurance agreement, evidence of coverage, or other similar  
3 coverage document that provides coverage for medical or surgical  
4 expenses incurred as a result of a health condition, accident, or  
5 sickness that is issued by:

6 (1) an insurance company;

7 (2) a group hospital service corporation operating  
8 under Chapter 842;

9 (3) a health maintenance organization operating under  
10 Chapter 843;

11 (4) an approved nonprofit health corporation that  
12 holds a certificate of authority under Chapter 844;

13 (5) a multiple employer welfare arrangement that holds  
14 a certificate of authority under Chapter 846;

15 (6) a stipulated premium company operating under  
16 Chapter 884;

17 (7) a fraternal benefit society operating under  
18 Chapter 885; or

19 (8) an exchange operating under Chapter 942.

20 (b) In this chapter, "health benefit plan" does not include:

21 (1) a plan that provides coverage:

22 (A) for wages or payments in lieu of wages for a  
23 period during which an employee is absent from work because of  
24 sickness or injury;

25 (B) as a supplement to a liability insurance  
26 policy;

27 (C) for credit insurance;

1           (D) only for vision care;

2           (E) only for hospital expenses; or

3           (F) only for indemnity for hospital confinement;

4           (2) a Medicare supplemental policy as defined by  
5 Section 1882(g)(1), Social Security Act (42 U.S.C. Section  
6 1395ss(g)(1));

7           (3) a workers' compensation insurance policy;

8           (4) medical payment insurance coverage provided under  
9 a motor vehicle insurance policy; or

10           (5) an individual health benefit plan issued on or  
11 before March 23, 2010, that has not had any significant changes  
12 since that date that reduce benefits or increase costs to the  
13 individual.

14           Sec. 1511.003. RULEMAKING AUTHORITY. The commissioner and  
15 the board may adopt rules necessary and proper to implement this  
16 chapter. Rules adopted under this section may not conflict with or  
17 prevent the application of regulations promulgated by the United  
18 States secretary of health and human services under the Patient  
19 Protection and Affordable Care Act (Pub. L. No. 111-148).

20           Sec. 1511.004. AGENCY COOPERATION. (a) The exchange  
21 authority, the department, and the Health and Human Services  
22 Commission shall cooperate fully in performing their respective  
23 duties under this code or another law of this state relating to the  
24 operation of the exchange.

25           (b) The exchange authority and the Health and Human Services  
26 Commission shall cooperate fully to:

27           (1) ensure that the development of eligibility and

1 enrollment systems for the exchange and related premium tax credits  
2 are fully integrated with the planning and development of the  
3 Health and Human Services Commission's eligibility systems  
4 modernization efforts;

5 (2) ensure full and seamless interoperability and  
6 minimize duplication of cost and effort;

7 (3) develop and administer transition procedures  
8 that:

9 (A) address the needs of individuals and families  
10 who experience a change in income that results in a change in the  
11 source of coverage, with a particular emphasis on children and  
12 adults with special health care needs and chronic illnesses,  
13 conditions, and disabilities, as well as all individuals who are  
14 also enrolled in Medicare; and

15 (B) to the extent practicable under the Patient  
16 Protection and Affordable Care Act (Pub. L. No. 111-148), provide  
17 for the coordination of payments to Medicaid managed care  
18 organizations and qualified health plans that experience changes in  
19 enrollment resulting from changes in eligibility for Medicaid  
20 during an enrollment period;

21 (4) ensure consistent methods and standards,  
22 including formulas and verification methods, for prompt  
23 calculation of income based on individuals' modified adjusted gross  
24 incomes in order to guard against lapses in coverage and  
25 inconsistent eligibility determinations and procedures;

26 (5) ensure maximum access to federal data sources for  
27 the purpose of verifying income eligibility for Medicaid, the state

1 child health plan program, premium tax credits, and cost-sharing  
2 reductions;

3 (6) ensure the prompt processing of applications and  
4 enrollment in the correct state subsidy program, regardless of  
5 whether the program is Medicaid, the state child health plan  
6 program, premium tax credits, or cost-sharing reductions;

7 (7) ensure procedures for transitioning individuals  
8 between Medicaid and tax-credit-based subsidies that protect  
9 individuals against delays in eligibility and plan enrollment; and

10 (8) ensure rapid resolution of inconsistent  
11 information affecting eligibility and dissemination of clear and  
12 understandable information to applicants regarding the resolution  
13 process and any interim assistance that may be available while  
14 resolution is pending.

15 Sec. 1511.005. CONFIDENTIALITY OF RECORDS. (a) Except as  
16 otherwise provided by this chapter, documents, materials, or other  
17 information, including a disclosure, in the possession or control  
18 of the department or the exchange authority that is obtained by,  
19 created by, or disclosed to the commissioner or any other person  
20 under this chapter is confidential and privileged and is:

21 (1) not subject to disclosure under Chapter 552,  
22 Government Code;

23 (2) not subject to subpoena; and

24 (3) not subject to discovery or admissible in evidence  
25 in any private civil action.

26 (b) Except as otherwise provided by this chapter,  
27 documents, materials, or other information, including a

1 disclosure, in the possession or control of the department or the  
2 exchange authority that is obtained by, created by, or disclosed to  
3 the commissioner or any other person under this chapter is  
4 recognized by this state as being proprietary and to contain trade  
5 secrets.

6 Sec. 1511.006. PERSONAL HEALTH AND FINANCIAL INFORMATION  
7 CONFIDENTIAL. The department and the exchange authority shall  
8 protect all personally identifiable health and financial  
9 information in accordance with all applicable federal and state  
10 laws, including the Patient Protection and Affordable Care Act  
11 (Pub. L. No. 111-148), the Health Insurance Portability and  
12 Accountability Act of 1996 (Pub. L. No. 104-191), and the Health  
13 Information Technology for Economic and Clinical Health Act (Pub.  
14 L. No. 111-5), enacted under the American Recovery and Reinvestment  
15 Act of 2009 (Pub. L. No. 111-5), and any regulations promulgated  
16 under those laws.

17 Sec. 1511.007. INFORMATION SHARING AND CONFIDENTIALITY.

18 (a) The department or the exchange authority may enter into  
19 information-sharing agreements with each other to carry out the  
20 department's or exchange authority's responsibilities under this  
21 chapter or with:

22 (1) a federal or state agency; or

23 (2) a health benefit plan issuer.

24 (b) An agreement entered into under this section must  
25 include adequate protection with respect to the confidentiality of  
26 any information shared and comply with all applicable state and  
27 federal law.

1       Sec. 1511.008. IMMUNITY. The following persons are not  
2 liable, and a cause of action does not arise against any of the  
3 following persons, for a good faith act or omission in exercising  
4 powers and performing duties under this chapter:

5           (1) the board, the department, or the exchange  
6 authority;

7           (2) a board member or member of the advisory committee  
8 established in Section 1511.152; or

9           (3) an officer or employee of an entity listed in  
10 Subdivision (1).

11       Sec. 1511.009. COMPLIANCE WITH FEDERAL LAW. The exchange  
12 authority shall comply with all applicable federal law and  
13 regulations, including all federal reporting requirements.

14       Sec. 1511.010. NO ENTITLEMENT. Nothing in this chapter  
15 constitutes an entitlement or a claim on any money of the state.

16       Sec. 1511.011. TERMINATION OF EXCHANGE OR PROGRAM. If any  
17 provision of the Patient Protection and Affordable Care Act (Pub.  
18 L. No. 111-148), as amended by the Health Care and Education  
19 Reconciliation Act of 2010 (Pub. L. No. 111-152), integral to the  
20 operation of the exchange authority or a premium assistance or  
21 cost-sharing reduction program established under this chapter is  
22 repealed, defunded, or invalidated, the commissioner shall notify  
23 the exchange authority to initiate steps to cease operations of the  
24 exchange or premium assistance or cost-sharing reduction program  
25 and to cease those operations not later than 15 months after  
26 notification is received under this section.



1           SUBCHAPTER B. EXCHANGE ESTABLISHMENT AND PURPOSE

2           Sec. 1511.051. EXCHANGE AUTHORITY ESTABLISHED. (a) This  
3 chapter establishes the Texas Health Insurance Exchange Authority  
4 to implement the Texas Health Insurance Exchange as an American  
5 Health Benefit Exchange authorized by Section 1311, Patient  
6 Protection and Affordable Care Act (42 U.S.C. Section 18031).

7           (b) The exchange authority is a public nonprofit  
8 corporation and, except as otherwise provided in this chapter, has  
9 all the powers and duties incident to a nonprofit corporation under  
10 the Business Organizations Code.

11           (c) The exchange authority is subject to state law governing  
12 nonprofit corporations, except that:

13                   (1) the corporation may not be placed in receivership;  
14 and

15                   (2) the corporation is not required to make reports to  
16 the secretary of state under Section 22.357, Business Organizations  
17 Code.

18           (d) Except as otherwise provided by law, all expenses of the  
19 corporation shall be paid from income of the corporation.

20           (e) Except as otherwise provided by this chapter, the  
21 exchange authority is subject to Chapter 551, Government Code.

22           Sec. 1511.052. PURPOSE. The purpose of the exchange  
23 authority is to create, manage, and maintain the exchange in order  
24 to:

25                   (1) benefit the state health insurance market and  
26 individuals enrolling in health benefit plans;

27                   (2) facilitate or assist in facilitating the

1 purchasing of qualified health plans on the exchange by qualified  
2 enrollees in the individual market or the individual and small  
3 group markets; and

4 (3) reduce or eliminate barriers to enrollment in  
5 qualified health plans offered on the exchange by:

6 (A) simplifying the process to resolve data  
7 matching issues;

8 (B) reducing circumstances under which  
9 documentation must be submitted;

10 (C) simplifying the process for consumers to  
11 submit documentation;

12 (D) streamlining special enrollment periods; and

13 (E) making the Internet website for the exchange  
14 user-friendly and mobile-friendly.

15 SUBCHAPTER C. GOVERNANCE OF EXCHANGE

16 Sec. 1511.101. GOVERNANCE OF EXCHANGE AUTHORITY; BOARD  
17 MEMBERSHIP. The exchange authority is governed by a board of nine  
18 directors, with the advice and consent of the senate, as follows:

19 (1) seven members appointed by the governor:

20 (A) four of whom are health benefit plan issuers  
21 that offer health benefit plans through the exchange;

22 (B) two of whom are individuals with experience  
23 in health care public education and consumer assistance activities  
24 who do not have a conflict of interest as provided by Section  
25 1511.106; and

26 (C) one of whom is a consumer advocate;

27 (2) the commissioner, or the commissioner's designee,

1 as an ex officio voting member; and

2 (3) the executive commissioner, or the executive  
3 commissioner's designee, as an ex officio voting member.

4 Sec. 1511.102. PRESIDING OFFICER. The commissioner, or the  
5 commissioner's designee, shall serve as the presiding officer.

6 Sec. 1511.103. TERMS; VACANCY. (a) Appointed members of  
7 the board serve six-year staggered terms, with two or three of the  
8 members' terms expiring February 1 of each odd-numbered year.

9 (b) The governor shall fill a vacancy on the board by  
10 appointing, for the unexpired term, an individual who has the  
11 appropriate qualifications to fill that position.

12 Sec. 1511.104. MEETINGS; QUORUM. (a) The board shall meet  
13 at the call of the presiding officer or as provided in the bylaws of  
14 the board, but not less frequently than quarterly.

15 (b) A majority of the appointed members of the board  
16 constitutes a quorum. If a quorum is present, the board by majority  
17 vote may act on any matter within the board's jurisdiction.

18 (c) Meetings of the board are subject to Chapter 551,  
19 Government Code.

20 Sec. 1511.105. BOARD MEMBER COMPENSATION. (a) A board  
21 member may not receive compensation but is entitled to  
22 reimbursement of the travel expenses incurred by the board member  
23 while conducting board business, subject to the availability of  
24 money.

25 (b) Reimbursement under Subsection (a) shall be paid from  
26 the exchange fund.

27 Sec. 1511.106. CONFLICTS OF INTEREST; RELEVANT EXPERIENCE.

1 The board shall ensure compliance with the standards described by  
2 42 U.S.C. Section 18041 and all applicable federal regulations  
3 promulgated under the Patient Protection and Affordable Care Act  
4 (Pub. L. No. 111-148) regarding conflicts of interest and relevant  
5 experience.

6 SUBCHAPTER D. POWERS AND DUTIES OF EXCHANGE

7 Sec. 1511.151. EMPLOYEES; COMMITTEES. (a) The board may  
8 employ an executive director and any other agents and employees  
9 that the board considers necessary to assist the exchange authority  
10 in carrying out its responsibilities and functions.

11 (b) The executive director shall organize, administer, and  
12 manage the operations of the exchange authority. The executive  
13 director may hire other employees as necessary to carry out the  
14 responsibilities of the exchange authority.

15 (c) The executive director shall attend all meetings of the  
16 board, but is not a member of the board, and may not vote or be  
17 counted for purposes of establishing a quorum.

18 (d) The exchange authority may appoint appropriate legal,  
19 actuarial, and other committees necessary to provide technical  
20 assistance in operating the exchange and performing any of the  
21 functions of the exchange or exchange authority.

22 Sec. 1511.152. ADVISORY COMMITTEE. (a) An advisory  
23 committee is established to advise the board on:

- 24 (1) initial operational decisions;  
25 (2) ongoing financing decisions; and  
26 (3) any other decisions considered appropriate by the  
27 board.

1        (b) The advisory committee is composed of eight members  
2 appointed or selected as follows:

3            (1) four consumer representatives, including:

4                    (A) two persons appointed by the governor, one of  
5 whom must be an exchange assister;

6                    (B) one person appointed by the speaker of the  
7 house of representatives; and

8                    (C) one person appointed by the lieutenant  
9 governor;

10            (2) one representative selected by the Texas Hospital  
11 Association;

12            (3) one representative selected by the Texas Medical  
13 Association;

14            (4) one representative selected by the Texas Chamber  
15 of Commerce Executives from a small employer, as that term is  
16 defined by Section 1501.002; and

17            (5) one representative selected by the Texas  
18 Association of Health Underwriters.

19        (c) Advisory committee members serve staggered four-year  
20 terms, with two of the members' terms expiring February 1 of each  
21 odd-numbered year. A member may be reappointed for a second term.  
22 If a vacancy occurs on the committee, the appropriate appointing  
23 authority shall appoint a successor, in the same manner as the  
24 original appointment, to serve for the remainder of the unexpired  
25 term.

26        (d) A majority of the members of the advisory committee  
27 constitutes a quorum. If a quorum is present, the advisory

1 committee by majority vote may act on any matter within the  
2 committee's jurisdiction.

3 (e) The advisory committee shall meet at least twice per  
4 year, with each meeting being held before a meeting of the board.  
5 Additional meetings may be held on reasonable notice of the time and  
6 location of the meeting selected by the board. The advisory  
7 committee shall meet at the call of the presiding officer or on  
8 written request of three members of the committee. A meeting of the  
9 committee is subject to Chapter 551, Government Code.

10 (f) The executive director of the exchange authority, or the  
11 executive director's designee, shall attend each meeting of the  
12 advisory committee.

13 (g) The members of the advisory committee shall determine  
14 the dates of each meeting by majority vote or by the call of the  
15 presiding officer on seven days' notice to all members.

16 (h) The advisory committee must post a notice, including the  
17 date, time, and place, of a committee meeting on the exchange  
18 authority's Internet website not less than five days before each  
19 meeting. The notice must state that the meeting is open to the  
20 public. All actions taken by the committee must be taken in open  
21 session and on a majority vote of the members present.

22 (i) A member of the advisory committee may not receive  
23 compensation but is entitled to reimbursement of the travel  
24 expenses incurred by the member while conducting committee  
25 business, subject to the availability of money. Reimbursement  
26 under this subsection shall be paid from the exchange fund.

27 Sec. 1511.153. ADMINISTRATIVE POWERS AND DUTIES OF EXCHANGE

1 AUTHORITY. (a) The exchange authority shall exercise all powers  
2 and duties necessary and appropriate to carry out the authority's  
3 purpose, including:

4 (1) adopting bylaws;  
5 (2) employing staff;  
6 (3) making, executing, and delivering contracts;  
7 (4) applying for, soliciting, and receiving money from  
8 any source consistent with the purposes of this chapter;

9 (5) establishing priorities for and allocating and  
10 distributing money received by the exchange authority;

11 (6) submitting the exchange authority's budget  
12 annually and the exchange authority's budget request, including  
13 amounts to be appropriated out of the exchange fund or premium  
14 assistance and cost-sharing reduction fund as necessary to  
15 administer the provisions of this chapter and the transfer of money  
16 to the premium assistance and cost-sharing reduction fund,  
17 biennially to the governor and the chairs of the standing  
18 committees of the senate and house of representatives with primary  
19 jurisdiction over appropriations;

20 (7) establishing travel reimbursement policies for  
21 the exchange authority, the board, and the advisory committee;

22 (8) coordinating with the appropriate federal and  
23 state agencies to seek waivers from statutory or regulatory  
24 requirements as necessary to carry out the purposes of this  
25 chapter;

26 (9) entering into other arrangements, including  
27 interagency agreements with federal agencies and state agencies, as

1 necessary;

2 (10) giving reasonable public notice of any policies  
3 and procedures the exchange authority may implement to operate the  
4 exchange authority;

5 (11) ensuring that there is a sufficient number of  
6 navigators and exchange assisters by awarding grants to navigators  
7 and exchange assisters at a yearly average number that exceeds the  
8 yearly average number of grants awarded in this state from 2013  
9 through 2016;

10 (12) providing centralized training, support, and  
11 technical assistance for navigators and exchange assisters;

12 (13) spending money on marketing and advertisements  
13 for the exchange in an amount that exceeds the amount of money spent  
14 in this state annually on marketing and advertisements in relation  
15 to the federally facilitated marketplace from 2013 to 2016;

16 (14) coordinating innovative marketing and outreach  
17 campaigns, including by working with and supporting local  
18 enrollment coalitions, agents, and stakeholders;

19 (15) ensuring a sufficient amount of money is spent on  
20 customer support services, including call centers, web support, and  
21 navigator and agent support, to provide high-quality services,  
22 including by:

23 (A) creating a special team with knowledge and  
24 authority to resolve difficult eligibility and enrollment  
25 challenges;

26 (B) ensuring call center staff are able to access  
27 and share information specific to a consumer's application;



1           (C) investing in services and systems to improve  
2 information for consumers with limited English proficiency;

3           (D) making the exchange Internet website and  
4 application process mobile-friendly; and

5           (E) ensuring consumers can easily submit  
6 documentation, when needed; and

7           (16) performing any other operational activities  
8 necessary or appropriate under this chapter.

9           (b) The board must consider the advice of the advisory  
10 committee established under Section 1511.152.

11           Sec. 1511.154. FUNCTIONS OF EXCHANGE AUTHORITY. (a) In  
12 carrying out the purposes of this chapter, the exchange authority  
13 shall:

14           (1) educate consumers, including through outreach, a  
15 navigator program, and post-enrollment support;

16           (2) assist individuals in accessing income-based  
17 assistance for which the individual may be eligible, including  
18 premium assistance, premium tax credits, cost-sharing reductions,  
19 and government programs;

20           (3) consider the need for consumer choice in rural,  
21 urban, and suburban areas of the state;

22           (4) negotiate premium rates with health benefit plan  
23 issuers on the exchange;

24           (5) contract selectively with health benefit plan  
25 issuers to drive value and promote improvement in the delivery  
26 system;

27           (6) standardize health benefit plan designs and

1 cost-sharing;

2 (7) leverage quality improvement and delivery system  
3 reforms by encouraging participating health benefit plan issuers to  
4 implement strategies to promote the delivery of better coordinated,  
5 more efficient health care services;

6 (8) align with other large purchasers of health  
7 benefit plans, including the state Medicaid program, the child  
8 health plan program under Chapter 62, Health and Safety Code, the  
9 Teacher Retirement System of Texas, and the Employees Retirement  
10 System of Texas, to send consistent purchasing signals to health  
11 benefit plan issuers and providers;

12 (9) recruit new health benefit plan issuers to areas  
13 with less competition;

14 (10) leverage consumer decision-making through better  
15 information and web-based decision-making tools;

16 (11) subject to Subsection (b), assess and collect  
17 fees from health benefit plan issuers on the exchange to support the  
18 operation of the exchange and premium assistance and cost-sharing  
19 reduction programs; and

20 (12) distribute collected fees, including to benefit  
21 premium assistance and cost-sharing reduction programs.

22 (b) The exchange authority may not assess or collect any  
23 costs or fees under Subsection (a)(11) other than an exchange user  
24 fee on total monthly premiums for health benefit plans on the  
25 exchange. The fee may not exceed three percent unless approved by  
26 unanimous consent of the board, and in no circumstance may the fee  
27 exceed 3.5 percent. The exchange authority shall set aside a

1 percentage of the exchange user fee to increase subsidies for  
2 health benefit plans.

3 Sec. 1511.155. DUTIES OF HEALTH BENEFIT PLAN ISSUERS. A  
4 health benefit plan issuer that offers a qualified health plan on  
5 the exchange shall:

6 (1) accept payment for enrollee premiums or  
7 cost-sharing assistance provided under a premium assistance or  
8 cost-sharing reduction program;

9 (2) clearly communicate premium assistance amounts to  
10 enrollees as part of the invoicing and payment process; and

11 (3) accept and process enrollment and payment  
12 information transferred by the exchange in a timely manner.

13 Sec. 1511.156. FEDERAL WAIVERS. (a) The exchange  
14 authority, in close consultation with the commissioner and the  
15 Health and Human Services Commission, shall explore all  
16 opportunities to apply to the United States secretary of health and  
17 human services for a waiver or other available federal  
18 flexibilities under 42 U.S.C. Section 18052 to:

19 (1) receive federal money for the implementation of a  
20 premium assistance or cost-sharing reduction program established  
21 under Subchapter G;

22 (2) increase access to qualified health plans; and

23 (3) implement or expand other exchange programs that  
24 increase affordability of or access to health insurance coverage in  
25 this state.

26 (b) If the exchange authority identifies an opportunity to  
27 apply for a waiver under Subsection (a), the exchange authority, in

1 collaboration with the commissioner and the Health and Human  
2 Services Commission, may develop a waiver application to be  
3 submitted by the Health and Human Services Commission. The Health  
4 and Human Services Commission shall promptly notify the chairs of  
5 the standing committees of the senate and house of representatives  
6 with primary jurisdiction over appropriations and insurance of any  
7 submitted waiver application.

8 (c) To ensure a meaningful level of public input, a waiver  
9 application submitted under Subsection (b) must meet all federal  
10 public notice and comment requirements under 42 U.S.C. Section  
11 18052(a)(4)(B), including public hearings.

12 Sec. 1511.157. ENFORCEMENT AND STATE SOVEREIGNTY. The  
13 exchange authority shall ensure that the exchange complies with the  
14 Patient Protection and Affordable Care Act (Pub. L. No. 111-148)  
15 and its subsequent amendments and any federal regulations  
16 promulgated under that act in a manner that maintains state  
17 sovereignty over the health insurance market in this state.  
18 Enforcement responsibilities shall be delegated to the appropriate  
19 state agencies and must be sufficient to prevent a determination by  
20 the United States secretary of health and human services that the  
21 state has failed to substantially enforce any provision of the  
22 Patient Protection and Affordable Care Act.

23 SUBCHAPTER E. EXAMINATION AND REPORTING REQUIREMENTS FOR EXCHANGE

24 AUTHORITY

25 Sec. 1511.201. ANNUAL AUDIT. (a) The exchange authority  
26 shall have an examination and audit of the exchange authority  
27 conducted annually by an independent certified public accounting

1 firm. The audit must:

2 (1) assess compliance with the requirements of this  
3 chapter; and

4 (2) identify any material weaknesses or significant  
5 deficiencies and identify and implement solutions to correct those  
6 weaknesses or deficiencies.

7 (b) Not later than December 31 of each year, the exchange  
8 authority shall:

9 (1) post on the exchange authority's Internet website:

10 (A) the audit for the preceding year; and

11 (B) a summary of the audit, including any  
12 identified material weaknesses or significant deficiencies and the  
13 authority's proposed solution for those weaknesses or  
14 deficiencies; and

15 (2) provide to the secretary of the senate and the  
16 chief clerk of the house of representatives and the department an  
17 electronic link to the web page on which the audit information in  
18 Subdivision (1) is posted.

19 (c) The exchange authority shall pay for the cost of the  
20 annual examination and audit under Subsection (a) with money from  
21 the exchange fund.

22 Sec. 1511.202. ANNUAL REPORTS. (a) The exchange authority  
23 shall prepare an annual report regarding the activities of the  
24 exchange authority for the preceding year.

25 (b) The exchange authority shall:

26 (1) electronically submit the report required under  
27 this section to the governor, the lieutenant governor, the speaker

1 of the house of representatives, and the chairs of the standing  
2 committees of the senate and house of representatives with primary  
3 jurisdiction over appropriations and insurance;

4 (2) post the report on the exchange authority's  
5 Internet website; and

6 (3) provide a copy of the electronic link to the posted  
7 report under Subdivision (2) to the department.

8 SUBCHAPTER F. EXCHANGE FUND

9 Sec. 1511.251. EXCHANGE FUND. (a) The exchange fund is  
10 established as a revolving fund in the state treasury outside the  
11 general revenue fund.

12 (b) The exchange authority may deposit assessments, gifts  
13 or donations, and any federal funding obtained by the exchange  
14 authority in the exchange fund in accordance with procedures  
15 established by the comptroller.

16 (c) The exchange fund shall be administered by the exchange  
17 authority for the purposes of the exchange established under this  
18 chapter, including the deposit of federal money available for the  
19 exchange and all other money received under or distributed in  
20 accordance with this subchapter.

21 (d) Interest or other income from the investment of the  
22 exchange fund shall be deposited to the credit of the fund.

23 SUBCHAPTER G. PREMIUM ASSISTANCE AND COST-SHARING REDUCTION

24 PROGRAMS

25 Sec. 1511.301. ESTABLISHMENT OF PROGRAM. (a) The exchange  
26 authority shall establish and administer a premium assistance or  
27 cost-sharing reduction program.

1       (b) The exchange authority shall establish procedural  
2 requirements for:

3           (1) eligibility for and continued participation in any  
4 premium assistance or cost-sharing reduction program established  
5 under this subchapter, including participant documentation  
6 requirements that are necessary to administer the program; and

7           (2) facilitating payments to health benefit plan  
8 issuers.

9       (c) Before establishing or altering premium assistance or  
10 cost-sharing reduction amounts, eligibility criteria, or  
11 procedural requirements under this subchapter, the exchange  
12 authority must:

13           (1) publish a notice of the proposal on the exchange  
14 authority's Internet website that includes:

15                   (A) an explanation of the proposal;

16                   (B) the date, time, and location of the public  
17 hearing required under Subdivision (3); and

18                   (C) instructions and reasonable timelines to  
19 submit written comments on the proposal;

20           (2) provide an electronic notice of the proposal that  
21 includes the information required under Subdivision (1) to any  
22 person who requests notice;

23           (3) conduct at least one public hearing not earlier  
24 than 20 days after the date on which the exchange authority  
25 publishes notice under Subdivision (1);

26           (4) publish a notice of the finalized premium  
27 assistance or cost-sharing reduction amounts, eligibility

1 criteria, or procedural requirements on the exchange authority's  
2 Internet website that includes:

3 (A) a detailed description of the finalized  
4 premium assistance or cost-sharing reduction amounts, eligibility  
5 criteria, or procedural requirements; and

6 (B) a description and explanation of how the  
7 finalized amounts, criteria, or requirements vary from the initial  
8 proposal; and

9 (5) provide an electronic notice with the information  
10 required under Subdivision (4) to any person who requests notice.

11 Sec. 1511.302. PREMIUM ASSISTANCE AND COST-SHARING  
12 REDUCTION AMOUNTS. The exchange authority shall set premium  
13 assistance and cost-sharing reduction amounts within parameters  
14 that achieve the following goals:

15 (1) stay within the operating budget;

16 (2) lower net monthly premium payments for eligible  
17 individuals to maximize enrollment and reduce the number of  
18 uninsured individuals;

19 (3) reduce out-of-pocket costs, providing for less  
20 exposure to medical debt; and

21 (4) maximize the impact of federal spending on advance  
22 premium tax credits.

23 Sec. 1511.303. ELIGIBILITY FOR PROGRAM. An individual is  
24 eligible for premium assistance or cost-sharing reductions under  
25 this subchapter if the individual:

26 (1) is a resident of this state;

27 (2) is eligible to purchase coverage on the exchange



1 and to receive federal advance premium tax credits;

2 (3) has an income that is less than or equal to the  
3 income threshold determined by the exchange authority;

4 (4) is enrolled in a qualified health plan in the  
5 silver or gold level, as described by Section 1302(d), Patient  
6 Protection and Affordable Care Act (42 U.S.C. Section 18022(d)),  
7 that is offered in the enrollee's county of residence;

8 (5) applies for and accepts all federal advance  
9 premium tax credits for which the individual is eligible before  
10 receiving any state premium assistance;

11 (6) if the individual qualifies for a federal  
12 cost-sharing reduction plan with an actuarial value of 87 percent  
13 or higher, applies for and accepts all federal cost-sharing  
14 reductions for which the individual is eligible before receiving  
15 any state cost-sharing reductions;

16 (7) is ineligible for minimum essential coverage  
17 through Medicare or a federal or state medical assistance program  
18 administered by the Health and Human Services Commission; and

19 (8) meets any other eligibility criteria established  
20 by the exchange authority.

21 Sec. 1511.304. DISQUALIFICATION FROM PROGRAM. The exchange  
22 authority may disqualify an individual from receiving premium  
23 assistance or cost-sharing reductions under this subchapter if the  
24 individual:

25 (1) no longer meets the eligibility criteria described  
26 by Section 1511.303;

27 (2) fails, without good cause, to comply with any

1 procedural or documentation requirements established by the  
2 exchange authority under Section 1511.301;

3 (3) fails, without good cause, to notify the exchange  
4 authority of a change of address in a timely manner;

5 (4) voluntarily withdraws from the program; or

6 (5) performs an act, practice, or omission that  
7 constitutes fraud, and, as a result, a qualified health plan issuer  
8 rescinds the individual's policy.

9 Sec. 1511.305. ELIGIBILITY APPEAL. The exchange authority  
10 shall develop a process for an individual to appeal a premium  
11 assistance or cost-sharing assistance eligibility determination.

12 Sec. 1511.306. PREMIUM ASSISTANCE AND COST-SHARING  
13 REDUCTION FUND. (a) The premium assistance and cost-sharing  
14 reduction fund is established as a revolving fund in the state  
15 treasury outside the general revenue fund.

16 (b) The fund shall be administered by the exchange authority  
17 for the purpose of premium assistance and cost-sharing reduction  
18 programs established under this subchapter.

19 (c) The fund consists of:

20 (1) gifts, grants, and donations received by this  
21 state for the purposes of the fund;

22 (2) legislative appropriations of money for the  
23 purposes of this subchapter;

24 (3) federal money available to this state that may be  
25 used for the purposes of this subchapter, including federal money  
26 received through a federal waiver submitted under Section 1511.156;

27 and

1           (4) interest, dividends, and other income of the fund.

2           (d) Money from the fund may be used to:

3           (1) implement and operate premium assistance and  
4 cost-sharing reduction programs established under this subchapter;  
5 and

6           (2) make payments to health benefit plan issuers under  
7 a premium assistance or cost-sharing reduction program established  
8 under this subchapter.

9                           SUBCHAPTER H. ENFORCEMENT

10           Sec. 1511.351. ENFORCEMENT REMEDIES. (a) On satisfactory  
11 evidence of a violation of this chapter by a health benefit plan  
12 issuer or other person, the commissioner may, at the commissioner's  
13 discretion, impose any of the following enforcement remedies:

14           (1) suspension or revocation of the person's license  
15 or certificate of authority;

16           (2) refusal to issue a new license or certificate of  
17 authority to the person, for a period not to exceed one year; or

18           (3) a fine not to exceed \$5,000 for each violation,  
19 except that the fine may be up to \$10,000 if the violation was  
20 intentional.

21           (b) Fines imposed by the commissioner against an individual  
22 health benefit plan issuer may not exceed an aggregate amount of  
23 \$500,000 during a single calendar year.

24           (c) Fines imposed against a person not described by  
25 Subsection (b) may not exceed an aggregate amount of \$100,000  
26 during a single calendar year.

27           (d) The enforcement remedies under Subsection (a) are in

1 addition to any other remedies or penalties that may be imposed  
2 under other law.

3 SUBCHAPTER I. TRANSITION PERIOD FOR ESTABLISHMENT OF EXCHANGE

4 Sec. 1511.401. BUDGET FOR EXCHANGE. (a) In developing the  
5 exchange and premium assistance and cost-sharing reduction  
6 programs, the exchange authority, in coordination with the  
7 department, shall create a budget to fully implement the purposes  
8 and functions of the exchange authority, the exchange, and premium  
9 assistance and cost-sharing reduction programs under this chapter.

10 (b) The exchange authority shall conduct a fiscal analysis  
11 to determine ways in which the exchange authority can achieve the  
12 purposes of this chapter while spending less on exchange user fees  
13 than was spent for the federally facilitated exchange. The  
14 exchange authority must include in the fiscal analysis any funding  
15 sources available for specific purposes or functions under this  
16 chapter, including federal Medicaid matching funds.

17 (c) In creating a budget under Subsection (a), the exchange  
18 authority shall set:

19 (1) subject to Section 1511.154(b), the exchange user  
20 fee at an amount that covers the costs of operating the exchange and  
21 premium assistance and cost-sharing reduction programs; and

22 (2) parameters for premium assistance and  
23 cost-sharing reduction programs that achieve the goals described by  
24 Section 1511.302.

25 Sec. 1511.402. ENROLLMENT INCREASE TARGETS. (a) For the  
26 period of transition during which the exchange is being established  
27 and for the following five years, the department shall establish

1 clearly stated numeric targets of increased enrollment in the  
2 exchange, the state Medicaid program, and the child health plan  
3 program under Chapter 62, Health and Safety Code.

4 (b) The department shall take immediate steps to increase  
5 enrollment, including by lengthening open enrollment periods and  
6 streamlining special enrollment periods.

7 Sec. 1511.403. INCREASED ENROLLMENT ADVISORY COMMITTEE.

8 (a) The department shall create an advisory committee to:

9 (1) study ways to increase enrollment in this state;  
10 and

11 (2) help develop the five-year plan to reach the  
12 numeric targets established under Section 1511.402.

13 (b) The department shall provide funding to the advisory  
14 committee for the purpose of employing staff and contracting with a  
15 person or entity to provide expertise, actuarial services, or other  
16 services as needed.

17 (c) The advisory committee shall provide recommendations to  
18 the department and the exchange authority regarding strategies for  
19 increasing enrollment, including recommendations regarding the  
20 establishment and administration of premium assistance and  
21 cost-sharing reduction programs.

22 Sec. 1511.404. EXPIRATION OF SUBCHAPTER. This subchapter  
23 expires September 1, 2029.

24 SECTION 2. (a) As soon as practicable after the effective  
25 date of this Act, but not later than October 1, 2023, the governor  
26 shall appoint the initial members of the board of directors of the  
27 Texas Health Insurance Exchange Authority. The initial board

1 members shall draw lots to achieve staggered terms, with two of the  
2 directors serving a term expiring February 1, 2025, two of the  
3 directors serving a term expiring February 1, 2027, and three of the  
4 directors serving a term expiring February 1, 2029.

5 (b) As soon as practicable after the effective date of this  
6 Act, but not later than March 1, 2024, the board of directors of the  
7 Texas Health Insurance Exchange Authority shall adopt rules and  
8 procedures necessary to implement Chapter 1511, Insurance Code, as  
9 added by this Act.

10 (c) Until the board of directors of the Texas Health  
11 Insurance Exchange Authority adopts rules under Subsection (b) of  
12 this section, the exchange authority shall operate the exchange in  
13 accordance with:

14 (1) any applicable federal rules, regulations, or  
15 guidance; or

16 (2) interim state guidelines consistent with Chapter  
17 1511, Insurance Code, as added by this Act.

18 SECTION 3. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2023.