AN ACT Relating to the creation of a health benefit exchange; adding a new section to chapter 41.05 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that health care costs continue to grow at unsustainable rates, hindering the state's ability to invest in other essential services such as education and public safety, decreasing the competitiveness of our businesses, and placing undue strain on many individuals and families.

(2) The legislature therefore intends: (a) That state agencies, large and small businesses, and health care providers, insurers, and consumers work together towards the goal of reducing the growth in health care expenditures in the state to no more than four percent per year within five years; (b) that as a means to this end, in implementing the federal affordable care act in Washington, including the health benefit exchange, there be a constant focus on integrating strategies to improve the quality and affordability of our health care delivery system, tailored to the unique circumstances and characteristics of our state.
NEW SECTION.  Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

The state shall establish a health benefit exchange consistent with the federal affordable care act, P.L. 111-148, to begin operations no later than January 1, 2014, and intended to:

(1) Increase access to quality affordable health care coverage and reduce the number of uninsured persons in Washington state;

(2) Recognize the need for a private health insurance market to exist outside of the exchange and the need for a regulatory framework that applies both inside and outside of the exchange;

(3) Create an organized, transparent, and accountable health insurance marketplace for Washingtonians to purchase affordable, quality health care coverage, to claim available federal refundable premium tax credits and cost-sharing subsidies, and to meet the personal responsibility requirements for minimum essential coverage as provided under the federal affordable care act;

(4) Recognize that the regulation of the health insurance market, both inside and outside the exchange, should continue to be performed by the insurance commissioner;

(5) Strengthen the state health care delivery system and maximize existing efficiencies within the system;

(6) Promote quality improvement, cost containment, and innovative payment structures throughout the state health care system;

(7) Increase the availability of health care coverage through the private health insurance market to qualified individuals and small employers;

(8) Create a health insurance market that competes on the basis of price, quality, service, or other innovative efforts, and not on risk selection to ensure a sustainable system of health care coverage;

(9) Promote consumer literacy and empower consumers to compare plans and make informed decisions about their health care and coverage;

(10) Effectively and efficiently administer health care subsidies and determination of eligibility for participation in publicly subsidized health care programs, including the exchange;

(11) Seamlessly direct consumers to information about and enrollment in programs in addition to those related to health care that are available to lower income individuals and families; and
Create opportunities and flexibility to address possible 
future changes in federal law and funding challenges.

**NEW SECTION.** **Sec. 3.** The definitions in this section apply 
throughout sections 4 through 6 of this act, unless the context clearly 
requires otherwise. Terms and phrases used in sections 4 through 6 of 
this act that are not defined in this section must be defined as 
consistent with implementation of a state health benefit exchange 
pursuant to the affordable care act.

1. "Administrator" means the administrator of the Washington state 
health care authority, established under chapter 41.05 RCW.
2. "Authority" means the Washington state health care authority, 
established under chapter 41.05 RCW.
3. "Commissioner" means the insurance commissioner, established in 
Title 48 RCW.
4. "Exchange" means a state health benefit exchange pursuant to 
the affordable care act.
5. "Development board" means the health benefit exchange 
development board established under section 4 of this act.
6. "Affordable care act" means the federal patient protection and 
affordable care act, P.L. 111-148, as amended by the federal health 
care and education reconciliation act of 2010, P.L. 111-152, or federal 
regulations or guidance issued under the affordable care act.

**NEW SECTION.** **Sec. 4.** (1) The health benefit exchange development 
board is hereby established, composed of seven persons with expertise 
in the Washington state health care system and private and public 
health care coverage. By the effective date of this section, the 
governor shall appoint five members of the board, and the commissioner 
shall appoint two. The administrator shall serve as the chair of the 
development board.

2. Members of the development board must be reimbursed for their 
travel expenses while on official business in accordance with RCW 
43.03.050 and 43.03.060. The development board shall prescribe rules 
for the conduct of its business. Meetings of the development board are 
at the call of the chair.

3. The development board may establish technical advisory
committees or seek the advice of technical experts when necessary to
execute the powers and duties included in this section and section 5 of
this act.

(4) The development board is not civilly or criminally liable and
may not have any penalty or cause of action of any nature arise against
them for any action taken or not taken, including any discretionary
decision or failure to make a discretionary decision, when the action
or inaction is done in good faith and in the performance of the powers
and duties under this section or section 5 of this act. Nothing in
this section prohibits legal actions against the development board to
enforce the development board's statutory or contractual duties or
obligations.

NEW SECTION.  Sec. 5.  (1) The health benefit development board
shall coordinate with the administrator to successfully complete
implementation of planning and establishment grants received by the
authority pursuant to the affordable care act. Upon establishment of
the development board, the administrator shall consult with the
development board regarding the submission of grant proposals to assist
with the planning and establishment of a state-administered health
benefit exchange, including additional applications for planning and
establishment grants to the United States secretary of health and human
services. The administrator, in consultation with the development
board, shall implement the provisions of the planning and establishment
grants as approved by the United States secretary of health and human
services, such as development of the necessary information technology
to support implementation of exchange activities.

(2) By January 1, 2012, the development board, in coordination with
the administrator, shall develop a business plan and timeline for
establishing and implementing a state-administered health benefits
exchange. The business plan and timeline must include analysis and
recommendations on the following:

(a) The governance, operations, and administration of the exchange,
including:

(i) The goals and principles of governing the exchange;
(ii) The creation and implementation of a single state-administered
exchange for all geographic areas in the state that operates as the
exchange for both the individual and small employer markets by January 1, 2014;

(iii) Whether and under what circumstances the state should consider establishment of a regionally administered multistate exchange as an option after implementation of the single state-administered exchange;

(iv) Whether the role of an exchange includes serving as an aggregator of funds that comprise the premium for a health plan offered through the exchange;

(v) The administrative, fiduciary, accounting, contracting, and other services to be provided by the exchange;

(vi) Coordination of the exchange with other state programs; and

(vii) Development of sustainable funding for administration of the exchange as of January 1, 2015;

(b) Whether to adopt and implement a federal basic health plan option as authorized in the affordable care act, whether the federal basic health plan option should be administered by the entity that administers the exchange or by a state agency, and whether the federal basic health plan option should merge risk pools for rating with any portion of the state's medicaid program;

(c) Individual and small group market impacts, including whether to:

(i) Merge the risk pools for rating the individual and small group markets in the exchange and the private health insurance markets; and

(ii) Increase the small group market to firms with up to one hundred employees;

(d) Creation of a competitive purchasing environment for qualified health plans offered through the exchange, including promoting participation in the exchange to a level sufficient to provide sustainable funding for the exchange;

(e) Certifying, selecting, and facilitating the offer of individual and small group plans through an exchange, to include designation of qualified health plans and the levels of coverage for the plans;

(f) The role and services provided by producers and navigators;

(g) Effective implementation of risk management methods: Reinsurance, risk corridors, and risk adjustment, to include the entity designated to operate reinsurance and risk adjustment;
(h) Participation in innovative efforts to contain costs in Washington's markets for public and private health care coverage;

(i) Providing federal refundable premium tax credits and reduced cost-sharing subsidies through the exchange, including the processes and entity responsible for determining eligibility to participate in the exchange and the cost-sharing subsidies provided through the exchange; and

(j) The staff, resources, and revenues necessary to operate and administer an exchange for the first two years of operation.

(3) The development board shall consult with stakeholders relevant to carrying out the activities required under this section, including:

(a) Educated health care consumers who are enrolled in commercial health insurance coverage and publicly subsidized health care programs;

(b) Individuals and entities with experience in facilitating enrollment in health insurance coverage, including health carriers, producers, and navigators;

(c) Representatives of small businesses, employees of small businesses, and self-employed individuals;

(d) Advocates for enrolling hard to reach populations and populations enrolled in publicly subsidized health care programs;

(e) The office of the insurance commissioner;

(f) Publicly subsidized health care programs; and

(g) Members in good standing of the American academy of actuaries.

NEW SECTION. Sec. 6. (1) The administrator, in coordination with the development board, may enter into:

(a) Information-sharing agreements with federal and state agencies and other state exchanges to carry out the provisions of this act: PROVIDED, That, such agreements include adequate protections with respect to the confidentiality of the information to be shared and comply with all state and federal laws and regulations; and

(b) Interdepartmental agreements with the office of the insurance commissioner, the department of social and health services, the department of health, and any other state agencies necessary to implement this act.

(2) To the extent funding is available, the administrator shall:

(a) Provide staff and resources to assist the development board in the implementation of this act;

(b) In consultation with the development board, apply for planning and establishment grants pursuant to the affordable care act;
(c) Manage and administer the grant and other funds;
(d) Expend funds specifically appropriated by the legislature to implement the provisions of this act; and
(e) Adopt all rules necessary for the implementation of this act.
All rules must be adopted in accordance with chapter 34.05 RCW.

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