



Rep. JoAnn D. Osmond

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1 AMENDMENT TO SENATE BILL 1313

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1313 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Health Benefits Exchange Law is  
5 amended by changing Sections 5-3, 5-5, 5-15, and 5-25 and by  
6 adding Sections 5-4, 5-16, and 5-21 as follows:

7 (215 ILCS 122/5-3)

8 Sec. 5-3. Legislative intent. The General Assembly finds  
9 the health benefits exchanges authorized by the federal Patient  
10 Protection and Affordable Care Act represent one of a number of  
11 ways in which the State can address coverage gaps and provide  
12 individual consumers and small employers access to greater  
13 coverage options. The General Assembly also finds that the  
14 State is best positioned to implement an exchange that is  
15 sensitive to the coverage gaps and market landscape unique to  
16 this State.

1       The purpose of this Law is to provide for the establishment  
2 of an Illinois Health Benefits Exchange (the Exchange) to  
3 facilitate the purchase and sale of qualified health plans and  
4 qualified dental plans in the individual market in this State  
5 and to provide for the establishment of a Small Business Health  
6 Options Program (SHOP Exchange) to assist qualified small  
7 employers in this State in facilitating the enrollment of their  
8 employees in qualified health plans and qualified dental plans  
9 offered in the small group market. The intent of the Exchange  
10 is to supplement the existing health insurance market to  
11 simplify shopping for individual and small employers by  
12 increasing access to benefit options, encouraging a robust and  
13 competitive market both inside and outside the Exchange,  
14 reducing the number of uninsured, and providing a transparent  
15 marketplace and effective consumer education and programmatic  
16 assistance tools. ~~The purpose of this Law is to ensure that the~~  
17 ~~State is making sufficient progress towards establishing an~~  
18 ~~exchange within the guidelines outlined by the federal law and~~  
19 ~~to protect Illinoisans from undue federal regulation. Although~~  
20 ~~the federal law imposes a number of core requirements on~~  
21 ~~state-level exchanges, the State has significant flexibility~~  
22 ~~in the design and operation of a State exchange that make it~~  
23 ~~prudent for the State to carefully analyze, plan, and prepare~~  
24 ~~for the exchange. The General Assembly finds that in order for~~  
25 ~~the State to craft a tenable exchange that meets the~~  
26 ~~fundamental goals outlined by the Patient Protection and~~

1 ~~Affordable Care Act of expanding access to affordable coverage~~  
2 ~~and improving the quality of care, the implementation process~~  
3 ~~should (1) provide for broad stakeholder representation; (2)~~  
4 ~~foster a robust and competitive marketplace, both inside and~~  
5 ~~outside of the exchange; and (3) provide for a broad based~~  
6 ~~approach to the fiscal solvency of the exchange.~~

7 (Source: P.A. 97-142, eff. 7-14-11.)

8 (215 ILCS 122/5-4 new)

9 Sec. 5-4. Definitions. In this Law:

10 "Board" means the Illinois Health Benefits Exchange Board  
11 established pursuant to this Law.

12 "Director" means the Director of Insurance.

13 "Educated health care consumer" means an individual who is  
14 knowledgeable about the health care system, and has background  
15 or experience in making informed decisions regarding health,  
16 medical, and scientific matters.

17 "Essential health benefits" has the meaning provided under  
18 Section 1302(b) of the Federal Act.

19 "Exchange" means the Illinois Health Benefits Exchange  
20 established by this Law and includes the Individual Exchange  
21 and the SHOP Exchange, unless otherwise specified.

22 "Executive Director" means the Executive Director of the  
23 Illinois Health Benefits Exchange.

24 "Federal Act" means the federal Patient Protection and  
25 Affordable Care Act (Public Law 111-148), as amended by the

1 federal Health Care and Education Reconciliation Act of 2010  
2 (Public Law 111-152), and any amendments thereto, or  
3 regulations or guidance issued under, those Acts.

4 "Health benefit plan" means a policy, contract,  
5 certificate, or agreement offered or issued by a health carrier  
6 to provide, deliver, arrange for, pay for, or reimburse any of  
7 the costs of health care services. "Health benefit plan" does  
8 not include:

9 (1) coverage for accident only or disability income  
10 insurance or any combination thereof;

11 (2) coverage issued as a supplement to liability  
12 insurance;

13 (3) liability insurance, including general liability  
14 insurance and automobile liability insurance;

15 (4) workers' compensation or similar insurance;

16 (5) automobile medical payment insurance;

17 (6) credit-only insurance;

18 (7) coverage for on-site medical clinics; or

19 (8) other similar insurance coverage, specified in  
20 federal regulations issued pursuant to Public Law 104-191,  
21 under which benefits for health care services are secondary  
22 or incidental to other insurance benefits.

23 "Health benefit plan" does not include the following  
24 benefits if they are provided under a separate policy,  
25 certificate, or contract of insurance or are otherwise not an  
26 integral part of the plan:

1           (a) limited scope dental or vision benefits;

2           (b) benefits for long-term care, nursing home care,  
3           home health care, community-based care, or any combination  
4           thereof; or

5           (c) other similar, limited benefits specified in  
6           federal regulations issued pursuant to Public Law 104-191.

7           "Health benefit plan" does not include the following  
8           benefits if the benefits are provided under a separate policy,  
9           certificate, or contract of insurance, there is no coordination  
10           between the provision of the benefits and any exclusion of  
11           benefits under any group health plan maintained by the same  
12           plan sponsor, and the benefits are paid with respect to an  
13           event without regard to whether benefits are provided with  
14           respect to such an event under any group health plan maintained  
15           by the same plan sponsor:

16           (i) coverage only for a specified disease or illness;

17           or

18           (ii) hospital indemnity or other fixed indemnity  
19           insurance.

20           "Health benefit plan" does not include the following if  
21           offered as a separate policy, certificate, or contract of  
22           insurance:

23           (A) Medicare supplemental health insurance as defined  
24           under Section 1882(g)(1) of the federal Social Security  
25           Act;

26           (B) coverage supplemental to the coverage provided

1       under Chapter 55 of Title 10, United States Code (Civilian  
2       Health and Medical Program of the Uniformed Services  
3       (CHAMPUS)); or

4       (C) similar supplemental coverage provided to coverage  
5       under a group health plan.

6       "Health benefit plan" does not include a group health plan  
7       or multiple employer welfare arrangement to the extent the plan  
8       or arrangement is not subject to State insurance regulation  
9       under Section 514 of the federal Employee Retirement Income  
10       Security Act of 1974.

11       "Health carrier" or "carrier" means an entity subject to  
12       the insurance laws and regulations of this State, or subject to  
13       the jurisdiction of the Director, that contracts or offers to  
14       contract to provide, deliver, arrange for, pay for, or  
15       reimburse any of the costs of health care services, including a  
16       sickness and accident insurance company, a health maintenance  
17       organization, a nonprofit hospital and health service  
18       corporation, or any other entity providing a plan of health  
19       insurance, health benefits or health services.

20       "Individual Exchange" means the exchange marketplace  
21       established by this Law through which qualified individuals may  
22       obtain coverage through an individual market qualified health  
23       plan.

24       "Principal place of business" means the location in a state  
25       where an employer has its headquarters or significant place of  
26       business and where the persons with direction and control

1 authority over the business are employed.

2 "Qualified dental plan" means a limited scope dental plan  
3 that has been certified in accordance with this Law.

4 "Qualified employee" means an eligible individual employed  
5 by a qualified employer who has been offered health insurance  
6 coverage by that qualified employer through the SHOP on the  
7 Exchange.

8 "Qualified employer" means a small employer that elects to  
9 make its full-time employees eligible for one or more qualified  
10 health plans or qualified dental plans offered through the SHOP  
11 Exchange, and at the option of the employer, some or all of its  
12 part-time employees, provided that the employer has its  
13 principal place of business in this State and elects to provide  
14 coverage through the SHOP Exchange to all of its eligible  
15 employees, wherever employed.

16 "Qualified health plan" or "QHP" means a health benefit  
17 plan that has in effect a certification that the plan meets the  
18 criteria for certification described in Section 1311(c) of the  
19 Federal Act.

20 "Qualified health plan issuer" or "QHP issuer" means a  
21 health insurance issuer that offers a health plan that the  
22 Exchange has certified as a qualified health plan.

23 "Qualified individual" means an individual, including a  
24 minor, who:

25 (1) is seeking to enroll in a qualified health plan or  
26 qualified dental plan offered to individuals through the

1       Exchange;

2           (2) resides in this State;

3           (3) at the time of enrollment, is not incarcerated,  
4       other than incarceration pending the disposition of  
5       charges; and

6           (4) is, and is reasonably expected to be, for the  
7       entire period for which enrollment is sought, a citizen or  
8       national of the United States or an alien lawfully present  
9       in the United States.

10       "Secretary" means the Secretary of the federal Department  
11       of Health and Human Services.

12       "SHOP Exchange" means the Small Business Health Options  
13       Program established under this Law through which a qualified  
14       employer can provide small group qualified health plans to its  
15       qualified employees.

16       "Small employer" means, in connection with a group health  
17       plan with respect to a calendar year and a plan year, an  
18       employer who employed an average of at least 2 but not more  
19       than 50 employees on business days during the preceding  
20       calendar year and who employs at least one employee on the  
21       first day of the plan year. Beginning January 1, 2016, the  
22       definition of a "small employer" shall mean, in connection with  
23       a group health plan with respect to a calendar year and a plan  
24       year, an employer who employed an average of at least 2 but not  
25       more than 100 employees on business days during the preceding  
26       calendar year and who employs at least one employee on the



1 first day of the plan year. For purposes of this definition:

2 (a) all persons treated as a single employer under  
3 subsection (b), (c), (m) or (o) of Section 414 of the  
4 federal Internal Revenue Code of 1986 shall be treated as a  
5 single employer;

6 (b) an employer and any predecessor employer shall be  
7 treated as a single employer;

8 (c) employees shall be counted in accordance with  
9 federal law and regulations and State law and regulations;

10 (d) if an employer was not in existence throughout the  
11 preceding calendar year, then the determination of whether  
12 that employer is a small employer shall be based on the  
13 average number of employees that is reasonably expected  
14 that employer will employ on business days in the current  
15 calendar year; and

16 (e) an employer that makes enrollment in qualified  
17 health plans or qualified dental plans available to its  
18 employees through the SHOP Exchange, and would cease to be  
19 a small employer by reason of an increase in the number of  
20 its employees, shall continue to be treated as a small  
21 employer for purposes of this Law as long as it  
22 continuously makes enrollment through the SHOP Exchange  
23 available to its employees.

24 (215 ILCS 122/5-5)

25 Sec. 5-5. Establishment of the Exchange ~~State health~~

1 ~~benefits exchange.~~

2       (a) It is declared that this State, beginning October 1,  
3 2013, in accordance with Section 1311 of the federal Patient  
4 Protection and Affordable Care Act, shall establish a State  
5 health benefits exchange to be known as the Illinois Health  
6 Benefits Exchange in order to help individuals and small  
7 employers with no more than 50 employees shop for, select, and  
8 enroll in qualified, affordable private health plans that fit  
9 their needs at competitive prices. The Exchange shall separate  
10 coverage pools for individuals and small employers and shall  
11 supplement and not supplant any existing private health  
12 insurance market for individuals and small employers.

13       (b) There is hereby created and established an independent,  
14 non-profit entity formed and organized under the laws of the  
15 State named the Illinois Health Benefits Exchange. The Exchange  
16 shall be a public entity, but shall not be considered a  
17 department, institution, or agency of the State.

18       (c) The Exchange shall be comprised of an individual and a  
19 small business health options (SHOP) exchange. Pursuant to  
20 Section 1311(b)(2) of the Federal Act, the Exchange shall  
21 provide individual exchange services to qualified individuals  
22 and SHOP exchange services to qualified employers under a  
23 single governance and administrative structure.

24       (d) The Exchange shall promote a competitive and robust  
25 marketplace that does not limit consumer access to affordable  
26 health coverage options. The Exchange, therefore, shall allow

1 and certify all health insurance issuers to offer health plans  
2 on the individual and SHOP exchange, as applicable, provided  
3 that any such health plan meets the requirements set forth in  
4 Section 1311(c) of the Federal Act. The Exchange shall not  
5 solicit bids for or engage in the purchase of insurance.

6 (e) The Exchange shall not duplicate or replace the  
7 functions of the Department of Insurance, including, but not  
8 limited to, the Department of Insurance's rate review  
9 authority.

10 (Source: P.A. 97-142, eff. 7-14-11.)

11 (215 ILCS 122/5-15)

12 Sec. 5-15. Illinois Health Benefits Exchange Legislative  
13 Oversight Study Committee.

14 (a) There is created an Illinois Health Benefits Exchange  
15 Legislative Oversight Study Committee within the Commission on  
16 Government Forecasting and Accountability to provide  
17 accountability for ~~conduct a study regarding State~~  
18 ~~implementation and establishment of~~ the Illinois Health  
19 Benefits Exchange and to ensure Exchange operations and  
20 functions align with the goals and duties outlined by this Law.  
21 The Committee shall also be responsible for providing policy  
22 recommendations to ensure the Exchange aligns with the Federal  
23 Act, amendments to the Federal Act, and regulations promulgated  
24 pursuant to the Federal Act.

25 (b) Members of the Legislative Oversight Study Committee

1 shall be appointed as follows: 3 members of the Senate shall be  
2 appointed by the President of the Senate; 3 members of the  
3 Senate shall be appointed by the Minority Leader of the Senate;  
4 3 members of the House of Representatives shall be appointed by  
5 the Speaker of the House of Representatives; and 3 members of  
6 the House of Representatives shall be appointed by the Minority  
7 Leader of the House of Representatives. Each legislative leader  
8 shall select one member to serve as co-chair of the committee.

9 ~~(e) Members of the Legislative Oversight Study Committee~~  
10 ~~shall be appointed no later than November 30, 2011 within 30~~  
11 ~~days after the effective date of this Law. The co-chairs shall~~  
12 ~~convene the first meeting of the committee no later than 45~~  
13 ~~days after the effective date of this Law.~~

14 (Source: P.A. 97-142, eff. 7-14-11.)

15 (215 ILCS 122/5-16 new)

16 Sec. 5-16. Exchange governance. The governing and  
17 administrative powers of the Exchange shall be vested in a body  
18 known as the Illinois Health Benefits Exchange Board. The  
19 following provisions shall apply:

20 (1) The Board shall consist of 9 voting members.  
21 Members of the Board of Directors shall be appointed as  
22 follows: 2 members shall be appointed by the President of  
23 the Senate; 2 members shall be appointed by the Minority  
24 Leader of the Senate; 2 members shall be appointed by the  
25 Speaker of the House of Representatives; 2 members shall be

1 appointed by the Minority Leader of the House of  
2 Representatives; and the Governor shall appoint one member  
3 in good standing of the American Academy of Actuaries with  
4 experience in Illinois health insurance markets to serve on  
5 the Board. In addition, the Director of Insurance, the  
6 Director of Healthcare and Family Services, and the  
7 Executive Director of the Exchange shall serve as  
8 non-voting, ex-officio members of the Board. The Governor  
9 shall also appoint as non-voting, ex-officio members one  
10 economist with experience in the health care markets and  
11 one educated health care consumer advocate. All Board  
12 members shall be appointed no later than January 31, 2012.

13 (2) The President of the Senate, Minority Leader of the  
14 Senate, Speaker of the House of Representatives, and  
15 Minority Leader of the House of Representatives shall  
16 coordinate appointments to ensure that there is broad  
17 representation within the skill sets specified in this  
18 Section and shall consider the geographic, cultural, and  
19 ethnic diversity of this State when making the  
20 appointments. A majority of the voting members must be  
21 employers or individuals who are not employed by a health  
22 insurance issuer and none shall be State employees or been  
23 employed by the State within one year prior to their  
24 appointment.

25 No more than 4 of the voting members may be individuals  
26 who are employed by, consultants to, or members of a board

1       of directors of:

2               (i) an insurer or third party administrator;

3               (ii) an insurance producer; or

4               (iii) a health care provider, health care  
5               facility, or health clinic;

6       Each person appointed to the Board should have  
7       demonstrated expertise in no less than 2 of the following  
8       areas:

9               (A) individual health insurance coverage;

10              (B) small employer health insurance;

11              (C) health benefits administration;

12              (D) health care finance;

13              (E) administration of a public or private health  
14              care delivery system;

15              (F) the provision of health care services;

16              (G) the purchase of health insurance coverage;

17              (H) health care consumer navigation or assistance;

18              (I) health care economics or health care actuarial  
19              sciences;

20              (J) information technology; or

21              (K) starting a small business with 50 or fewer  
22              employees.

23              (3) The Board shall elect one voting member of the  
24              Board to serve as chairperson and one voting member to  
25              serve as vice-chairperson, upon approval of a majority of  
26              the Board.

1           (4) The Exchange shall be administered by an Executive  
2           Director, who shall be appointed, and may be removed, by a  
3           majority of the Board. The Board shall have the power to  
4           determine compensation for the Executive Director. The  
5           Executive Director may not be a State employee or have been  
6           employed by or have had a contract with the State in the 3  
7           years prior to his or her appointment.

8           (5) The terms of the non-voting, ex-officio members of  
9           the Board shall run concurrent with their terms of  
10           appointment to office, or in the case of the Executive  
11           Director, his or her term of appointment to that position,  
12           subject to the determination of the Board. The terms of the  
13           members, including those non-voting, ex-officio members  
14           appointed by the Governor, shall be 4 years. Each member of  
15           the General Assembly identified in paragraph (1) of this  
16           Section shall initially appoint one member to a 3-year  
17           term, and one member to a 4-year term. Upon conclusion of  
18           the initial term, the next term and every term subsequent  
19           to it shall run for 3 years. Voting members shall serve no  
20           more than 3 consecutive terms.

21           A person appointed to fill a vacancy and complete the  
22           unexpired term of a member of the Board shall only be  
23           appointed to serve out the unexpired term by the individual  
24           who made the original appointment within 45 days after the  
25           initial vacancy. A person appointed to fill a vacancy and  
26           complete the unexpired term of a member of the Board may be

1 re-appointed to the Board for another term, but shall not  
2 serve than more than 2 consecutive terms following their  
3 completion of the unexpired term of a member of the Board.

4 If a voting Board member's qualifications change due to  
5 a change in employment during the term of their  
6 appointment, then the Board member shall resign their  
7 position, subject to reappointment by the individual who  
8 made the original appointment.

9 (6) The Board may, as necessary, create and appoint  
10 qualified persons with requisite expertise to Exchange  
11 technical advisory groups. These Exchange technical  
12 advisory groups shall meet in a manner and frequency  
13 determined by the Board to discuss exchange-related issues  
14 and to provide exchange-related guidance, advice, and  
15 recommendations to the Board and the Exchange.

16 (7) The Board shall meet no less than quarterly on a  
17 schedule established by the chairperson. Meetings shall be  
18 public and public records shall be maintained, subject to  
19 the Open Meetings Act. A majority of the Board shall  
20 constitute a quorum and the affirmative vote of a majority  
21 is necessary for any action of the Board. No vacancy shall  
22 impair the ability of the Board to act provided a quorum is  
23 reached. Members shall serve without pay, but shall be  
24 reimbursed for their actual and reasonable expenses  
25 incurred in the performance of their duties. The  
26 chairperson of the Board shall file a written report



1 regarding the activities of the Board and the Exchange to  
2 the Governor and General Assembly annually, and the  
3 Legislative Oversight Committee established in Section  
4 5-15 quarterly, beginning on July 1, 2012 through December  
5 31, 2014.

6 (8) The Board shall adopt conflict of interest rules  
7 and recusal procedures. Such rules and procedures shall (i)  
8 prohibit a member of the Board from performing an official  
9 act that may have a direct economic benefit on a business  
10 or other endeavor in which that member has a direct or  
11 substantial financial interest and (ii) require a member of  
12 the Board to recuse himself or herself from an official  
13 matter, whether direct or indirect. All recusals must be in  
14 advance, in writing, and specify the reason and date of the  
15 recusal. All recusals shall be maintained by the Executive  
16 Director and shall be disclosed to any person upon written  
17 request.

18 (9) The Board shall develop a preliminary budget for  
19 the implementation and operation of the Exchange through  
20 December 31, 2014. The preliminary budget shall include  
21 proposed compensation levels for the Executive Director  
22 and identify personnel and staffing needs for the  
23 implementation and operation of the Exchange. The Board  
24 shall submit its preliminary budget to the Legislative  
25 Oversight Committee established in Section 5-15 no later  
26 than October 1, 2012.

1           (10) The purpose of the Board shall be to implement the  
2           Exchange in accordance with this Section and shall be  
3           authorized to establish procedures for the operation of the  
4           Exchange, subject to legislative approval.

5           (215 ILCS 122/5-21 new)

6           Sec. 5-21. Enrollment through brokers and agents; producer  
7           compensation.

8           (a) In accordance with Section 1312(e) of the Federal Act,  
9           the Exchange shall allow licensed insurance producers to (1)  
10           enroll qualified individuals in any qualified health plan, for  
11           which the individual is eligible, in the individual exchange,  
12           (2) assist qualified individuals in applying for premium tax  
13           credits and cost-sharing reductions for qualified health plans  
14           purchased through the individual exchange, and (3) enroll  
15           qualified employers in any qualified health plan, for which the  
16           employer is eligible, offered through the SHOP exchange.  
17           Nothing in this subsection (a) shall be construed as to require  
18           a qualified individual or qualified employer to utilize a  
19           licensed insurance producer for any of the purposes outlined in  
20           this subsection (a).

21           (b) In order to enroll individuals and small employers in  
22           qualified health plans on the Exchange, licensed producers must  
23           complete a certification program. The Department of Insurance  
24           may develop and implement a certification program for licensed  
25           insurance producers who enroll individuals and employers in the

1 exchange. The Department of Insurance may charge a reasonable  
2 fee, by regulation, to producers for the certification program.  
3 The Department of Insurance may approve certification programs  
4 developed and instructed by others, charging a reasonable fee,  
5 by regulation, for approval.

6 (c) The Exchange shall include on its Internet website a  
7 producer locator section, featured prominently, through which  
8 individuals and small employers can find exchange-certified  
9 producers.

10 (d) The Exchange shall have no role in developing or  
11 determining the manner or amount of compensation producers  
12 receive from qualified health plans for individuals or  
13 employers enrolled in health plans through the Exchange.

14 (215 ILCS 122/5-25)

15 Sec. 5-25. Federal action. This Law shall be null and void  
16 if Congress and the President take action to repeal or replace,  
17 or both, Section 1311 of the Affordable Care Act or the U.S.  
18 Supreme Court strikes down the Affordable Care Act in whole or  
19 in part.

20 (Source: P.A. 97-142, eff. 7-14-11.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."