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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO INSURANCE HEALTH CARE MARKET STABILITY

Introduced By: Senators Miller, Conley, Goldin, and DiPalma

Date Introduced: March 21, 2019

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-18.5-2 of the General Laws in Chapter 27-18.5 entitled  
2 "Individual Health Insurance Coverage" is hereby amended to read as follows:

3 **27-18.5-2. Definitions.**

4 The following words and phrases as used in this chapter have the following meanings  
5 unless a different meaning is required by the context:

6 (1) "Bona fide association" means, with respect to health insurance coverage offered in  
7 this state, an association which:

8 (i) Has been actively in existence for at least five (5) years;

9 (ii) Has been formed and maintained in good faith for purposes other than obtaining  
10 insurance;

11 (iii) Does not condition membership in the association on any health status-related factor  
12 relating to an individual (including an employee of an employer or a dependent of an employee);

13 (iv) Makes health insurance coverage offered through the association available to all  
14 members regardless of any health status-related factor relating to the members (or individuals  
15 eligible for coverage through a member);

16 (v) Does not make health insurance coverage offered through the association available  
17 other than in connection with a member of the association;

18 (vi) Is composed of persons having a common interest or calling;

19 (vii) Has a constitution and bylaws; and

1 (viii) Meets any additional requirements that the director may prescribe by regulation;

2 (2) "COBRA continuation provision" means any of the following:

3 (i) Section 4980(B) of the Internal Revenue Code of 1986, 26 U.S.C. § 4980B, other than  
4 subsection (f)(1) of that section insofar as it relates to pediatric vaccines;

5 (ii) Part 6 of subtitle B of Title I of the Employee Retirement Income Security Act of  
6 1974, 29 U.S.C. § 1161 et seq., other than Section 609 of that act, 29 U.S.C. § 1169; or

7 (iii) Title XXII of the United States Public Health Service Act, 42 U.S.C. § 300bb-1 et  
8 seq.;

9 (3) "Creditable coverage" has the same meaning as defined in the United States Public  
10 Health Service Act, Section 2701(c), 42 U.S.C. § 300gg(c), as added by P.L. 104-191;

11 (4) "Director" means the director of the department of business regulation;

12 (5) "Eligible individual" means an individual:

13 (i) For whom, as of the date on which the individual seeks coverage under this chapter,  
14 the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose  
15 most recent prior creditable coverage was under a group health plan, a governmental plan  
16 established or maintained for its employees by the government of the United States or by any of  
17 its agencies or instrumentalities, or church plan (as defined by the Employee Retirement Income  
18 Security Act of 1974, 29 U.S.C. § 1001 et seq.);

19 (ii) Who is not eligible for coverage under a group health plan, part A or part B of title  
20 XVIII of the Social Security Act, 42 U.S.C. § 1395c et seq. or 42 U.S.C. § 1395j et seq., or any  
21 state plan under title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (or any successor  
22 program), and does not have other health insurance coverage;

23 (iii) With respect to whom the most recent coverage within the coverage period was not  
24 terminated based on a factor described in § 27-18.5-4(b)(relating to nonpayment of premiums or  
25 fraud);

26 (iv) If the individual had been offered the option of continuation coverage under a  
27 COBRA continuation provision, or under chapter 19.1 of this title or under a similar state  
28 program of this state or any other state, who elected the coverage; and

29 (v) Who, if the individual elected COBRA continuation coverage, has exhausted the  
30 continuation coverage under the provision or program;

31 (6) "Group health plan" means an employee welfare benefit plan as defined in section  
32 3(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1), to the extent  
33 that the plan provides medical care and including items and services paid for as medical care to  
34 employees or their dependents as defined under the terms of the plan directly or through

1 insurance, reimbursement or otherwise;

2 (7) "Health insurance carrier" or "carrier" means any entity subject to the insurance laws  
3 and regulations of this state, or subject to the jurisdiction of the director, that contracts or offers to  
4 contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care  
5 services, including, without limitation, an insurance company offering accident and sickness  
6 insurance, a health maintenance organization, a nonprofit hospital, medical or dental service  
7 corporation, or any other entity providing a plan of health insurance or health benefits by which  
8 health care services are paid or financed for an eligible individual or his or her dependents by  
9 such entity on the basis of a periodic premium, paid directly or through an association, trust, or  
10 other intermediary, and issued, renewed, or delivered within or without Rhode Island to cover a  
11 natural person who is a resident of this state, including a certificate issued to a natural person  
12 which evidences coverage under a policy or contract issued to a trust or association;

13 (8)(i) "Health insurance coverage" means a policy, contract, certificate, or agreement  
14 offered by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse any of  
15 the costs of health care services. [Health insurance coverage includes short-term limited duration  
16 policies and any policy that pays on a cost-incurred basis, except as otherwise specifically  
17 exempted by subsections \(8\)\(ii\), \(8\)\(iii\), \(8\)\(iv\), or \(8\)\(v\) of this section.](#)

18 (ii) "Health insurance coverage" does not include one or more, or any combination of, the  
19 following:

20 (A) Coverage only for accident, or disability income insurance, or any combination of  
21 those;

22 (B) Coverage issued as a supplement to liability insurance;

23 (C) Liability insurance, including general liability insurance and automobile liability  
24 insurance;

25 (D) Workers' compensation or similar insurance;

26 (E) Automobile medical payment insurance;

27 (F) Credit-only insurance;

28 (G) Coverage for on-site medical clinics; [and](#)

29 (H) Other similar insurance coverage, specified in federal regulations issued pursuant to  
30 P.L. 104-191, under which benefits for medical care are secondary or incidental to other  
31 insurance benefits; ~~and.~~

32 ~~(I) Short term limited duration insurance;~~

33 (iii) "Health insurance coverage" does not include the following benefits if they are  
34 provided under a separate policy, certificate, or contract of insurance or are not an integral part of

1 the coverage:

2 (A) Limited scope dental or vision benefits;

3 (B) Benefits for long-term care, nursing home care, home health care, community-based  
4 care, or any combination of these;

5 (C) Any other similar, limited benefits that are specified in federal regulation issued  
6 pursuant to P.L. 104-191;

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

13 (A) Coverage only for a specified disease or illness; or

14 (B) Hospital indemnity or other fixed indemnity insurance; and

15 (v) "Health insurance coverage" does not include the following if it is offered as a  
16 separate policy, certificate, or contract of insurance:

17 (A) Medicare supplemental health insurance as defined under section 1882(g)(1) of the  
18 Social Security Act, 42 U.S.C. § 1395ss(g)(1);

19 (B) Coverage supplemental to the coverage provided under 10 U.S.C. § 1071 et seq.; and

20 (C) Similar supplemental coverage provided to coverage under a group health plan;

21 (9) "Health status-related factor" means any of the following factors:

22 (i) Health status;

23 (ii) Medical condition, including both physical and mental illnesses;

24 (iii) Claims experience;

25 (iv) Receipt of health care;

26 (v) Medical history;

27 (vi) Genetic information;

28 (vii) Evidence of insurability, including conditions arising out of acts of domestic  
29 violence; and

30 (viii) Disability;

31 (10) "Individual market" means the market for health insurance coverage offered to  
32 individuals other than in connection with a group health plan;

33 (11) "Network plan" means health insurance coverage offered by a health insurance  
34 carrier under which the financing and delivery of medical care including items and services paid

1 for as medical care are provided, in whole or in part, through a defined set of providers under  
2 contract with the carrier;

3 (12) "Preexisting condition" means, with respect to health insurance coverage, a  
4 condition (whether physical or mental), regardless of the cause of the condition, that was present  
5 before the date of enrollment for the coverage, for which medical advice, diagnosis, care, or  
6 treatment was recommended or received within the six (6) month period ending on the enrollment  
7 date. Genetic information shall not be treated as a preexisting condition in the absence of a  
8 diagnosis of the condition related to that information; and

9 (13) "High-risk individuals" means those individuals who do not pass medical  
10 underwriting standards, due to high health care needs or risks;

11 (14) "Wellness health benefit plan" means that health benefit plan offered in the  
12 individual market pursuant to § 27-18.5-8; and

13 (15) "Commissioner" means the health insurance commissioner.

14 SECTION 2. Section 35-4-27 of the General Laws in Chapter 35-4 entitled "State Funds"  
15 is hereby amended to read as follows:

16 **35-4-27. Indirect cost recoveries on restricted receipt accounts.**

17 Indirect cost recoveries of ten percent (10%) of cash receipts shall be transferred from all  
18 restricted-receipt accounts, to be recorded as general revenues in the general fund. However, there  
19 shall be no transfer from cash receipts with restrictions received exclusively: (1) From  
20 contributions from non-profit charitable organizations; (2) From the assessment of indirect cost-  
21 recovery rates on federal grant funds; or (3) Through transfers from state agencies to the  
22 department of administration for the payment of debt service. These indirect cost recoveries shall  
23 be applied to all accounts, unless prohibited by federal law or regulation, court order, or court  
24 settlement. The following restricted receipt accounts shall not be subject to the provisions of this  
25 section:

26 Executive Office of Health and Human Services

27 Organ Transplant Fund

28 HIV Care Grant Drug Rebates

29 Department of Human Services

30 Veterans' home -- Restricted account

31 Veterans' home -- Resident benefits

32 Pharmaceutical Rebates Account

33 Demand Side Management Grants

34 Veteran's Cemetery Memorial Fund

1 Donations -- New Veterans' Home Construction  
2 Department of Health  
3 Pandemic medications and equipment account  
4 Miscellaneous Donations/Grants from Non-Profits  
5 State Loan Repayment Match  
6 Department of Behavioral Healthcare, Developmental Disabilities and Hospitals  
7 Eleanor Slater non-Medicaid third-party payor account  
8 Hospital Medicare Part D Receipts  
9 RICLAS Group Home Operations  
10 Commission on the Deaf and Hard of Hearing  
11 Emergency and public communication access account  
12 Department of Environmental Management  
13 National heritage revolving fund  
14 Environmental response fund II  
15 Underground storage tanks registration fees  
16 Rhode Island Historical Preservation and Heritage Commission  
17 Historic preservation revolving loan fund  
18 Historic Preservation loan fund -- Interest revenue  
19 Department of Public Safety  
20 Forfeited property -- Retained  
21 Forfeitures -- Federal  
22 Forfeited property -- Gambling  
23 Donation -- Polygraph and Law Enforcement Training  
24 Rhode Island State Firefighter's League Training Account  
25 Fire Academy Training Fees Account  
26 Attorney General  
27 Forfeiture of property  
28 Federal forfeitures  
29 Attorney General multi-state account  
30 Forfeited property -- Gambling  
31 Department of Administration  
32 OER Reconciliation Funding  
33 [Health Insurance Market Integrity Fund](#)  
34 RI Health Benefits Exchange

1 Information Technology Investment Fund  
2 Restore and replacement -- Insurance coverage  
3 Convention Center Authority rental payments  
4 Investment Receipts -- TANS  
5 OPEB System Restricted Receipt Account  
6 Car Rental Tax/Surcharge-Warwick Share  
7 Executive Office of Commerce  
8 Housing Resources Commission Restricted Account  
9 Department of Revenue  
10 DMV Modernization Project  
11 Jobs Tax Credit Redemption Fund  
12 Legislature  
13 Audit of federal assisted programs  
14 Department of Children, Youth and Families  
15 Children's Trust Accounts -- SSI  
16 Military Staff  
17 RI Military Family Relief Fund  
18 RI National Guard Counterdrug Program  
19 Treasury  
20 Admin. Expenses -- State Retirement System  
21 Retirement -- Treasury Investment Options  
22 Defined Contribution -- Administration - RR  
23 Violent Crimes Compensation -- Refunds  
24 Treasury Research Fellowship  
25 Business Regulation  
26 Banking Division Reimbursement Account  
27 Office of the Health Insurance Commissioner Reimbursement Account  
28 Securities Division Reimbursement Account  
29 Commercial Licensing and Racing and Athletics Division Reimbursement Account  
30 Insurance Division Reimbursement Account  
31 Historic Preservation Tax Credit Account  
32 Judiciary  
33 Arbitration Fund Restricted Receipt Account  
34 Third-Party Grants

1 RI Judiciary Technology Surcharge Account  
2 Department of Elementary and Secondary Education  
3 Statewide Student Transportation Services Account  
4 School for the Deaf Fee-for-Service Account  
5 School for the Deaf -- School Breakfast and Lunch Program  
6 Davies Career and Technical School Local Education Aid Account  
7 Davies -- National School Breakfast & Lunch Program  
8 School Construction Services  
9 Office of the Postsecondary Commissioner  
10 Higher Education and Industry Center  
11 Department of Labor and Training  
12 Job Development Fund

13 SECTION 3. Chapter 44-30 of the General Laws entitled "Personal Income Tax" is  
14 hereby amended by adding thereto the following sections:

15 **44-30-101. Requirements concerning qualifying health insurance coverage.**

16 (a) Definitions. For purposes of this section:

17 (1) "Applicable individual" has the same meaning as set forth in 26 U.S.C. § 5000A(d).

18 (2) "Minimum essential coverage" has the same meaning as set forth in 26 U.S.C. §  
19 5000A(f).

20 (3) "Shared responsibility payment penalty" means the penalty imposed pursuant to  
21 subsection (c) of this section.

22 (4) "Taxpayer" means any resident individual, as defined in § 44-30-5.

23 (b) Requirement to maintain minimum essential coverage. Every applicable individual  
24 must maintain minimum essential coverage for each month beginning after December 31, 2019.

25 (c) Shared responsibility payment penalty imposed for failing to maintain minimum  
26 essential coverage. As of January 1, 2020, every applicable individual required to file a personal  
27 income tax return pursuant to § 44-30-51, shall indicate on the return, in a manner to be  
28 prescribed by the tax administrator, whether and for what period of time during the relevant tax  
29 year the individual and his or her spouse and dependents who are applicable individuals were  
30 covered by minimum essential coverage. If a return submitted pursuant to this subsection fails to  
31 indicate that such coverage was in force or indicates that any applicable individuals did not have  
32 such coverage in force, a shared responsibility payment penalty shall hereby be assessed as a tax  
33 on the return.

34 (d) Shared responsibility payment penalty calculation. Except as provided in subsection

1 (e) of this section, the shared responsibility payment penalty imposed shall be equal to a  
2 taxpayer's federal shared responsibility payment for the taxable year under section 5000A of the  
3 Internal Revenue Code of 1986, as amended, and as in effect on December 15, 2017.

4 (e) Exceptions.

5 (1) Penalty cap. The amount of the shared responsibility payment penalty imposed under  
6 this section shall be determined, if applicable, using the statewide average premium for bronze-  
7 level plans offered through the Rhode Island health benefits exchange rather than the national  
8 average premium for bronze-level plans.

9 (2) Hardship exemption determinations. Determinations as to hardship exemptions shall  
10 be made by the exchange under § 42-157-11.

11 (3) Religious conscience exemption determinations. Determinations as to religious  
12 conscience exemptions shall be made by the exchange under § 42-157-11.

13 (4) Taxpayers with gross income below state filing threshold. No penalty shall be  
14 imposed under this section with respect to any applicable individual for any month during a  
15 calendar year if the taxpayer's household income for the taxable year as described in 42 U.S.C. §  
16 18082(b)(1)(B) of the Patient Protection and Affordable Care Act is less than the amount of gross  
17 income requiring the taxpayer to file a return as set forth in § 44-30-51.

18 (5) Out of State Residents. No penalty shall be imposed by this section with respect to  
19 any applicable individual for any month during which the individual is a bona fide resident of  
20 another state.

21 (f) Health insurance market integrity fund. The tax administrator is authorized to  
22 withhold from any state tax refund due to the taxpayer an amount equal to the calculated shared  
23 responsibility payment penalty and shall place such amounts in the health insurance market  
24 integrity fund created pursuant to § 42-157.1-5.

25 (g) Deficiency. If, upon examination of a taxpayer's return, the tax administrator  
26 determines there is a deficiency because any refund due to the taxpayer is insufficient to satisfy  
27 the shared responsibility penalty or because there was no refund due, the tax administrator may  
28 notify the taxpayer of such deficiency in accordance with § 44-30-81 and interest shall accrue on  
29 such deficiency as set forth in § 44-30-84. All monies collected on said deficiency shall be placed  
30 in the health insurance market integrity fund created pursuant to § 42-157.1-5.

31 (h) Data Sharing.

32 (1) The tax administrator, upon written request from the exchange pursuant to § 42-157-  
33 13, shall disclose to officers, employees, and contractors of the exchange, the name, age, mailing  
34 address, income and penalty amount of any such applicable individual who, for the applicable

1 year, did not have the minimum essential coverage required by § 44-30-101(b).

2 (2) Definition of applicable year. For purposes of this subsection, the term "applicable  
3 year" means the most recent taxable year for which information is available in the Rhode Island  
4 department of revenue's taxpayer data information systems, or, if there is no return filed for such  
5 taxpayer for such year, the prior taxable year.

6 (3) Restriction on use of disclosed information. Taxpayer information disclosed under  
7 this subsection may be used only for the purposes authorized by § 42-157-13.

8 (4) Privacy and security. The exchange and the tax administrator shall develop a detailed  
9 set of data privacy and data security safeguards to govern the conveyance of data between their  
10 agencies under this section. With respect to information disclosed by the tax administrator to the  
11 exchange pursuant to this subsection, the exchange its officers, employees and contractors shall  
12 be subject to § 44-30-95(c).

13 (i) Application of federal law. The shared responsibility payment penalty shall be  
14 assessed and collected as set forth in this chapter and, where applicable, consistent with  
15 regulations promulgated by the federal government, the exchange and the tax administrator. Any  
16 federal regulation implementing section 5000A of the Internal Revenue Code of 1986, as  
17 amended, and in effect on December 15, 2017, shall apply as though incorporated into the Rhode  
18 Island code of regulations. Federal guidance interpreting these federal regulations shall similarly  
19 apply. Except as provided in subsections (j) and (k) of this section, all references to federal law  
20 shall be construed as references to federal law as in effect on December 15, 2017, including  
21 applicable regulations and administrative guidance that were in effect as of that date.

22 (j) Unavailability of federal premium tax credits. For any taxable year in which federal  
23 premium tax credits available pursuant to 26 U.S.C. § 36B become unavailable due to the federal  
24 government repealing that section or failing to fund the premium tax credits, the shared  
25 responsibility payment penalty under this section shall not be enforced.

26 (k) Imposition of federal shared responsibility payment. For any taxable year in which a  
27 federal penalty under section 5000A of the Internal Revenue Code of 1986 is imposed on a  
28 taxpayer in an amount comparable to the shared responsibility payment penalty assessed under  
29 this section, the state penalty shall not be enforced.

30 (m) Agency coordination. Where applicable, the tax administrator shall implement this  
31 section in consultation with the office of the health insurance commissioner, the office of  
32 management and budget, the executive office of health and human services, and the Rhode Island  
33 health benefits exchange.

34 **44-30-102. Reporting Requirement for Applicable Entities providing Minimum**

1 **Essential Coverage.**

2 (a) Findings.

3 (1) Ensuring the health of insurance markets is a responsibility reserved for states under  
4 the McCarran-Ferguson Act and other federal law.

5 (2) There is substantial evidence that being uninsured causes health problems and  
6 unnecessary deaths.

7 (3) The shared responsibility payment penalty imposed by § 44-30-101(c) is necessary to  
8 protect the health and welfare of the state's residents.

9 (4) The reporting requirement provided for in this section is necessary for the successful  
10 implementation of the shared responsibility payment penalty imposed by § 44-30-101(c). This  
11 requirement provides the only widespread source of third-party reporting to help taxpayers and  
12 the tax administrator verify whether an applicable individual maintains minimum essential  
13 coverage. There is compelling evidence that third-party reporting is crucial for ensuring  
14 compliance with tax provisions.

15 (5) The shared responsibility payment penalty imposed by § 44-30-101(c), and therefore  
16 the reporting requirement in this section, is necessary to ensure a stable and well-functioning  
17 health insurance market. There is compelling evidence that, without an effective shared  
18 responsibility payment penalty in place for those who go without coverage, there would be  
19 substantial instability in health insurance markets, including higher prices and the possibility of  
20 areas without any insurance available.

21 (6) The shared responsibility payment penalty imposed by § 44-30-101(c), and therefore  
22 the reporting requirement in this section, is also necessary to foster economic stability and growth  
23 in the state.

24 (7) The reporting requirement in this section has been narrowly tailored to support  
25 compliance with the shared responsibility payment penalty imposed by § 44-30-101(c), while  
26 imposing only an incidental burden on reporting entities. In particular, the information that must  
27 be reported is limited to the information that must already be reported under a similar federal  
28 reporting requirement under section 6055 of the Internal Revenue Code of 1986. In addition, this  
29 section provides that its reporting requirement may be satisfied by providing the same  
30 information that is currently reported under such federal requirement.

31 (b) Definitions. For purposes of this section:

32 (1) "Applicable entity" means:

33 (i) An employer or other sponsor of an employment-based health plan that offers  
34 employment-based minimum essential coverage to any resident of Rhode Island.

1           (ii) The Rhode Island Medicaid single state agency providing Medicaid or Children's  
2 Health Insurance Program (CHIP) coverage.

3           (iii) Carriers licensed or otherwise authorized by the Rhode Island office of the health  
4 insurance commissioner to offer health coverage providing coverage that is not described in  
5 sections (b)(1)(i) or (ii) of this section.

6           (2) "Minimum essential coverage" has the meaning given such term by § 44-30-  
7 101(a)(2).

8           (c) For purposes of administering the shared responsibility payment penalty to  
9 individuals who do not maintain minimum essential coverage under § 44-30-101(b), every  
10 applicable entity that provides minimum essential coverage to an individual during a calendar  
11 year shall, at such time as the tax administrator may prescribe, file a form in a manner prescribed  
12 by the tax administrator.

13           (d) Form and manner of return.

14           (1) A return, in such form as the tax administrator may prescribe, contains the following  
15 information:

16           (i) The name, address and Taxpayer Identification Number or "TIN" of the primary  
17 insured and the name and TIN of each other individual obtaining coverage under the policy;

18           (ii) The dates during which such individual was covered under minimum essential  
19 coverage during the calendar year, and

20           (iii) Such other information as the tax administrator may require.

21           (2) Sufficiency of information submitted for federal reporting. Notwithstanding the  
22 requirements of subsection (d)(1) of this section, a return shall not fail to be a return described in  
23 this section if it includes the information contained in a return described in section 6055 of the  
24 Internal Revenue Code of 1986, as that section is in effect and interpreted on December 15, 2017.

25           (e) Statements to be furnished to individuals with respect to whom information is  
26 reported.

27           (1) Any applicable entity providing a return under the requirements of this section shall  
28 also provide to each individual whose name is included in such return a written statement  
29 containing the name, address and contact information of the person required to provide the return  
30 to the tax administrator and the information included in the return with respect to the individuals  
31 listed thereupon. Such written statement must be provided on or before January 31 of the year  
32 following the calendar year for which the return was required to be made or by such date as may  
33 be determined by the tax administrator.

34           (2) Sufficiency of federal statement. Notwithstanding the requirements of subsection

1 (e)(1) of this section, the requirements of this subsection (e) of this section may be satisfied by a  
2 written statement provided to an individual under section 6055 of the Internal Revenue Code of  
3 1986, as that section is in effect and interpreted on December 15, 2017.

4 (f) Reporting responsibility.

5 (1) Coverage provided by governmental units. In the case of coverage provided by an  
6 applicable entity that is any governmental unit or any agency or instrumentality thereof, the  
7 officer or employee who enters into the agreement to provide such coverage (or the person  
8 appropriately designated for purposes of this section) shall be responsible for the returns and  
9 statements required by this section.

10 (2) Delegation. An applicable entity may contract with third-party service providers,  
11 including insurance carriers, to provide the returns and statements required by this section.

12 SECTION 4. Chapter 42-157 of the General Laws entitled "Rhode Island Health Benefit  
13 Exchange" is hereby amended by adding thereto the following sections:

14 **42-157-11. Exemptions from the shared responsibility payment penalty.**

15 (a) Establishment of program. The exchange shall establish a program for determining  
16 whether to grant a certification that an individual is entitled to an exemption from the shared  
17 responsibility payment penalty set forth in § 44-30-101(c) by reason of religious conscience or  
18 hardship.

19 (b) Eligibility determinations. The exchange shall make determinations as to whether to  
20 grant a certification described in subsection (a) of this section. The exchange shall notify the  
21 individual and the tax administrator for the department of revenue of any such determination in  
22 such a time and manner as the exchange, in consultation with the tax administrator, shall  
23 prescribe. In notifying the tax administrator, the exchange shall adhere to the data privacy and  
24 data security standards adopted in accordance with § 44-30-101(i)(4) and 45 C.F.R. 155.260. The  
25 exchange shall only be required to notify the tax administrator to the extent that the exchange  
26 determines such disclosure is permitted under 45 C.F.R. 155.260.

27 (c) Appeals. Any person aggrieved by the exchange's determination of eligibility for an  
28 exemption under this section has the right to an appeal in accordance with the procedures  
29 contained within chapter 35 of title 42.

30 **42-157-12. Special enrollment period for qualified individuals assessed a shared**  
31 **responsibility payment penalty.**

32 (a) Definitions. The following definition shall apply for purposes of this section:

33 (1) "Special enrollment period" means a period during which a qualified individual who  
34 is assessed a penalty in accordance with § 44-30-101 may enroll in a qualified health plan through

1 the exchange outside of the annual open enrollment period.

2 (b) In the case of a qualified individual who is assessed a shared responsibility payment  
3 in accordance with § 44-30-101 and who is not enrolled in a qualified health plan, the exchange  
4 must provide a special enrollment period consistent with this section and the Federal Patient  
5 Protection and Affordable Care Act (Pub. L. 111-148), as amended by the Federal Care and  
6 Reconciliation Act of 2010 (Pub. L. 111-152), and any amendments to, or regulations or guidance  
7 issued under, those acts.

8 (c) Effective date. The exchange must ensure that coverage is effective for a qualified  
9 individual who is eligible for a special enrollment period under this section on the first day of the  
10 month after the qualified individual completes enrollment in a qualified health plan through the  
11 exchange.

12 (d) Availability and length of special enrollment period. A qualified individual has sixty  
13 (60) days from the date he or she is assessed a penalty in accordance with § 44-30-101 to  
14 complete enrollment in a qualified health plan through the exchange. The date of assessment shall  
15 be determined in accordance with § 44-30-82.

16 **42-157-13. Outreach to Rhode Island residents and individuals assessed a shared**  
17 **responsibility payment penalty.**

18 The exchange, in consultation with the office of the health insurance commissioner and  
19 the division of taxation, is authorized to engage in coordinated outreach efforts to educate Rhode  
20 Island residents about the importance of health insurance coverage, their responsibilities to  
21 maintain minimum essential coverage as defined in § 44-30-101, the penalties for failure to  
22 maintain such coverage, and information on the services available through the exchange.

23 **42-157-14. Regulatory authority.**

24 The exchange may promulgate regulations as necessary to carry out the purposes of this  
25 chapter.

26 SECTION 5. Sections 42-157.1-1, 42-157.1-5 and 42-157.1-7 of the General Laws in  
27 Chapter 42-157.1 entitled "Rhode Island Market Stability and Reinsurance Act" are hereby  
28 amended to read as follows:

29 **42-157.1-1. Short title and purpose.**

30 (a) This chapter shall be known and may be cited as the "Rhode Island Market Stability  
31 and Reinsurance Act."

32 (b) The purpose of this chapter is to authorize the director to create the Rhode Island  
33 reinsurance program to stabilize health insurance rates and premiums in the individual market and  
34 provide greater financial certainty to consumers of health insurance in this state.

1 ~~(e) Nothing in this chapter shall be construed as obligating the state to appropriate funds~~  
2 ~~or make payments to carriers.~~

3 **42-157.1-5. Establishment of program fund.**

4 (a) ~~A fund shall be~~ The health insurance market integrity fund is hereby established to  
5 provide funding for the operation and administration of the program in carrying out the purposes  
6 of the program under this chapter.

7 (b) The director is authorized to administer the fund.

8 (c) The fund shall consist of:

9 (1) Any pass-through funds received from the federal government under a waiver  
10 approved under 42 U.S.C. § 18052;

11 (2) Any funds designated by the federal government to provide reinsurance to carriers  
12 that offer individual health benefit plans in the state;

13 (3) Any funds designated by the state to provide reinsurance to carriers that offer  
14 individual health benefit plans in the state; and

15 (4) Any other money from any other source accepted for the benefit of the fund.

16 (d) ~~Nothing in this chapter shall be construed as obligating the state to appropriate funds~~  
17 ~~or make payments to carriers.~~

18 A restricted receipt account shall be established for the fund which may be used for the  
19 purposes set forth in this section and shall be exempt from the indirect cost recovery provisions of  
20 § 35-4-27.

21 (e) Monies in the fund shall be used to provide reinsurance to health insurance carriers as  
22 set forth in this chapter and its implementing regulations, and to support the personnel costs,  
23 operating costs and capital expenditures of the exchange and the division of taxation that are  
24 necessary to carry out the provisions of this chapter, §§ 44-30-101 through 44-30-102 and §§ 42-  
25 157-11 through 42-157-14.

26 (f) Any excess monies remaining in the fund, not including any monies received from the  
27 federal government pursuant to subsections (c)(1) or (c)(2) of this section and after making the  
28 payments required by subsection (f) of this section, may be used for preventative health care  
29 programs for vulnerable populations in consultation with the executive office of health and  
30 human services.

31 ~~**42-157.1-7. Program contingent on federal waiver and appropriation of state**~~  
32 ~~**funding. Program contingent on federal waiver.**~~

33 If the state innovation waiver request in § 42-157.1-6 is not approved, the director shall  
34 not implement the program or provide reinsurance payments to eligible carriers.

1 SECTION 6. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE HEALTH CARE MARKET STABILITY

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1           This act would establish a reinsurance program, in order to provide stability in the  
2 individual insurance market. It would impose a shared responsibility payment penalty for  
3 individuals who do not have health insurance coverage, with certain exceptions. This act would  
4 mirror the federal penalty, with the exception of capping the penalty at the statewide average  
5 premium for bronze level plans offered on the state's health benefits exchange. The penalty would  
6 be collected by the tax administrator and would be deposited into a restricted account titled the  
7 Health Insurance Market Integrity Fund. The funds would be used to provide reinsurance, or  
8 payments to health insurance carriers, in order to ensure that premiums do not increase  
9 drastically. Remaining funds from the penalty would be used for preventative health care  
10 programs.

11           This act would take effect upon passage.

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