

Provisions	Senate Bill 5652 (Hannon-Seward)	Governor's Program Bill 12
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Governance Model	Public authority	Public Authority
Board Composition	11 directors: 3 appointed by Governor; 2 each for the Senate and Assembly majorities; 1 each for the Senate & Assembly minorities; 2 <i>non-voting</i> ex-officio members (Superintendent of Insurance; Commissioner of Health)	7 directors, all voting: 3 ex-officio (Superintendent of Insurance, Commissioner of Health, State Medicaid Director); 1 upon recommendation of Senate President; 1 upon recommendation of Assembly Speaker; 2 appointed by the Governor
Board Chair	Nominated by the Governor from among his nominees and subject to Senate confirmation	Appointed by the Governor, from among the board members
Advisory Committee(s) to the Board	Yes. Eight Regional Advisory Committees, with six members each. Members to be appointed in equal numbers by Governor, Senate & Assembly, and to be drawn from stakeholders of the geographic region including carriers, producers, agents, employer associations, health care providers, consumers and small employers.	Yes. 18 members; 3 each on recommendation of the Senate & Assembly majorities; 1 each from the Senate & Assembly minorities. The committee shall have 7 members who shall be health insurance consumer advocates, including 2 small business consumer representatives; 5 members representing health care providers; 4 members representing the health insurance industry; 1 member each of licensed insurance producers and organized labor.
Advisory Committee Functions	Each committee shall develop recommendations for the establishment, implementation and operation of the NYS health benefit exchange including recommendations for regional variations in the operation of the exchange.	Advice and recommendations regarding the similarities and differences within each region of the state related to availability of health insurance coverage and other elements as the board and committee deem necessary.

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Exchange Staffing	CEO to be appointed by the Board subject to Senate confirmation; other employees to be appointed by the Board and compensation subject to the provisions of civil service law; senior managerial staff shall be designated to be in the exempt class of civil service and the board shall have the power to fix their salaries. Employees of state agencies may transfer to the exchange without examination and without loss of any civil service status.	Authority to appoint employees to serve as senior managerial staff, designated in the exempt class of civil service; board has authority to fix the salaries of employees; any employee of any state agency may transfer to the exchange without examination and without loss of any civil service status.
Disclosure/Rules Applied to Board Members	Nothing extraordinary beyond those found in the Public Authority Law; subject to the provisions of the public officers law	Nothing extraordinary beyond those found in the Public Authority Law; subject to the public officers law
Express Prohibitions on the Exchange	<ol style="list-style-type: none"> <li>1. the power to tax, impose fees, or assessments;</li> <li>2. issue bonds, notes or other debt obligations;</li> <li>3. exercise any additional powers, duties or functions with regard to the operation without authorization from the governor and legislature through legislation;</li> <li>4. regulate health insurers, health insurance plans or health insurance producers</li> <li>5. merge the individual and small group markets or merge the SHOP with the individual market exchange.</li> </ol>	Nothing of substance in the bill.
Functions of the Exchange	<ol style="list-style-type: none"> <li>1. Implement procedures for the certification, recertification and decertification <i>as authorized by future state legislation</i> regarding health benefit plans as qualified health plans (QHPs).</li> </ol>	<ol style="list-style-type: none"> <li>1. Make available qualified health &amp; dental plans starting 1/1/14;</li> <li>2. Rate each QHP in accordance with federal rules;</li> </ol>

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<p>Functions of the Exchange</p>	<ol style="list-style-type: none"> <li>2. Implement procedures for authorizing qualified dental plans that offer limited scope dental benefits consistent with the federal law.</li> <li>3. Operate a toll-free hotline to respond to requests for assistance;</li> <li>4. Provide for enrollment periods consistent with comparable enrollment periods in the insurance law;</li> <li>5. Maintain an internet site through which enrollees and prospective enrollees of QHPs may obtain standardized comparative information on such plans;</li> <li>6. Inform individuals of eligibility requirements for Medicaid; Child Health Plus; Family Health Plus and Healthy NY, and enroll an individual in such program to the extent required by federal law;</li> <li>7. Establish and make available an electronic calculator to determine the actual cost of coverage after application of any premium tax credit and any cost-sharing reduction;</li> <li>8. Establish a Small Business Health Options program exchange which shall provide employers the ability to select a health plan or plans through which their employees are provided coverage, or at the option of the employer, allow each employee to enroll in any plan offered through the SHOP at the level of</li> </ol>	<ol style="list-style-type: none"> <li>3. Utilize a standard format for presenting health benefit options;</li> <li>4. <i>At board's discretion</i>, standardize the benefits available through the exchange at each level of coverage specified in the ACA;</li> <li>5. Provide for enrollment periods pursuant to the federal act or insurance law, whichever is in the best interest of the individual or employer;</li> <li>6. Implement procedures for the certification, recertification and decertification of QHPs;</li> <li>7. <i>At board's discretion</i>, selectively contract for health care coverage through the exchange; in so doing shall contract with carriers to provide coverage choices that offer the optimal combination of choice, value, quality and service;</li> <li>8. Establish minimum requirements an insurer must meet to be considered for participation in the exchange and the criteria for selection QHPs;</li> <li>9. Require QHPs to offer those benefits determined by HHS to be essential health benefits and such additional benefits as are mandated by state law;</li> </ol>
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<p>Functions of the Exchange</p>	<p>coverage specified by the employer. The SHOP shall operate separate and distinct from those activities of the exchanged intended to facilitate the enrollment of individuals;</p> <p>9. Grant certification for of exemption from the individual responsibility requirement or from the penalty imposed by the federal law;</p> <p>10. Transmit to the Treasury Dept. a list of individuals granted certification or exemption from the penalty</p> <p>11. Provide to employers the name of each employee of the employer who was determined to be eligible for the premium tax credit;</p> <p>12. Permit agents and brokers to enroll qualified individuals and qualified employers in any QHP offered in the exchange and assist qualified individuals and qualified employers in applying the premium tax credits and cost sharing reductions for plans offered in the exchange, as authorized in Section 1312(e) of the federal act;</p>	<p>10. Ensure insurers offering health plans through the exchange do not charge an individual a fee or penalty for termination of coverage;</p> <p>11. Operate a toll-free hotline to respond to requests for assistance;</p> <p>12. Maintain an internet site through which enrollees and prospective enrollees of QHPs may obtain standardized comparative information on such plans and public health programs;</p> <p>13. Establish and make available electronically a calculator to determine cost of coverage after application of premium tax credits and any other cost-sharing reductions;</p> <p>14. Establish a program to award grants to entities to serve as navigators;</p> <p>15. Inform individuals of eligibility requirements for Medicaid, Child Health Plus, and other public health programs through screening of the application by the exchange;</p> <p>16. Certify individuals exempt from the individual responsibility requirements of the ACA or from the penalty imposed by the ACA;</p>
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<p>Functions of the Exchange</p>		<p>17. Transmit to the Treasury Dept. a list of individuals granted exemption from the penalty or the individual coverage responsibility requirements; individuals that have changed employers and cease coverage under a QHP during a plan year;</p> <p>18. Provide to employers the name of each employee of the employer who ceases coverage under a QHP;</p> <p>19. Operate a Small Business Health Options Programs through which qualified employers access coverage for their employees and may provide premium aggregation and other related services to minimize administrative burdens for qualified employers and permit qualified employers to specify a level of coverage so employees may enroll in any QHP offered through the SHOP at the specified level of coverage, or unless prohibited by the federal act, provide a specific amount to be used as part of an employee choice plan.</p> <p>20. Enter into agreements as necessary with federal and state agencies and other state exchanges to carry out its responsibilities;</p> <p>21. Carry out federally mandated functions related to eligibility for premium tax credits, reduced cost-sharing, or individual responsibility requirement exemptions;</p>
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Functions of the Exchange		<p>22. Consult with the Advisory Committee; stakeholders including health care consumers, facilitated enrollers; representatives of small businesses and self-employed individuals; state Medicaid offices; advocates for enrolling hard to reach populations; health care providers; and insurers.</p>
Special Functions Related to Health Plan Certification and QHP Oversight	Nothing of substance in the bill.	<p>Insurers must be:</p> <ol style="list-style-type: none"> <li>1. licensed by the superintendent or commissioner of health;</li> <li>2. offer at least one QHP in each of the silver and gold levels; however the exchange may required additional benefit levels to be offered by all insurers participating in the exchange;</li> <li>3. filed and received approval of premium rates with the Insurance Department;</li> <li>4. not charge any cancellation fees or penalties;</li> </ol> <p>Plans must provide the essential health benefits package, exchange they shall not be required to provided essential benefits that duplicate the minimum benefits of qualified dental plans if the exchange has determined tat hat least one qualified dental plan is available to supplement the health plan's coverage and that information is prominently disclosed.</p>

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Special Functions Related to Health Plan Certification and QHP Oversight		<p>The exchange cannot exclude a health plan on the basis that it is fee for service; or the imposition of premium price controls or on the basis that the health plan provides treatments necessary to prevent patient's deaths in circumstances the exchange determines are inappropriate or too costly.</p> <p>The exchange shall require each insurer seeking certification of a plan as a QHP to submit a justification for any premium increase to the exchange prior to implementation of such increase; make available to the public accurate and timely disclosure of claims payment policies and practices; periodic financial disclosures; data on enrollment and disenrollment; data on claims denied; data on rating practices; cost sharing and payments with respect to any out of network coverage.</p>
Funding for the Exchange	<p>Authorized to receive funds, grants, gifts; separate accounts must be established and prohibition on any funds being swept into the state's general fund. Express prohibition on use of funds for staff retreats, promotional giveaways, excessive executive compensation.</p> <p>Exchange shall publish on its website the fees and other payments required by the exchange and the administrative costs of the exchange.</p>	<p>Authorized to receive funds, grants, gifts; separate accounts must be established and prohibition on any funds being swept into the state's general fund. Express prohibition on use of funds for staff retreats, promotional giveaways, excessive executive compensation.</p> <p>Exchange shall publish on its website the fees and other payments required by the exchange and the administrative costs of the exchange.</p>

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Studies/Reports to be Conducted	<p>To be submitted to the Governor and Legislature before January 1, 2012, recommendations on the following:</p> <ol style="list-style-type: none"> <li>1. establishment of a basic health plan;</li> <li>2. how to establish separate individual health insurance market and small employer health insurance market within the exchange;</li> <li>3. advantages and disadvantages of revising the definition of "small employer" from not more than 50 employees to not more than one hundred employees based on actuarial analyses of projected impacts on premium rates;</li> <li>4. evaluation of requiring QHPs to provide the essential health benefits package, along with specific sets of including state mandated benefits and recommendations as to how to finance the costs of such additional benefits;</li> <li>5. value of allowing large employers to participate in the exchange beginning in 2017;</li> <li>6. whether health savings accounts should be offered in the exchange;</li> <li>7. the efficacy of merging the individual and small employer health insurance markets and the subsequent effect on premium rates on both groups;</li> <li>8. a process to determine each QHP's level of coverage;</li> </ol>	<p>To be submitted to the Governor and Legislature before January 1, 2012, recommendations on the following:</p> <ol style="list-style-type: none"> <li>1. Whether the essential health benefits required to be included in policies should be sold to similarly situated individuals and groups purchasing coverage outside the exchange;</li> <li>2. Whether any benefits required under the insurance law that are not identified as essential health benefits should no longer be required in policies or contracts sold either through the exchange or to similarly situated individuals and groups outside the exchange;</li> <li>3. The costs of extending any benefits required under the insurance law to policies and contracts sold through the exchange;</li> <li>4. Mechanisms to finance any costs of extending any benefits required under state law not required under federal law to policies and contracts sold through the exchange.</li> </ol> <p>With these studies the exchange shall consider the individual and small group markets outside of the exchange and consider approaches to prevent marketplace disruption, remain consistent with the exchange and avoid anti-selection.</p>
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Studies/Reports to be Conducted	<ol style="list-style-type: none"> <li>9. steps to implement the assignment of a rating to each QHP offered through the exchange;</li> <li>10. recommendations on how to avoid duplicative oversight functions with other state and local entities;</li> <li>11. role of the exchange as it relates to public health programs including Medicaid, Child Health Plus; Family Health Plus; and Healthy NY;</li> <li>12. advantages and disadvantages of the exchange to serve as an active purchaser, selective contractor or clearinghouse of insurance products;</li> <li>13. risk adjustment methodologies to meet the requirements of the federal act;</li> <li>14. a plan to award navigator grants and an analysis of the requirements for serving as a navigator;</li> <li>15. ways to ensure the exchange is financially self-sustaining by 2015;</li> <li>16. ways to conform the definitions of medical loss ratio in a manner consistent with the federal law;</li> <li>17. analysis of regional variations in the operation of the exchange;</li> <li>18. certifying insurance plans operating within the exchange.</li> </ol>	<p>To be submitted to the Governor and Legislature before July 1, 2012, recommendations on the following:</p> <ol style="list-style-type: none"> <li>1. Whether insurers participating in the exchange should be required to offer all health plans sold in the exchange to individuals or small groups purchasing coverage outside of the exchange;</li> <li>2. Whether the individual and small group markets should be placed entirely inside the exchange;</li> <li>3. Whether the benefits in the individual and small group markets should be standardized both inside and outside the exchange;</li> <li>4. How to develop and implement the transitional reinsurance program for the individual market and other risk adjustment mechanisms developed in accordance with federal law;</li> <li>5. Whether to merge the individual and small group health insurance markets for rating purposes including an analysis of the impact such merger would have on premiums;</li> <li>6. Whether to increase the size of small employers from 2-50 to 2- 100 prior to January 1, 2016;</li> </ol>

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Studies/Reports to be Conducted	The Exchange shall have no authority to implement recommendations on these issues without further statutory authority.	<ol style="list-style-type: none"> <li>7. How to account for sole proprietors in defining "small employers";</li> <li>8. Whether to revise the definition of "small employer" outside the exchange to be consistent with the definition as it applies within the exchange;</li> <li>9. Whether the state should establish a basic health plan program;</li> <li>10. Options to generate funding for the ongoing operation and self-sufficiency of the exchange including but not limited to assessments upon insurers and providers.</li> <li>11. The benchmark benefits identified by HHS and of the benefits required under the public health law that are not determined by HHS to be benchmark benefits and the costs of extending any benefits to newly Medicaid-eligible individuals through the exchange;</li> <li>12. The impact of the exchange on the Health NY program and Family Health Plus;</li> <li>13. The role of licensed health insurance producers within the exchange;</li> <li>14. The extent to which health savings accounts should be offered through the exchange;</li> </ol>
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Studies/Reports to be Conducted		The Exchange shall have no authority to implement any recommendation on these issues without further statutory authority.
Procurement	IT contracts resulting in a sole technology platform under the amount of \$1 million shall be exempt from competitive bidding; IT contracts in excess of \$1 million shall be exempt from competitive bids or RFPs however the exchange shall make available for a period of not less than 60 days a description of the proposed services; criteria for selection of a contractor(s); the period of time during which the prospective contractors may seek selection; and the manner by which a prospective contractor may seek such selection. The exchange shall select that contractor which best meets it needs.	Nothing of substance in the bill addressing this area.