

## Amendment No. 322

Senate Amendment to Senate Bill No. 454

(BDR 57-1167)

**Proposed by:** Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

WLK/MSM



Date: 4/17/2013

S.B. No. 454—Makes various changes relating to the Silver State Health Insurance Exchange. (BDR 57-1167)



SENATE BILL NO. 454—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 25, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes relating to the Silver State Health Insurance Exchange. (BDR 57-1167)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Silver State Health Insurance Exchange; creating the Silver State Health Insurance Exchange Account in the State General Fund; requiring money received by the Exchange and the Executive Director of the Exchange to be deposited in the Account and not to revert to the State General Fund; authorizing insurers to deduct certain fees from certain ~~premiums~~ premium written and ~~compensation~~ consideration received by the insurers before paying the premium tax on the ~~premiums~~ premium and ~~compensation~~ consideration; authorizing the Exchange to offer ~~supplemental~~ certain coverage ~~under~~ , services, contracts ~~for~~ and policies ; relating to qualified health plans or other employer benefits; revising requirements relating to the members of the Board of Directors of the Exchange and the duties of the Board; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

In 2011, the Legislature created the Silver State Health Insurance Exchange to provide services relating to the purchase and sale of health insurance by residents and certain employers in this State. (Chapter 695I of NRS) The Exchange is required to create and administer a state-based health insurance exchange, facilitate the purchase and sale of qualified health plans, provide for the establishment of a program to help certain small employers in Nevada in facilitating the enrollment of employees in qualified health plans, and perform all other duties that are required of it pursuant to the federal Patient Protection and Affordable Care Act, the federal Health Care and Education Reconciliation Act of 2010 and any amendments to or regulations or guidance issued pursuant to those acts. (NRS 695I.210; Pub. L. No. 111-148, Pub. L. No. 111-152) **Section 2** of this bill provides for: (1) the creation of the Silver State Health Insurance Exchange Account; and (2) money received by the Exchange or the Executive Director of the Exchange to be deposited in the Account and not to revert to the State General Fund at the end of each fiscal year. **Section 4** of this bill authorizes the Exchange to offer certain contracts or policies which provide dental or vision benefits.

as well as supplemental coverage to qualified individuals under contracts or policies relating to qualified health plans or other employer benefits. Sections ~~5 and 7~~ 5 and 7 of this bill revise the requirements governing appointment to and removal from the Board of Directors of the Exchange and the requirements governing the duties of the Board.

Existing law provides for each insurer that transacts business in this State to pay a tax on his or her net direct premiums and net direct considerations. (NRS 680B.027) Sections 3 and 8 of this bill authorize insurers to deduct fees imposed by the Exchange before paying this tax on any ~~premiums~~ premium written or ~~compensation~~ consideration received by the insurers for qualified health plans offered ~~by~~ on the Exchange.

Section 9 of this bill repeals unused definitions relating to the Exchange.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 695I of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. There is hereby created in the State General Fund the Silver State Health Insurance Exchange Account, to be administered by the Executive Director. Any money received by the Exchange or the Executive Director pursuant to this chapter or any regulations adopted pursuant thereto must be deposited in the Account. The purposes of the Account are:

- (a) To ensure stability in the ongoing operations of the Exchange;
- (b) To facilitate the use by the Exchange of interest and income earned on the money in the Account to reduce fees related to qualified health plans; and
- (c) For such other purposes related to the Exchange or the operations of the Exchange as the Board determines to be necessary and appropriate.

2. The money in the Account must be invested as the money in other state accounts is invested. Claims against the Account must be paid as other claims against the State are paid.

3. Except as otherwise provided in this subsection, the Account is a continuing account, without reversion, and any money remaining in the Account at the end of the fiscal year must be carried over to the next fiscal year. Any amount advanced to the Exchange pursuant to NRS 695I.510 must be repaid as required by 695I.510.

4. Except as otherwise provided in this subsection, the interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. For the purposes of this subsection, the money in the Account does not include any amount advanced to the Exchange pursuant to NRS 695I.510.

5. The interest and income earned on the money in the Account must be used to reduce fees related to qualified health plans.

6. The Exchange may accept gifts, grants and donations from any source for deposit in the Account.

Sec. 3. 1. If an insurer ~~receives premiums~~ writes premium or ~~other compensation~~ receives consideration for qualified health plans offered ~~by~~ on the Exchange, the portion of the ~~premiums~~ premium and ~~other compensation~~ consideration which is subject to the tax imposed pursuant to NRS 680B.027 is the total amount of the ~~premiums~~ premium written and ~~other compensation~~ consideration received by the insurer, reduced by the total amount of any fees required to be paid by the insurer to the Exchange pursuant to this chapter or any regulations adopted pursuant thereto ~~++~~ for the privilege of offering qualified health plans on the Exchange.

2. If the total amount of fees described in subsection 1 is greater than the total amount of ~~premiums~~ premium and ~~other compensation~~ consideration described in subsection 1, no portion of the ~~premiums~~ premium and ~~other compensation~~ consideration described in subsection 1 is subject to the tax imposed pursuant to NRS 680B.027.

3. Except as otherwise provided in this section, the tax imposed pursuant to NRS 680B.027 applies to any premium written or ~~other compensation~~ consideration received by an insurer ~~receives~~ for a qualified health plan offered by the Exchange.

Sec. 4. NRS 695I.210 is hereby amended to read as follows:

695I.210 1. The Exchange shall:

- (a) Create and administer a state-based health insurance exchange;
- (b) Facilitate the purchase and sale of qualified health plans;
- (c) Provide for the establishment of a program to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market;
- (d) Make ~~only~~ qualified health plans available to qualified individuals and qualified small employers on or after January 1, 2014; and
- (e) Unless the Federal Act is repealed or is held to be unconstitutional or otherwise invalid or unlawful, perform all duties that are required of the Exchange to implement the requirements of the Federal Act.

2. The Exchange may:

- (a) Enter into contracts with any person, including, without limitation, a local government, a political subdivision of a local government and a governmental agency, to assist in carrying out the duties and powers of the Exchange or the Board; ~~and~~

- (b) Apply for and accept any gift, donation, bequest, grant or other source of money to carry out the duties and powers of the Exchange or the Board ~~;~~ ~~and~~

(c) Offer contracts or policies which provide dental or vision benefits to qualified individuals and qualified small employers; and

(d) Offer coverage or services through the Exchange to any qualified individual under a contract or policy which is:

(1) Supplemental to a qualified health plan; and

(2) Related to the qualified individual's qualified health plan or other benefit provided by the qualified individual's employer.

↳ Contracts or policies ~~which the Exchange may offer~~ offered through the Exchange pursuant to this paragraph ~~include, without limitation, contracts or policies providing pediatric dental benefits or vision benefits,~~ which are regulated pursuant to this title must be approved by the Commissioner.

3. The Exchange is subject to the provisions of chapter 333 of NRS.

Sec. 5. NRS 695I.300 is hereby amended to read as follows:

695I.300 1. The governing authority of the Exchange is the Board, consisting of seven voting members and three ex officio nonvoting members.

2. Subject to the provisions of subsections 3, 4 and 5:

- (a) The Governor shall appoint five voting members of the Board;
- (b) The Senate Majority Leader shall appoint one voting member of the Board; and
- (c) The Speaker of the Assembly shall appoint one voting member of the Board.

3. Each voting member of the Board must have:

- (a) Expertise in the individual or small employer health insurance market;
- (b) Expertise in health care administration, health care financing or health information technology;

(c) Expertise in the administration of health care delivery systems;  
(d) Experience as a consumer who would benefit from services provided by the Exchange; or

(e) Experience as a consumer advocate, including, without limitation, experience in consumer outreach and education for those who would benefit from services provided by the Exchange.

4. When making an appointment pursuant to subsection 2 ~~1, the~~:

*(a) The Governor shall make at least one appointment pursuant to paragraph (a) of subsection 2 in a manner so that at all times at least one voting member of the Board has the experience described in paragraph (d) or (e) of subsection 3; and*

*(b) Except as otherwise provided in paragraph (a), the Governor, the Majority Leader and the Speaker of the Assembly shall consider the collective expertise and experience of the voting members of the Board and shall attempt to make each appointment so that:*

~~(a)~~ (1) The areas of expertise and experience described in subsection 3 are collectively represented by the voting members of the Board; and

~~(b)~~ (2) The voting members of the Board represent a range and diversity of skills, knowledge, experience and geographic and stakeholder perspectives.

5. A voting member of the Board may not be a Legislator or hold any elective office in State Government.

6. While serving on the Board, a voting member may not be in any way affiliated with a health insurer, including, without limitation, being an employee of, consultant to or member of the board of directors of a health insurer, having an ownership interest in a health insurer or otherwise being a representative of a health insurer.

7. The following are ex officio nonvoting members of the Board who shall assist the voting members of the Board by providing advice and expertise:

(a) The Director of the Department of Health and Human Services, or his or her designee;

(b) The Director of the Department of Business and Industry, or his or her designee; and

(c) The Director of the Department of Administration, or his or her designee.

**Sec. 6.** ~~NRS 695I.310 is hereby amended to read as follows:~~

~~695I.310 1. After the initial terms, the term of each voting member of the Board is 3 years.~~

~~2. A voting member of the Board may be reappointed to the Board.~~

~~3. [The] Except as otherwise provided in this subsection, the appointing authority who appoints a voting member of the Board may remove that voting member if the voting member neglects his or her duty or commits misfeasance, malfeasance or nonfeasance in office. The Governor may remove and replace a voting member of the Board appointed pursuant to paragraph (a) of subsection 2 of NRS 695I.300 if necessary so that at all times at least one voting member of the Board has the experience described in paragraph (d) or (e) of subsection 3 of NRS 695I.300.~~

~~4. A vacancy on the Board in the position of a voting member must be filled in the same manner as the original appointment.~~

~~5. Upon the expiration of his or her term of office, a voting member of the Board may continue to serve until he or she is reappointed or a person is appointed as a successor.] (Deleted by amendment.)~~

**Sec. 7.** NRS 695I.370 is hereby amended to read as follows:

695I.370 1. The Board shall:

(a) Adopt bylaws setting forth its procedures and governing its operations;

(b) On or before June 30 and December 31 of each year, submit a written fiscal and operational report to the Governor and the Legislature, which must include, without limitation, any recommendations concerning the Exchange;

(c) On or before December 31 of each year, prepare a report for the public summarizing the activities of the Board and the contributions of the Exchange to the health of the residents of Nevada during the previous year;

(d) Provide for an annual audit of its functions and operations;

(e) ~~Submit~~ *Ensure that* all reports required by federal law *are submitted as required* to the appropriate federal agency and in a timely manner; and

(f) If the Federal Act is repealed or is held unconstitutional or otherwise invalid or unlawful, define by regulation “qualified health plan” for the purposes of this act.

2. The Board may:

(a) Adopt regulations to carry out the duties and powers of the Exchange;

(b) Prepare special reports concerning the Exchange for the Governor, the Legislature and the public; and

(c) Contract for the services of such legal, professional, technical and operational personnel and consultants as the execution of its duties and powers and the operation of the Exchange may require.

3. The Board is subject to Legislative and Executive Branch audits.

**Sec. 8.** NRS 680B.027 is hereby amended to read as follows:

680B.027 1. Except as otherwise provided in NRS 680B.033, 680B.0353, 680B.050 and 690C.110, *and section 3 of this act*, for the privilege of transacting business in this State, each insurer shall pay to the Department of Taxation a tax upon his or her net direct premiums and net direct considerations written at the rate of 3.5 percent.

2. The tax must be paid in the manner required by NRS 680B.030 and 680B.032.

3. The Commissioner or the Executive Director of the Department of Taxation may require at any time verified supplemental statements with reference to any matter pertinent to the proper assessment of the tax.

**Sec. 9.** NRS 695I.060 and 695I.070 are hereby repealed.

**Sec. 10.** 1. This section and section 4 of this act become effective upon passage and approval.

2. Sections 1, 2, 3 and 5 to 9, inclusive, of this act become effective on July 1, 2013.

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## TEXT OF REPEALED SECTIONS

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**695I.060 “Medical facility” defined.** “Medical facility” has the meaning ascribed to it in NRS 449.0151.

**695I.070 “Provider of health care” defined.** “Provider of health care” has the meaning ascribed to it in NRS 629.031.