

Regular Session, 2007

SENATE BILL NO. 307

BY SENATOR CASSIDY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH/ACC INSURANCE. Creates the Louisiana Health Insurance Exchange and the Office of the Louisiana Health Insurance Exchange within the Department of Insurance. (gov sig)

AN ACT

To enact Chapter 8-A of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R. S. 22:3121 through 3126, relative to heath insurance; to provide for definitions; to create the Louisiana Health Insurance Exchange; to create the Office of the Louisiana Health Insurance Exchange within the Louisiana Department of Insurance; to provide for a director of the exchange; to provide for the duties, responsibilities and goals of the director; to provide for employees of the exchange; to provide for the authority to contract; to require the preparation of a report for a comprehensive health insurance reform plan, containing recommended options for consideration by the legislature in the 2008 regular session; to provide for duties and responsibilities of the commissioner of insurance; to provide for duties and responsibilities of the state medical assistance program; to provide for the collection and analysis of state or local government financed health data; to provide for duties, responsibilities and fiscal oversight of the office by the Legislative Auditor; to provide for the promulgation of rules and regulations by the commissioner of insurance; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 8-A of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:3121 through 3126, inclusive, is hereby enacted to read as follows:

CHAPTER 8-A. LOUISIANA HEALTH INSURANCE EXCHANGE

§3121. Definitions

As used in this Chapter the following words and terms shall have the following meaning ascribed to each as follows:

(1) "Attorney general" means attorney general of the state, the state's chief legal officer, an agent or employee of the attorney general or the Department of Justice.

(2) "Auditor" or "Legislative auditor" means, the chief financial accountant officer of the state, who oversees audits of state and local governments and their related quasi-public enterprises;

(3) "Benefit" means the receipt of money, commodity, goods, service, facility, accommodation or a thing of any pecuniary value.

(4) "Cafeteria plan" means an assortment or set of choices of benefits offered by an employer from which a participating employee may select. A "cafeteria plan" permits an employee to pay for his portion of the employer health benefit plan premiums and out-of-pocket medical expenses with pre-tax dollars. A "cafeteria plan" is a written plan which meets all of the following:

(a) All participants are employees.

(b) The participant may choose among two or more benefits consisting of cash and qualified benefits.

(c) The participant is required to make elections among a list of benefits offered under the plan and are not allowed to revoke such election during the period of coverage, after the participant has elected and begun to receive benefits under the plan.

(5) "Claim" means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic or written communication utilized to identify any goods, health care service, item, facility or accommodation reimbursable by the state

1 Medicaid program, or its fiscal agent, fiscal intermediary, or the state children's
2 health insurance program, LaCHIP.

3 (6) "Client" means a past or present beneficiary or recipient of the state
4 Medicaid program, or the state children's health insurance program, LaCHIP.

5 (7) "Commissioner" means the commissioner of insurance of the state
6 of Louisiana.

7 (8) "Community health center" means an entity receiving its funding
8 under Section 330 of the Federal Health Center Consolidation Act of 1996 and
9 meets all of the requirements of 42 USC, Section 254(b).

10 (9) "Contractor" means any supplier, vendor, insurer, individual, person
11 or other legal juridical entity who, through a contract or other arrangement,
12 has received, is to receive or is receiving public funds or in-kind contributions
13 from the contracting agency as part of the state Medicaid program, the state
14 children's health insurance program, LaCHIP, and shall include any insurer,
15 third party administrator or any entity providing various services, including,
16 but not limited to, research, evaluation, study and preparation of a report for
17 the exchange.

18 (10) "Consolidated Omnibus Budget Reconciliation Act of 1985" or
19 "COBRA" means a health insurance plan which allows an employee who leaves
20 a company to continue to be covered under the company's health plan, for a
21 certain time period and under certain conditions, in order to prevent an
22 employee who is between jobs from experiencing a lapse in health insurance
23 coverage.

24 (11) "Consumer," "health care consumer" or "patient" means an
25 individual or natural person, including a donor of human blood or blood
26 components and a nursing home resident who receives or should have received
27 health care from a licensed health care provider, under contract, expressed or
28 implied. "Consumer," "health care consumer" or "patient" for the purposes
29 of this Chapter, also, means an enrollee or insured.

1 (12) "Department" means the Louisiana Department of Insurance.

2 (13) "Department of Health and Human Services" means the United
3 States Department of Health and Human Services.

4 (14) "Department of Justice" means the Louisiana Department of
5 Justice.

6 (15) "Department of Revenue" means the Louisiana Department of
7 Revenue.

8 (16) "Director" means the director of the office of the Louisiana Health
9 Insurance Exchange created within the department.

10 (17) "Employer" or "purchaser" means any sole individual or person
11 acting directly as an employer, or an agent of such an individual or person,
12 acting directly or indirectly, in the interest of an employer, a group or
13 association of employers, in relation to an employee benefit plan, including, but
14 not limited to a health benefit plan.

15 (18) "Enrollee or insured" means an individual who is enrolled or
16 insured by a health insurance issuer for health insurance coverage.

17 (19) "Fiscal agent" or "fiscal intermediary" means any corporation, firm,
18 individual, organization, partnership, professional association or other legal
19 juridical entity, which, through a contractual relationship with the state
20 receives, processes and pays claims under the state Medicaid program, or the
21 state children's health insurance program, LaCHIP, including, but not limited
22 to, the Medicaid Management Information System (MMIS).

23 (20) "Financial institution" means any bank, trust company, savings
24 bank, credit union or savings and loan association or any other financial
25 institution regulated by the state of Louisiana, any agency of the United States
26 or other state with an office in this state, which is approved by the department
27 for the purposes of R.S. 22:3125.

28 (21) "Health benefit plan" means any hospital or medical policy or group
29 certificate delivered or issued for delivery in this state by an insurer; a

1 nonprofit hospital or medical service organization; a domestic nonprofit mutual
2 association which is engaged exclusively in the furnishing of hospital service,
3 medical, or surgical benefits; a health maintenance organization; or a self-
4 insured plan that provides, on an expense-incurred basis, hospital, surgical, or
5 major medical expense insurance, or any combination of these except specified
6 disease, hospital indemnity or other limited, supplemental benefit insurance
7 policies.

8 (22) "Health care insurance reform" or "reform" means the study,
9 research, evaluation, and implementation of a variety or combination of
10 experienced based entitlements, subsidies, and health insurance innovations,
11 public or private, or both, designed to provide health insurance coverage to
12 each citizen of this state.

13 (23) "Health care professional" means an individual, other than a
14 physician licensed to practice medicine by the Louisiana State Board of Medical
15 Examiners, educated and trained to be licensed, certified or registered to
16 provide health care services or professional services.

17 (24) "Health care provider" or "provider" means an individual, person,
18 partnership, limited liability partnership, limited liability company,
19 corporation, facility, or institution or other juridical entity licensed or certified
20 by this state to provide health care or professional services as a physician,
21 hospital, nursing home, community blood center, tissue bank, dentist, registered
22 or licensed practical nurse or certified nurse assistant, offshore health service
23 provider, ambulance service under circumstances in which the provisions of
24 R.S. 40:1299.39 are not applicable, certified registered nurse anesthetist, nurse
25 midwife, licensed midwife, pharmacist, optometrist, podiatrist, chiropractor,
26 physical therapist, occupational therapist, psychologist, social worker, licensed
27 professional counselor, licensed perfusionist, or any nonprofit facility
28 considered tax-exempt under Section 501(c)(3), Internal Revenue Code,
29 pursuant to 26 U.S.C. 501(c)(3), for the diagnosis and treatment of cancer or

1 cancer-related diseases, whether or not such a facility is required to be licensed
2 by this state, or any professional corporation a health care provider is
3 authorized to form under the provisions of Title 12 of the Louisiana Revised
4 Statutes of 1950, or any partnership, limited liability partnership, limited
5 liability company, management company, or corporation or other juridical
6 entity whose business is conducted principally by health care providers, or an
7 officer, employee, partner, member, shareholder, or agent thereof acting in the
8 course and scope of his employment; "Health care provider" or "provider" for
9 the purposes of this Chapter also means an individual who has applied to
10 participate in, who currently participates in, who has previously participated
11 in, who attempts or has attempted to participate in the state Medicaid program,
12 or the state children's health insurance program, LaCHIP by providing health
13 care services, items, facilities or accommodations in the exchange.

14 (25) "Health care reform option" or "options" means the range of
15 diverse methods or means, including, but not limited to, access, availability,
16 subsidies, grants, interest free loans, tax credits, vouchers, health insurance
17 premium assistance or other programs, to assist and support an individual, a
18 family, person, business, state or local government, association or any other
19 juridical entity obtain and retain affordable, appropriate and portable health
20 insurance coverage for such an individual, family member, employee, or agent.

21 (26) "Health care reform plan" or "reform plan" means the
22 recommendations for enactment or implementation by rule or regulation
23 submitted in the report prepared by the director required by the provisions of
24 R.S. 22:3123(A).

25 (27) "Health care safety net" or "safety net" means services, items,
26 supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a
27 health condition, illness, injury, or disease.

28 (28) "Health insurance" or "insurance" means any hospital or medical
29 service policy or certificate, hospital or medical service plan contract, preferred

1 provider organization agreement, or health maintenance organization contract
2 offered by a health insurance issuer, including but not limited to, a hospital and
3 medical expense incurred policy, nonprofit service plan corporation contract,
4 and coverage provided by a health maintenance organization, individual
5 practice, association, the state office of group benefits, and other similar entity
6 and self-insurer.

7 (29) "Health insurance coverage" or "coverage" means benefits
8 consisting of health care services provided directly, through insurance or
9 reimbursement, or otherwise and including items and services paid for as health
10 care services under any hospital or medical service policy or certificate, hospital
11 or medical service plan contract, preferred provider organization agreement,
12 or health maintenance organization contract offered by a health insurance
13 issuer. However, "health insurance coverage" or "coverage" shall not include
14 benefits due under Chapter 10 of Title 23 of the Louisiana Revised Statutes of
15 1950 or limited benefit and supplemental health insurance policies, benefits
16 provided under a separate policy, certificate, or contract of insurance for
17 accidents, disability income, limited scope dental or vision benefits, or benefits
18 for long-term care, nursing home care, home health care, or specific diseases or
19 illnesses.

20 (30) "Health insurance issuer," "issuer" or "insurer" means any insurer
21 who offers health insurance coverage through a plan, policy, or certificate of
22 insurance subject to state law that regulates the business of insurance. A "health
23 insurance issuer" or "issuer" shall also include a health maintenance
24 organization, as defined and licensed pursuant to Part XII of Chapter 2 of this
25 Title, and shall include the office of group benefits.

26 (31) "Loan transaction" means a transaction with a financial institution
27 or the Louisiana Public Finance Authority provide capital financing for the
28 renovation, construction, acquisition, modernization, improvement or
29 equipping of a primary care safety net clinic.

1 **(32) "Louisiana Health Care Redesign Collaborative" means the entity**
2 **created by enactment of House Concurrent Resolution 127 of the 2006 regular**
3 **session to recommend a practical blueprint for a health care system for the**
4 **greater New Orleans region, driven by quality and incorporating evidence-**
5 **based and accepted standards of care, which shall, also, be a manual for the**
6 **state's overall health care policy and systems development. The "Louisiana**
7 **Health Care Redesign Collaborative," also, guides health care recovery and**
8 **redesign as an advisory body to the secretary for the development,**
9 **recommendations and plans for the redesign of the Orleans region's and the**
10 **state's health care system, in general.**

11 **(33) "Louisiana Health Insurance Exchange" or "exchange" means the**
12 **health care insurance reform program administered through the Louisiana**
13 **Department of Insurance, which is a state clearinghouse to coordinate and**
14 **facilitate the recognition, identification and classification of individuals, persons**
15 **and insurers having a common interest in establishing affordable health**
16 **insurance reform. The exchange's primary responsibly is to promote and assist**
17 **such an individual, person, business, state or local government, association and**
18 **other juridical entity seeking health insurance coverage and any insurer to**
19 **negotiate and transact a suitable contract or agreement between the parties to**
20 **provide such coverage.**

21 **(34) "Medicaid program" means the state program of medical assistance**
22 **for which federal or state moneys, or any combination thereof, are expended,**
23 **or any successor federal or state, or both, health insurance program or waiver**
24 **granted thereto.**

25 **(35) "Medically needy" means an individual who lacks resources to pay**
26 **for medically necessary health care services and who meets the eligibility**
27 **criteria for qualification as a medically indigent individual established by the**
28 **secretary.**

29 **(36) "Office of the Louisiana Health Insurance Exchange," "the**

1 exchange office" or "office" means the budget unit component of the Louisiana
2 Department of Insurance, headed by a director who is responsible for the duties
3 and responsibilities of the state's health insurance reform program as described
4 by the provisions of this Chapter.

5 (37) "Person" means any agency, association, corporation, firm, limited
6 liability company, limited liability partnership, organization, partnership or
7 other juridical entity, and the agent, employee, independent contractor or
8 subcontractor, thereof.

9 (38) "Primary care safety net" or "safety net" means services, items,
10 supplies, or drugs for the diagnosis, prevention, treatment, cure, relief of a
11 health condition, illness, injury, or disease.

12 (39) "Primary care safety net clinic" means a community health center
13 or an indigent health care clinic.

14 (40) "Primary care safety net clinic capital loan program" or "capital
15 loan program" means the state financed capital lending plan to facilitate the
16 development, construction, renovation, expansion, redesign and equipping of
17 a network of primary care safety net clinics around the state for the rendering
18 of health care services to the uninsured, underinsured, medically needy or any
19 citizen of the state.

20 (41) "Recipient" means an individual receiving any health care services
21 or benefits from the state Medicaid program, or its fiscal agent, or the state
22 children's health insurance program, LaCHIP, whether or not any such
23 individual was eligible for benefits under the state Medicaid program, or the
24 state children's health insurance program, LaCHIP.

25 (42) "Secretary" means the secretary of the Louisiana Department of
26 Health and Hospitals.

27 (43) "Small employer" or "small business" means any person, firm,
28 corporation, partnership, or association actively engaged in business which, on
29 at least fifty percent of its working days during the preceding year, employed

1 not less than one nor more twenty-five eligible employees.

2 (44) "Small employer cafeteria plan development program study" or
3 "development program study" means the research, investigation, evaluation,
4 and preparation of a report on the feasibility of creation of a small employer
5 cafeteria plan development program by the exchange for the purpose of
6 encouraging and expanding utilization by a small employer of a cafeteria plan,
7 as authorized by 26 United States Code 125.

8 (45) "Small group market" means the segment of the health insurance
9 market under which individuals obtain health insurance coverage, directly or
10 through any arrangement, on behalf of themselves, and their dependents,
11 through a group health plan maintained by a small employer.

12 (46) "State children's health insurance program" means the state
13 children's health insurance program, commonly referred to as LaCHIP.

14 (47) "Third party administrator" means any individual, partnership,
15 corporation, person, or other juridical entity, except an employee of a fund or
16 plan that serves as an administrator, who directly or indirectly solicits or effects
17 coverage of, underwrites, collects charges or premiums from, or adjusts or
18 settles claims on residents of this state, or residents of another state from offices
19 in this state, in connection with health insurance coverage, or who is engaged by
20 any group self-insurance funds or plan of self-insurance providing coverage.

21 (48) "Uninsured or underinsured individuals" means a consumer or
22 patient who has insufficient income or other financial resources to either not
23 qualify for health care under any publicly financed entitlement program or who
24 cannot purchase any or has purchased an inadequate level of health insurance
25 coverage, which do not provide reimbursement for medically necessary health
26 care services, thereby, resulting in the patient's out of pocket expense exceeding
27 such an individual's ability to pay.

28 §3122. The Louisiana Health Insurance Exchange; establishment; director;
29 office; duties and responsibilities; goals

1 A.(1) The Louisiana Health Insurance Exchange is hereby established
2 within the Louisiana Department of Insurance and have the authority through
3 the commissioner to promulgate rules and regulations, relative to the operation
4 of the exchange.

5 (2) The exchange shall be a health care insurance reform program
6 administered through the Louisiana Department of Insurance, which is a state
7 clearinghouse to coordinate and facilitate the recognition, identification and
8 classification of individuals, persons and insurers having a common interest in
9 establishing affordable health insurance reform. The exchange's primary
10 responsibly is to promote and assist an individual, person, business, state or
11 local government, association and other juridical entity seeking health
12 insurance coverage and any insurer to negotiate and transact a suitable contract
13 or agreement between the parties to provide such coverage.

14 (3) The department shall hire a director to implement the duties,
15 responsibilities and goals of the exchange. The exchange shall be a separate,
16 distinct, office of the department and a specific budget entity of the department,
17 lead by the director, who shall be an unclassified civil service employee with the
18 title of deputy commissioner of insurance for the Office of the Louisiana Health
19 Insurance Exchange.

20 (4) The department shall provide the exchange with sufficient staff,
21 assistance, supplies and office space to accomplish its duties, responsibilities,
22 transact business and other obligations required by the provisions of this
23 Chapter.

24 (5) The funding for the operation of the exchange shall be from revenue
25 collected by the department.

26 B. The commissioner, or his designee, and the director shall consult with
27 the secretary for the purpose of achieving health care insurance reform in this
28 state through a range of diverse methods or means, including, but not limited
29 to, the following:

1 (1) Expand options for individuals and families to obtain portable health
2 care insurance coverage.

3 (2) Implement or expand, or both, Medicaid reform options.

4 (3) Improve the availability and provision of quality of health care
5 services.

6 (4) Eliminate waste and duplicity.

7 (5) Investigate, identify and eliminate fraud and abuse.

8 (6) Explore the use of tax credits, vouchers and health insurance
9 premium assistance.

10 (7) Develop primary and preventative health care programs, as provided
11 through the Federal Deficit Reduction Act of 2005.

12 (8) Evaluate demonstrated and verifiable successful reform experience
13 of other states.

14 C. For the purpose of any exchange recommended options for reform in
15 the state's Medicaid program, the resultant goal is for health care cost savings
16 to the state, in at least, the following ways:

17 (1) Improve health outcomes for Medicaid recipients.

18 (2) Provide Medicaid recipients with coverage options from which they
19 can chose.

20 (3) Encourage and improve utilization of primary and preventive care.

21 §3123. Duties, responsibilities and goals of the director

22 A. On or before March 1, 2008, the director shall develop and deliver to
23 the Governor, the President of the Senate, the Speaker of the House of
24 Representatives, and the Joint Committee on Health and Welfare, a proposed
25 health care reform plan for consideration and enactment by the legislature
26 during the 2008 Regular Session. This proposed plan shall be developed by the
27 director with assistance from the commissioner and secretary and its options
28 shall, at least, include the following three major elements:

29 (1) An analysis of the exchange's health care reform options, including,

1 but not limited to, the creation of various special funds in the state treasury to
2 implement and finance certain reform options and provide for the conduct of
3 various health care reform option programs and business functions of the
4 exchange.

5 (2) The recommendations and reform concepts contained in the concept
6 paper developed by the Louisiana Health Care Redesign Collaborative.

7 (3) An analysis of other pertinent initiative and policy designed to
8 increase access to affordable health insurance and, otherwise, promote the
9 health of the state's citizens.

10 B. The director shall analyze and develop the health care reform plan
11 options with the following goals:

12 (1) The availability and financing of quality health care services,
13 particularly primary and preventative health care services.

14 (2) Promotion of an equitable, seamless and sustainable health care
15 system for the health care consumer, health care provider, health insurance
16 issuer or insurer, employer, purchaser, and state and local government.

17 (3) Promote market-based health insurance solutions to encourage
18 individual fiscal and social responsibility for one's own health.

19 (4) Protect the provision of a health care safety net in the development
20 of such options.

21 (5) Facilitate the purchase of health insurance.

22 (6) Facilitate access to private sector health insurance by small
23 businesses and individuals.

24 C. The director shall identify and analyze policies designed to increase
25 portability of health insurance, increase individual ownership of health
26 insurance policies, utilize pre-tax dollars for the purchase of health insurance,
27 and to expand consumer responsibility for making health care decisions.

28 D. The director shall obtain economic and actuarial analyses by an entity
29 recognized as having specific experience and expertise in all aspects of the

1 numerous options to attain health care reform proposed as required by the
2 provisions of R.S. 22:3122. This entity shall have the responsibility to
3 accomplish the following items:

4 (1) Determine the economic impact of the proposed reform options on
5 consumers, providers, insurers, purchasers, businesses and state and local
6 government.

7 (2) The number of uninsured, underinsured or medically needy
8 individuals in the state, who have the potential to receive health insurance
9 coverage as a result of the proposed options as required by the provisions of
10 R.S. 22:3122.

11 E. The director shall investigate and identify any potential public
12 funding source for the proposed options as required by the provisions of R.S.
13 22:3122, including, but not limited to Medicaid and other federal programs,
14 specifically, including, but not limited to, possible waivers to any specific federal
15 program requirement.

16 F.(1) In collaboration with the Department of Health and Human
17 Services, the Centers for Medicare and Medicaid Services (CMS) and the
18 department, the director shall perform the following functions:

19 (a) Investigate development and availability of federal affordable choices
20 initiative funding.

21 (b) Consider waiver and funding opportunities under the Federal Deficit
22 Reduction Act of 2005.

23 (c) Consider waiver under the federal health insurance flexibility and
24 accountability demonstration initiatives to expand health care services to low
25 income populations.

26 (2) To the extent feasible, the director shall include any such appropriate
27 federal program in the proposed options as required by the provisions of this
28 Section.

29 G. The director shall analyze the potential for reinsurance and state

1 subsidies for reinsurance, as mechanisms to reduce premium volatility in the
2 small group insurance market, to increase predictability in premium trends, to
3 lower costs and to increase coverage as a component of the options proposed
4 under Subsection A of this Section.

5 H.(1) The director shall research, evaluate, study and prepare a report
6 on the feasibility of creation of a primary care safety net clinic capital loan
7 program to facilitate the development of a network of primary care safety net
8 clinics around the state, thereby implementing a primary care safety net for the
9 uninsured, underinsured, medically needy or any citizen of the state.

10 (2) The commissioner, in consultation with the director, is hereby
11 authorized to enter into a contract with a financial institution, the Louisiana
12 Public Financing Authority or any other public or private entity, including an
13 agency of the state or federal government to research, evaluate, study and
14 recommend the feasibility, if any, of the creation of a state financed capital loan
15 guarantee component of the capital loan program against risk of default for an
16 eligible primary care safety net clinic.

17 (3) Such a potential loan guarantee repayment component of the capital
18 loan program shall be paid by the state only pursuant to an appropriation of the
19 legislature, after a claim has been filed with the commissioner, investigated,
20 researched and recommended to be paid by the director and the commissioner
21 and presented to, considered by and approved by the Joint Legislative
22 Committee on the Budget.

23 I.(1) The director shall research, evaluate, study and prepare a report on
24 the feasibility of creation of a small employer cafeteria plan development
25 program.

26 (2) The purpose of this study shall be encouragement and expansion of
27 utilization by a small employer of a cafeteria plan, as authorized by 26 United
28 States Code 125.

29 (3) The commissioner, in consultation with the director, shall develop

1 and implement public information and a prospective marketing strategy to
2 ensure that any small employer in the state is aware of the cafeteria plan state
3 development study to determine the approximate level of participation by small
4 business in this state of a small employer cafeteria plan, should such a
5 development program be deemed feasible.

6 (4) The commissioner, in consultation with the director, the Louisiana
7 Department of Economic Development and the Louisiana Department of Labor,
8 may contract with a third party administrator, which has experience and
9 expertise relative to a cafeteria plan, as authorized by 26 United States Code
10 125, for the purpose of research, evaluation and preparation of this feasibility
11 study.

12 §3124. Responsibility of the Department of Insurance

13 A. In order to implement the legislative intent of this Chapter, the
14 department's professional staff shall initiate an in house study, as soon as
15 practicable, after the effective date of this Chapter, relative to the following two
16 issues:

17 (1) The impact of extending a individual consumer's post employment
18 ability to pay for his own health insurance monthly premium, commonly
19 referred to as "continuation of benefits" under the "Comprehensive Omnibus
20 Budget Reconciliation Act of 1985" (COBRA) from the current twelve month
21 period to a period of eighteen months.

22 (2) The manner and method by which health insurance can become more
23 competitive, affordable and portable.

24 B. The department shall prepare a report of its findings on these two
25 issues to the legislature during the interim between the 2007 Regular Session
26 and the 2008 Regular Session. This report shall be submitted to the Governor,
27 the Joint Committee on the Budget, the Joint Committee on Health and
28 Welfare, the Joint Committee on Insurance, the Speaker of the House of
29 Representatives, the President of the Senate, not later than March 1, 2008.

1 C.(1) In conjunction with the Department of Revenue, the department's
2 professional staff shall initiate a study and review the various options for and
3 fiscal impact of an individual tax credit, deduction, exemption, or other benefit
4 to a health care consumer, employer or purchaser for the purchase or funding
5 of any one or more of the following items:

6 (a) Major medical health insurance.

7 (b) Catastrophic health insurance.

8 (c) Long-term care insurance.

9 (d) Health savings accounts.

10 (2) This study shall also elevate the utilization and fiscal impact of a state
11 health earned income tax credit program for an uninsured, underinsured,
12 medical needy health care consumer of the state. This report shall be submitted
13 to the Governor, the President of the Senate, the Speaker of the House of
14 Representatives, the Joint Committee on the Budget, the Joint Committee on
15 Health and Welfare, the Joint Committee on Insurance, not later than January
16 1, 2008.

17 §3125. Collection and analysis of state health data

18 The exchange, through the department and secretary, shall coordinate
19 health care planning, administration, submission and analysis of health data for
20 the state with respect to the following state or local government administered
21 health programs:

22 (1) The Louisiana Program of Medical Assistance established in
23 accordance with the provisions of Title XIX of the Federal Social Security Act,
24 42 U.S.C. § 1396, et seq., and amendments thereto, commonly referred to as the
25 Medicaid program.

26 (2) The state employees group benefit plan.

27 (3) Any health insurance program administered, developed or utilized
28 by a political subdivision of the state.

29 (4) Any waiver granted, payment to, or other fiscal benefit received by

1 an individual who is medically needy, uninsured or underinsured financed by
2 either federal funds or state funds, or both, including, but not limited to, the
3 following items:

4 (a) The health benefits program for children or the children's health
5 insurance program, established in accordance with the provisions of Title XXI
6 of the Federal Social Security Act, Section 4901 of public law 105-33, 42 U.S.C. §
7 1397(aa), et seq., as amended, and developed and submitted in accordance with
8 federal guidelines, commonly referred to as LaCHIP.

9 (b) Any program of medical assistance for medically needy, financed by
10 state funds only, to the extent a state appropriation is made for such a program.

11 (c) The Medicaid program's fiscal agent or the Medicaid Management
12 Information System (MMIS).

13 (d) An authorized phased-in premium assistance plan to assist eligible
14 low income consumers with the purchase of private insurance or other benefits
15 actuarially equivalent to the Louisiana State Employees Health Benefit
16 Program, if any.

17 (e) The state preferred drug list, the drug utilization review program,
18 including oversight of the Medicaid drug utilization review board and the
19 electronic claims management system established by LRS 46:153.3(B)(3)(a).

20 (f) Specifically excluded from the requirements of this Section is any
21 other health program administered by the state or one of its political
22 subdivisions, supervised by either the secretary or a local governmental entity,
23 which is not responsible for health care insurance planning, administration and
24 data with respect to the following items:

25 (i) Mental retardation services.

26 (ii) The developmentally disabled services.

27 (iii) Any nursing home or long-term care facility.

28 (iv) Any Louisiana Health Sciences Center Health Sciences Division or
29 any other state funded health care professional teaching program.

1 (v) Any state medical school teaching program accredited by the Liaison
2 Committee on Medical Education.

3 §3126. Duties and responsibilities of the Legislative Auditor to the exchange

4 A. (1) The Legislative Auditor shall have fiscal oversight of the office of
5 the exchange. The auditor is to establish a full-time program of audit,
6 investigation and performance review to provide increased accountability,
7 integrity and oversight of any study or program within the office and to assist
8 in improving office and program operations and in deterring and identifying
9 waste, fraud and abuse and an illegal act. The auditor shall be independent and
10 free from political influence and in performing the duties of the office as
11 provided by the provisions of this Chapter and shall have the authority to
12 conduct investigations, audits, evaluations, inspections and other reviews in
13 accordance with professional standards, relating to the fields of investigation
14 and auditing in government. The auditor shall exercise independent judgment
15 in performing his duties pursuant to the provisions of this Section.

16 B. The auditor may have the authority to hire such employees in the
17 unclassified service as are necessary to provide the required fiscal oversight of
18 the exchange. The auditor may contract for the services of a certified public
19 accountant, qualified management consultant, professional auditor, or other
20 professional necessary to independently perform the duties and responsibilities
21 pursuant to this Section. Such employees shall serve at the pleasure of the
22 auditor.

23 (1) In accordance with the provisions of this Section, the duties of the
24 auditor shall be to oversee, audit, investigate and conduct periodic performance
25 reviews of the exchange in the conduct of any study or administration of any
26 program.

27 (2) The auditor shall conduct independent and ongoing evaluation of the
28 exchange, including but not limited to, the following items:

29 (a) Investigation of waste, fraud and abuse and an illegal act by the

1 exchange, including but not limited to, any agent, employee, vendor, contractor,
2 consumer, client, and health care provider.

3 (b) Audits of the exchange, including but not limited to an agent, an
4 employee, contractor, vendor and health care provider, related to ensuring
5 appropriate payment is made for the various studies, health care services or
6 other services rendered and for the recovery of an overpayment, if any.

7 (c) Investigation of waste, fraud and abuse or any illegal act committed
8 by a client of the exchange or by a consumer of health care services arranged
9 by the exchange.

10 (d) Monitor adherence to the terms of a contract between the exchange
11 and an entity with which the department has entered into, make claim
12 payments, if any.

13 (3) Upon the finding of credible evidence of waste, fraud and abuse or
14 any illegal act, the auditor shall report his findings to the attorney general.

15 (a) The auditor shall have access to all pertinent information,
16 confidential or otherwise, and to all personnel and facilities of the exchange, its
17 agents, employees, vendors, contractors and health care providers and any
18 federal, state or local governmental agency necessary to perform the duties of
19 the office as directly related to any study or program administered by the
20 exchange.

21 (b) The auditor may furnish all such information to the attorney general,
22 the Louisiana Department of Public Safety and Corrections or office of the
23 United States attorney for the middle district of Louisiana pursuant to this
24 Section. Upon receipt thereof, the attorney general, Louisiana Department of
25 Public Safety and Corrections or office of the United States attorney for the
26 middle district of Louisiana and all assistants and all other employees and
27 former employees of such offices shall be subject to the same duty of
28 confidentiality, with the exception of any such information may be disclosed in
29 criminal or other proceedings, which may be instituted and prosecuted by the

1 attorney general or the United States attorney for the middle district of
2 Louisiana, and any such information furnished to the attorney general, the
3 Louisiana Department of Public Safety and Corrections or the United States
4 attorney for the middle district of Louisiana, pursuant to this Section may be
5 entered into evidence in any such proceeding.

6 (c) The auditor shall make provisions to solicit and receive reports of
7 waste, fraud and abuse, and any illegal act in any program administered by the
8 exchange from any individual or person, who possesses such information.

9 (d) The auditor shall not disclose or make public the identity of any
10 individual or person, who provides such a report pursuant to this Section,
11 unless such individual or person consents, in writing, to the disclosure of such
12 individual's or person's identity. Disclosure of the identity of any individual or
13 person who makes a report, pursuant to this Section shall not be ordered as part
14 of any administrative or judicial proceeding.

15 (e) Any information received by the auditor from any individual or
16 person concerning waste, fraud and abuse or any illegal act in a program
17 administered by the exchange shall be confidential and shall not be disclosed or
18 made public, upon subpoena or otherwise, except such information may be
19 disclosed pursuant to any one of the following circumstances:

20 (i) Release of the information would not result in the identification of the
21 individual or person who provided the information.

22 (ii) The individual or person who provided the information to be
23 disclosed consents, in writing, prior to its public disclosure.

24 (iii) The disclosure is necessary to protect the public health.

25 (iv) The information to be disclosed is required in an administrative
26 proceeding or court proceeding and appropriate provision has been made to
27 allow disclosure of the information without disclosing to the public the identity
28 of the individual or person who reported such information to the auditor.

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
4 effective on the day following such approval.

The form of the original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

Proposed law creates the Louisiana Health Insurance Exchange in the Department of Insurance. Provides for the powers, duties, functions, responsibilities, and obligations of the Exchange.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R. S. 22:3121-3126)