State Corporation Commission
2021 Fiscal Impact Statement

1. **Bill Number:** HB2332

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Sickles

3. **Committee:** Labor and Commerce

4. **Title:** Commonwealth Health Reinsurance Program.

5. **Summary:** Requires the State Corporation Commission to establish, upon approval of a state innovation waiver request pursuant to § 1332 of the Affordable Care Act, a reinsurance program, known as the Commonwealth Health Reinsurance Program (the Program). The purpose of the Program is to stabilize premiums for health benefit plans in the individual market by providing greater affordability for consumers of health insurance in the Commonwealth. The bill provides that the Program is funded through federal funding provided under the state innovation waiver and state appropriations. The bill provides requirements for calculating payments, requesting payments, data submissions, recordkeeping, reporting, and audits of health carriers. The bill requires the Secretary of Health and Human Resources to convene a work group to develop recommendations for developing a state-based subsidy program to increase affordability of health plans to individuals and to increase enrollment in the Virginia Health Benefit Exchange. The provisions of the bill, other than the requirements that the Commissioner of Insurance apply for the state innovation waiver and the Secretary convene a work group, will become effective 30 days after notice of approval of the waiver request.

6. **Budget Amendment Necessary**: Yes. See Item 7, Item 8 and Item 11.

7. **Fiscal Impact Estimates are not yet available.** However, SCC staff estimates, with a premium reduction of 20%, a revenue loss of ($10 million) to ($15 million) annually in assessment fees for the Health Benefit Exchange (Exchange). Please see Item 8.

8. **Fiscal Implications:** Based on data provided by the Centers for Medicare and Medicaid Services (CMS), SCC staff estimates, with a premium reduction of 20%, a revenue loss of ($10 million) to ($15 million) annually in assessment fees for the Health Benefit Exchange (Exchange). This estimate is based upon data provided by CMS as to Virginia plan selections through December 21, 2020, with the assumption that future rate changes, enrollment, and carrier participation will remain steady. This estimate does not reflect any impact of the recently announced special enrollment period, which is to occur from February 15-May 15, 2021. Updated enrollment information for Virginia from that special enrollment period should be provided around August 1, 2021. Assessment fees are expected to decrease in an amount comparable to the percentage decrease in premiums.

   The newly established Exchange is preparing to issue requests for proposals (RFPs) to procure an extensive technology platform and customer assistance center to support the

Exchange. The RFP process and award will need to be completed before the Commission can determine more precisely to what extent the introduction of this program affects the Exchange, as anticipated substantial design, development, and implementation costs could affect the Exchange's financial viability.

An alternative source of funding that is not addressed in the bill or Chapter 65 of Title 38.2 of the Code of Virginia may be required to ensure that the Exchange is fully funded. It is also possible that the Commission may need to consider exceeding the 3% assessment cap as contemplated by subsection C of § 38.2-6510.

9. **Specific Agency or Political Subdivisions Affected:** State Corporation Commission's Bureau of Insurance (Bureau) and Health Benefit Exchange (Exchange)

10. **Technical Amendment Necessary:** The Commission recommended to the patron that on Lines 110-112, the sentence "Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner or his designee." be deleted since it is not applicable to a non-general fund agency like the SCC.

11. **Other Comments:** The Commission also offered the following comments to the patron of House Bill 2332:

    - The appropriations for the reinsurance program must be set at a level that covers the administrative expenses incurred by the Bureau of Insurance for running the program and the claim payments. Sufficient funding for the program overall, discussed in the next bullet, also needs to be addressed.

    - There is the potential that claims eligible for reinsurance payment could exceed the funding for the program, but no resource is identified to cover a shortfall. The Commission recommends that language be added to address how shortfalls will be handled if funding is exceeded. For example:

        - The Commission could be given the authority to adjust the parameters to meet the state spending target;
        - The Commission could be given the authority to make payments proportionately with claim costs if there are insufficient funds to make payment in full.

    - A $40 million general fund Budget amendment has been introduced in HB1800. If this Budget Amendment is to be used to address potential shortfalls for the reinsurance program, this fact should be addressed in the language of House Bill 2332.

- Although the risk of a funding shortfall could be offset to some degree by additional consumers joining the Exchange because of lower premiums, there is a significant amount of uncertainty over the degree to which premium reductions of any size impact consumer behavior.

- House Bill 2332 currently limits the carriers who may request reinsurance payments to carriers on the Exchange for Exchange enrollees only. The Commission recommends allowing reinsurance payments for all health plans, subject to the Affordable Care Act (ACA), to include off-Exchange plans. The patron was advised that the Centers for Medicare & Medicaid Services (CMS) may not allow applicability of reinsurance payments to apply to coverage for Exchange enrollees only. The single risk pool requirement of the ACA requires carriers to spread the impact of the reinsurance program across the premium for all their policies, both on and off exchange. According to the provisions of House Bill 2332, the recoveries would be paid only to on-exchange plans; the insurance carrier, however, would need to spread those recoveries across their entire individual ACA pool so that both their on- and off-exchange rates would be reduced rather than just on-exchange rates. As a result, the reduction would be less when spread across their entire block than if it were spread across just on-exchange plans.

House Bill 2332 was reported from House Labor & Commerce Committee and referred to the Committee on Appropriations by a vote of 17 to 5. It has been assigned to the Health and Human Resources Subcommittee.

Commission staff understands from discussions with the patron of House Bill 2332 that he will offer an amendment in the nature of a substitute to the bill after discussions with stakeholders.

Date: 01/29/21/V. Tompkins