

Department of Planning and Budget 2020 Fiscal Impact Statement

1. **Bill Number:** HB 1428

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

2. **Patron:** Sickles

3. **Committee:** Labor and Commerce

4. **Title:** Virginia Health Benefit Exchange; created

5. **Summary:** The proposed legislation creates the Virginia Health Benefit Exchange, which will be established and operated by a new division within the State Corporation Commission (SCC). The Exchange shall facilitate the purchase and sale of qualified health plans and qualified dental plans to qualified individuals and qualified employers. The Exchange shall make qualified plans available to qualified individuals and qualified employers by July 1, 2023, unless the SCC postpones this date. The measure authorizes the SCC to review and approve accident and sickness insurance premium rates applicable to health benefit plans in the individual and small group markets and health benefit plans providing health insurance coverage in the individual market through certain non-employer group plans. The Exchange will be funded by assessments on health insurers. A health plan will not be required to cover any state-mandated health benefit if federal law does not require it to be covered as part of the essential benefits package. The essential health benefits are items and services included in the benchmark health insurance plan, which is the largest plan in the largest product in the Commonwealth's small group market as supplemented in order to provide coverage for the items and services within the statutory essential health benefits categories. The SCC may contract with other eligible entities and enter into memoranda of understanding with other agencies of the Commonwealth to carry out any of the functions of the Exchange, including agreements with other states or federal agencies to perform joint administrative functions. Such contracts are not subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The measure repeals a provision enacted in 2013 that prohibits an agent, employee, officer, or agency of the Commonwealth from taking any action to establish a health benefit exchange.

The measure requires the Department of Taxation to include on the appropriate individual tax return forms a checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, (i) is an uninsured individual at the time the return is filed and (ii) consents to the Department of Taxation providing the individual's tax information to the Department of Medical Assistance Services for purposes of determining the uninsured individual's or spouse's eligibility for medical assistance. Finally, the measure requires the Secretary of Health and Human Resources to convene a work group that includes representatives from the SCC, the Department of Medical Assistance Services, the Department of Social Services, and the Department of Taxation to develop systems, policies, and practices to leverage state income tax returns to facilitate the

enrollment of eligible individuals in insurance affordability programs through the Virginia Health Benefit Exchange established in this measure. The Secretary shall report the work group's recommendations to the Governor and the General Assembly by September 15, 2020.

The provisions of the bill expire upon any ruling by the Supreme Court of the United States declaring unconstitutional, or action by the President or Congress that repeals or defunds, the provisions of the Patient Protection and Affordable Care Act in a manner that renders it impossible to perform the duties integral to the Virginia Health Benefit Exchange.

6. **Budget Amendment Necessary:** See Item 8
7. **Fiscal Impact is Indeterminate:** See Item 8
8. **Fiscal Implications:** The following discusses the potential impact on the Department of Medical Assistance Services (DMAS). A separate statement prepared by the State Corporation Commission (SCC) reflects a similar discussion of the SCC impact.

The bill requires the Department of Taxation (TAX) to give individuals filing Virginia state tax returns the opportunity to have their tax information provided to the DMAS for purposes of determining the uninsured individual's or spouse's eligibility for medical assistance. In addition, DMAS must coordinate the operations of the state exchange with the operations of the state plan for medical assistance to determine initial and ongoing eligibility for those programs in a streamlined fashion.

The fiscal impact of this legislation cannot be determined as the timing and method of implementation is currently unknown; however, it is unlikely that any costs would be incurred in the 2020-2022 biennium since the state exchange is not required to be operational until January 1, 2023, based on current proposals. In addition, DMAS indicates that the bill's provision to utilize currently collected tax information to enroll individuals into Medicaid cannot be implemented without federal approval. DMAS assumes that the agency would need to obtain a state plan amendment to be able to accept tax filing data for the purposes of determining Medicaid eligibility. Further, DMAS may need to work with TAX to collect additional information during the tax filing process in order to properly determine eligibility and enroll individuals into Medicaid.

While a specific impact cannot be determined, the following discussion is intended to provide information on some potential costs that may be incurred if the bill's provisions are implemented. DMAS estimates that there may be costs associated with modifications to the current Medicaid Management Information System (MMIS), the upcoming Medicaid Enterprise System (MES), as well as the Department of Social Services' (DSS) Virginia Case Management System (VaCMS). DMAS typically has estimated systems changes at approximately \$1.0 million (\$250,000 general fund based on the normal 25 percent state share); however, until the changes are scoped, a more specific estimate and a definitive state share cannot be provided, as costs ultimately would be based on the complexity of the modifications.

The bill requires that TAX must include a mechanism for individuals to request that their tax information be provided to DMAS for the purposes of determining eligibility for medical assistance. DMAS may be able to meet the bill's requirements to use this information for determining eligibility in a number of ways. The method implemented would largely depend on workgroup recommendations, federal allowances and available technology. DMAS currently contracts with a private vendor to perform Medicaid eligibility determinations.

The current eligibility contract is volume-based and assumes that 82,500 applications would be processed each year at an annual cost of \$13.2 million total funds, which equates to approximately \$160 per application. Should future determinations be similarly performed, DMAS may have to modify its eligibility contract to reflect the increased application volume. The number of individuals who ultimately choose to have their tax data used to determine their medical assistance eligibility cannot be determined. While TAX reports that in calendar year 2019, 5.6 million individual tax returns were filed in Virginia, it is assumed that most individuals would not seek this new determination option as they likely already would have health insurance or would use an alternate method of application (such as CommonHelp or the Marketplace). Again, since the total number of individuals opting to request a determination is unknown, no specific estimate can be generated. However, using current contract costs and available tax data, for every one percent of Virginia tax filers who request a Medicaid determination, DMAS eligibility contract costs could increase by \$9.1 million, total funds, annually. It is assumed that these additional eligibility determination costs would be partially matched with federal dollars.

Finally, it is assumed that all positive eligibility determinations would increase Medicaid program costs as well as case management costs at local departments of social services. The proposed legislation does not alter Medicaid eligibility requirements and anyone enrolled through this process already would be eligible under the current program's criteria. There is no way to determine, or estimate, the number of individuals who might be enrolled through this process or the mix between base Medicaid and Medicaid expansion. As such, fiscal impact are indeterminate at this time.

DMAS does not anticipate any fiscal impact for participation in the advisory committee and workgroup.

9. Specific Agency or Political Subdivisions Affected:

State Corporation Commission
Department of Medical Assistance Services
Department of Taxation

10. Technical Amendment Necessary: No

11. Other Comments: None