

AMENDED IN SENATE APRIL 21, 2014

**SENATE BILL**

**No. 974**

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**Introduced by Senator Anderson  
(Coauthor: Senator Torres)**

February 11, 2014

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An act to ~~add Section 100509 to~~ *amend Section 100503 of the Government Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Anderson. California Health Benefit ~~Exchange:~~ *Exchange:* ~~confidentiality of personal information.~~ *Exchange.*

*Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect January 1, 2014. Among other things, PPACA requires each health insurance issuer that offers health insurance coverage in the individual or group market in a state to accept every employer and individual in the state that applies for that coverage and to renew that coverage at the option of the plan sponsor or the individual. PPACA also requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, as specified.*

*Existing law establishes the California Health Benefit Exchange within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers. Existing law requires the board, among other things, to determine the criteria and process for eligibility,*

*enrollment, and disenrollment of enrollees and potential enrollees in the Exchange and coordinate that process with state and local government entities administering other specified health care coverage programs, as specified.*

*This bill would additionally require the board to allow an applicant to indicate in his or her application for a qualified health plan whether or not he or she would like assistance with completing the application from an Exchange certified insurance agent or certified enrollment counselor. The bill would also prohibit the Exchange from disclosing information to a certified insurance agent or certified enrollment counselor if the applicant indicates that he or she does not want assistance from an Exchange certified insurance agent or certified enrollment counselor.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to establish an American Health Benefit Exchange by January 1, 2014, that makes available qualified health plans to qualified individuals and small employers. PPACA prohibits an Exchange from using or disclosing the personally identifiable information it creates or collects other than to the extent necessary to carry out specified functions. Existing law also requires an Exchange to establish and implement privacy and security standards that are consistent with specified principles and to require the same or more stringent privacy and security standards as a condition of contract or agreement with individuals or entities. A person who knowingly and willfully uses or discloses information in violation of PPACA is subject to a civil penalty of no more than \$25,000 per person or entity, per use or disclosure, in addition to any other penalties prescribed by law.~~

~~Existing state law establishes the California Health Benefit Exchange within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014. Existing law requires the board to employ necessary staff and authorizes the board to enter into contracts. Under existing law, the board of the Exchange is required to submit fingerprint images to the Department of Justice for all employees, prospective employees, contractors, subcontractors, volunteers, or vendors of the Exchange whose duties include access to specified~~

~~personal information for the purposes of obtaining state or federal conviction records, as specified.~~

~~This bill would prohibit the Exchange, or any of its employees, agents, subcontractors, representatives, or partners from disclosing an individual's personal information, as defined, to any other person or entity without explicit permission from the individual. The bill would also require the Exchange to report a disclosure of personal information in violation of these provisions to the individuals affected and to the appropriate policy committees of the Legislature within 5 business days of the date the disclosure is discovered.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 100503 of the Government Code, as  
2     amended by Section 4 of Chapter 5 of the First Extraordinary  
3     Session of the Statutes of 2013, is amended to read:

4     100503. In addition to meeting the minimum requirements of  
5     Section 1311 of the federal act, the board shall do all of the  
6     following:

7     (a) (1) Determine the criteria and process for eligibility,  
8     enrollment, and disenrollment of enrollees and potential enrollees  
9     in the Exchange and coordinate that process with the state and  
10    local government entities administering other health care coverage  
11    programs, including the State Department of Health Care Services,  
12    the Managed Risk Medical Insurance Board, and California  
13    counties, in order to ensure consistent eligibility and enrollment  
14    processes and seamless transitions between coverage.

15    (2) (A) Allow an applicant to indicate in his or her application  
16    for a qualified health plan whether or not he or she would like  
17    assistance with completing the application from an Exchange  
18    certified insurance agent or certified enrollment counselor.

19    (B) The Exchange shall not disclose information to a certified  
20    insurance agent or certified enrollment counselor if the applicant  
21    indicates that or she does not want assistance from an Exchange  
22    certified insurance agent or certified enrollment counselor.

1 (b) Develop processes to coordinate with the county entities  
2 that administer eligibility for the Medi-Cal program and the entity  
3 that determines eligibility for the Healthy Families Program,  
4 including, but not limited to, processes for case transfer, referral,  
5 and enrollment in the Exchange of individuals applying for  
6 assistance to those entities, if allowed or required by federal law.

7 (c) Determine the minimum requirements a carrier must meet  
8 to be considered for participation in the Exchange, and the  
9 standards and criteria for selecting qualified health plans to be  
10 offered through the Exchange that are in the best interests of  
11 qualified individuals and qualified small employers. The board  
12 shall consistently and uniformly apply these requirements,  
13 standards, and criteria to all carriers. In the course of selectively  
14 contracting for health care coverage offered to qualified individuals  
15 and qualified small employers through the Exchange, the board  
16 shall seek to contract with carriers so as to provide health care  
17 coverage choices that offer the optimal combination of choice,  
18 value, quality, and service.

19 (d) Provide, in each region of the state, a choice of qualified  
20 health plans at each of the five levels of coverage contained in  
21 subsections (d) and (e) of Section 1302 of the federal act.

22 (e) Require, as a condition of participation in the Exchange,  
23 carriers to fairly and affirmatively offer, market, and sell in the  
24 Exchange at least one product within each of the five levels of  
25 coverage contained in subsections (d) and (e) of Section 1302 of  
26 the federal act. The board may require carriers to offer additional  
27 products within each of those five levels of coverage. This  
28 subdivision shall not apply to a carrier that solely offers  
29 supplemental coverage in the Exchange under paragraph (10) of  
30 subdivision (a) of Section 100504.

31 (f) (1) Except as otherwise provided in this section and Section  
32 100504.5, require, as a condition of participation in the Exchange,  
33 carriers that sell any products outside the Exchange to do both of  
34 the following:

35 (A) Fairly and affirmatively offer, market, and sell all products  
36 made available to individuals in the Exchange to individuals  
37 purchasing coverage outside the Exchange.

38 (B) Fairly and affirmatively offer, market, and sell all products  
39 made available to small employers in the Exchange to small  
40 employers purchasing coverage outside the Exchange.

1 (2) For purposes of this subdivision, “product” does not include  
2 contracts entered into pursuant to Part 6.2 (commencing with  
3 Section 12693) of Division 2 of the Insurance Code between the  
4 Managed Risk Medical Insurance Board and carriers for enrolled  
5 Healthy Families beneficiaries or contracts entered into pursuant  
6 to Chapter 7 (commencing with Section 14000) of, or Chapter 8  
7 (commencing with Section 14200) of, Part 3 of Division 9 of the  
8 Welfare and Institutions Code between the State Department of  
9 Health Care Services and carriers for enrolled Medi-Cal  
10 beneficiaries. “Product” also does not include a bridge plan product  
11 offered pursuant to Section 100504.5.

12 (3) Except as required by Section 1301(a)(1)(C)(ii) of the federal  
13 act, a carrier offering a bridge plan product in the Exchange may  
14 limit the products it offers in the Exchange solely to a bridge plan  
15 product contract.

16 (g) Determine when an enrollee’s coverage commences and the  
17 extent and scope of coverage.

18 (h) Provide for the processing of applications and the enrollment  
19 and disenrollment of enrollees.

20 (i) Determine and approve cost-sharing provisions for qualified  
21 health plans.

22 (j) Establish uniform billing and payment policies for qualified  
23 health plans offered in the Exchange to ensure consistent  
24 enrollment and disenrollment activities for individuals enrolled in  
25 the Exchange.

26 (k) Undertake activities necessary to market and publicize the  
27 availability of health care coverage and federal subsidies through  
28 the Exchange. The board shall also undertake outreach and  
29 enrollment activities that seek to assist enrollees and potential  
30 enrollees with enrolling and reenrolling in the Exchange in the  
31 least burdensome manner, including populations that may  
32 experience barriers to enrollment, such as the disabled and those  
33 with limited English language proficiency.

34 (l) Select and set performance standards and compensation for  
35 navigators selected under subdivision (l) of Section 100502.

36 (m) Employ necessary staff.

37 (1) The board shall hire a chief fiscal officer, a chief operations  
38 officer, a director for the SHOP Exchange, a director of Health  
39 Plan Contracting, a chief technology and information officer, a

1 general counsel, and other key executive positions, as determined  
2 by the board, who shall be exempt from civil service.

3 (2) (A) The board shall set the salaries for the exempt positions  
4 described in paragraph (1) and subdivision (i) of Section 100500  
5 in amounts that are reasonably necessary to attract and retain  
6 individuals of superior qualifications. The salaries shall be  
7 published by the board in the board's annual budget. The board's  
8 annual budget shall be posted on the Internet Web site of the  
9 Exchange. To determine the compensation for these positions, the  
10 board shall cause to be conducted, through the use of independent  
11 outside advisors, salary surveys of both of the following:

12 (i) Other state and federal health insurance exchanges that are  
13 most comparable to the Exchange.

14 (ii) Other relevant labor pools.

15 (B) The salaries established by the board under subparagraph  
16 (A) shall not exceed the highest comparable salary for a position  
17 of that type, as determined by the surveys conducted pursuant to  
18 subparagraph (A).

19 (C) The Department of Human Resources shall review the  
20 methodology used in the surveys conducted pursuant to  
21 subparagraph (A).

22 (3) The positions described in paragraph (1) and subdivision (i)  
23 of Section 100500 shall not be subject to otherwise applicable  
24 provisions of the Government Code or the Public Contract Code  
25 and, for those purposes, the Exchange shall not be considered a  
26 state agency or public entity.

27 (n) Assess a charge on the qualified health plans offered by  
28 carriers that is reasonable and necessary to support the  
29 development, operations, and prudent cash management of the  
30 Exchange. This charge shall not affect the requirement under  
31 Section 1301 of the federal act that carriers charge the same  
32 premium rate for each qualified health plan whether offered inside  
33 or outside the Exchange.

34 (o) Authorize expenditures, as necessary, from the California  
35 Health Trust Fund to pay program expenses to administer the  
36 Exchange.

37 (p) Keep an accurate accounting of all activities, receipts, and  
38 expenditures, and annually submit to the United States Secretary  
39 of Health and Human Services a report concerning that accounting.

1 Commencing January 1, 2016, the board shall conduct an annual  
2 audit.

3 (q) (1) Annually prepare a written report on the implementation  
4 and performance of the Exchange functions during the preceding  
5 fiscal year, including, at a minimum, the manner in which funds  
6 were expended and the progress toward, and the achievement of,  
7 the requirements of this title. The report shall also include data  
8 provided by health care service plans and health insurers offering  
9 bridge plan products regarding the extent of health care provider  
10 and health facility overlap in their Medi-Cal networks as compared  
11 to the health care provider and health facility networks contracting  
12 with the plan or insurer in their bridge plan contracts. This report  
13 shall be transmitted to the Legislature and the Governor and shall  
14 be made available to the public on the Internet Web site of the  
15 Exchange. A report made to the Legislature pursuant to this  
16 subdivision shall be submitted pursuant to Section 9795.

17 (2) The Exchange shall prepare, or contract for the preparation  
18 of, an evaluation of the bridge plan program using the first three  
19 years of experience with the program. The evaluation shall be  
20 provided to the health policy and fiscal committees of the  
21 Legislature in the fourth year following federal approval of the  
22 bridge plan option. The evaluation shall include, but not be limited  
23 to, all of the following:

24 (A) The number of individuals eligible to participate in the  
25 bridge plan program each year by category of eligibility.

26 (B) The number of eligible individuals who elect a bridge plan  
27 option each year by category of eligibility.

28 (C) The average length of time, by region and statewide, that  
29 individuals remain in the bridge plan option each year by category  
30 of eligibility.

31 (D) The regions of the state with a bridge plan option, and the  
32 carriers in each region that offer a bridge plan, by year.

33 (E) The premium difference each year, by region, between the  
34 bridge plan and the first and second lowest cost plan for individuals  
35 in the Exchange who are not eligible for the bridge plan.

36 (F) The effect of the bridge plan on the premium subsidy amount  
37 for bridge plan eligible individuals each year by each region.

38 (G) Based on a survey of individuals enrolled in the bridge plan:

39 (i) Whether individuals enrolling in the bridge plan product are  
40 able to keep their existing health care providers.

1 (ii) Whether individuals would want to retain their bridge plan  
2 product, buy a different Exchange product, or decline to purchase  
3 health insurance if there was no bridge plan product available. The  
4 Exchange may include questions designed to elicit the information  
5 in this subparagraph as part of an existing survey of individuals  
6 receiving coverage in the Exchange.

7 (3) In addition to the evaluation required by paragraph (2), the  
8 Exchange shall post the items in subparagraphs (A) to (F),  
9 inclusive, on its Internet Web site each year.

10 (4) In addition to the report described in paragraph (1), the board  
11 shall be responsive to requests for additional information from the  
12 Legislature, including providing testimony and commenting on  
13 proposed state legislation or policy issues. The Legislature finds  
14 and declares that activities including, but not limited to, responding  
15 to legislative or executive inquiries, tracking and commenting on  
16 legislation and regulatory activities, and preparing reports on the  
17 implementation of this title and the performance of the Exchange,  
18 are necessary state requirements and are distinct from the  
19 promotion of legislative or regulatory modifications referred to in  
20 subdivision (d) of Section 100520.

21 (r) Maintain enrollment and expenditures to ensure that  
22 expenditures do not exceed the amount of revenue in the fund, and  
23 if sufficient revenue is not available to pay estimated expenditures,  
24 institute appropriate measures to ensure fiscal solvency.

25 (s) Exercise all powers reasonably necessary to carry out and  
26 comply with the duties, responsibilities, and requirements of this  
27 act and the federal act.

28 (t) Consult with stakeholders relevant to carrying out the  
29 activities under this title, including, but not limited to, all of the  
30 following:

31 (1) Health care consumers who are enrolled in health plans.

32 (2) Individuals and entities with experience in facilitating  
33 enrollment in health plans.

34 (3) Representatives of small businesses and self-employed  
35 individuals.

36 (4) The State Medi-Cal Director.

37 (5) Advocates for enrolling hard-to-reach populations.

38 (u) Facilitate the purchase of qualified health plans in the  
39 Exchange by qualified individuals and qualified small employers  
40 no later than January 1, 2014.

1 (v) Report, or contract with an independent entity to report, to  
2 the Legislature by December 1, 2018, on whether to adopt the  
3 option in Section 1312(c)(3) of the federal act to merge the  
4 individual and small employer markets. In its report, the board  
5 shall provide information, based on at least two years of data from  
6 the Exchange, on the potential impact on rates paid by individuals  
7 and by small employers in a merged individual and small employer  
8 market, as compared to the rates paid by individuals and small  
9 employers if a separate individual and small employer market is  
10 maintained. A report made pursuant to this subdivision shall be  
11 submitted pursuant to Section 9795.

12 (w) With respect to the SHOP Program, collect premiums and  
13 administer all other necessary and related tasks, including, but not  
14 limited to, enrollment and plan payment, in order to make the  
15 offering of employee plan choice as simple as possible for qualified  
16 small employers.

17 (x) Require carriers participating in the Exchange to immediately  
18 notify the Exchange, under the terms and conditions established  
19 by the board when an individual is or will be enrolled in or  
20 disenrolled from any qualified health plan offered by the carrier.

21 (y) Ensure that the Exchange provides oral interpretation  
22 services in any language for individuals seeking coverage through  
23 the Exchange and makes available a toll-free telephone number  
24 for the hearing and speech impaired. The board shall ensure that  
25 written information made available by the Exchange is presented  
26 in a plainly worded, easily understandable format and made  
27 available in prevalent languages.

28 (z) This section shall become inoperative on the October 1 that  
29 is five years after the date that federal approval of the bridge plan  
30 option occurs, and, as of the second January 1 thereafter, is  
31 repealed, unless a later enacted statute that is enacted before that  
32 date deletes or extends the dates on which it becomes inoperative  
33 and is repealed.

34 *SEC. 2. Section 100503 of the Government Code, as added by*  
35 *Section 5 of Chapter 5 of the First Extraordinary Session of the*  
36 *Statutes of 2013, is amended to read:*

37 100503. In addition to meeting the minimum requirements of  
38 Section 1311 of the federal act, the board shall do all of the  
39 following:

1 (a) (1) Determine the criteria and process for eligibility,  
2 enrollment, and disenrollment of enrollees and potential enrollees  
3 in the Exchange and coordinate that process with the state and  
4 local government entities administering other health care coverage  
5 programs, including the State Department of Health Care Services,  
6 the Managed Risk Medical Insurance Board, and California  
7 counties, in order to ensure consistent eligibility and enrollment  
8 processes and seamless transitions between coverage.

9 (2) (A) *Allow an applicant to indicate in his or her application*  
10 *for a qualified health plan whether or not he or she would like*  
11 *assistance with completing that application from an Exchange*  
12 *certified insurance agent or certified enrollment counselor.*

13 (B) *The Exchange shall not disclose information to a certified*  
14 *insurance agent or certified enrollment counselor if the applicant*  
15 *indicates that or she does not want assistance from an Exchange*  
16 *certified insurance agent or certified enrollment counselor.*

17 (b) Develop processes to coordinate with the county entities  
18 that administer eligibility for the Medi-Cal program and the entity  
19 that determines eligibility for the Healthy Families Program,  
20 including, but not limited to, processes for case transfer, referral,  
21 and enrollment in the Exchange of individuals applying for  
22 assistance to those entities, if allowed or required by federal law.

23 (c) Determine the minimum requirements a carrier must meet  
24 to be considered for participation in the Exchange, and the  
25 standards and criteria for selecting qualified health plans to be  
26 offered through the Exchange that are in the best interests of  
27 qualified individuals and qualified small employers. The board  
28 shall consistently and uniformly apply these requirements,  
29 standards, and criteria to all carriers. In the course of selectively  
30 contracting for health care coverage offered to qualified individuals  
31 and qualified small employers through the Exchange, the board  
32 shall seek to contract with carriers so as to provide health care  
33 coverage choices that offer the optimal combination of choice,  
34 value, quality, and service.

35 (d) Provide, in each region of the state, a choice of qualified  
36 health plans at each of the five levels of coverage contained in  
37 subsections (d) and (e) of Section 1302 of the federal act.

38 (e) Require, as a condition of participation in the Exchange,  
39 carriers to fairly and affirmatively offer, market, and sell in the  
40 Exchange at least one product within each of the five levels of

1 coverage contained in subsections (d) and (e) of Section 1302 of  
2 the federal act. The board may require carriers to offer additional  
3 products within each of those five levels of coverage. This  
4 subdivision shall not apply to a carrier that solely offers  
5 supplemental coverage in the Exchange under paragraph (10) of  
6 subdivision (a) of Section 100504.

7 (f) (1) Require, as a condition of participation in the Exchange,  
8 carriers that sell any products outside the Exchange to do both of  
9 the following:

10 (A) Fairly and affirmatively offer, market, and sell all products  
11 made available to individuals in the Exchange to individuals  
12 purchasing coverage outside the Exchange.

13 (B) Fairly and affirmatively offer, market, and sell all products  
14 made available to small employers in the Exchange to small  
15 employers purchasing coverage outside the Exchange.

16 (2) For purposes of this subdivision, “product” does not include  
17 contracts entered into pursuant to Part 6.2 (commencing with  
18 Section 12693) of Division 2 of the Insurance Code between the  
19 Managed Risk Medical Insurance Board and carriers for enrolled  
20 Healthy Families beneficiaries or contracts entered into pursuant  
21 to Chapter 7 (commencing with Section 14000) of, or Chapter 8  
22 (commencing with Section 14200) of, Part 3 of Division 9 of the  
23 Welfare and Institutions Code between the State Department of  
24 Health Care Services and carriers for enrolled Medi-Cal  
25 beneficiaries.

26 (g) Determine when an enrollee’s coverage commences and the  
27 extent and scope of coverage.

28 (h) Provide for the processing of applications and the enrollment  
29 and disenrollment of enrollees.

30 (i) Determine and approve cost-sharing provisions for qualified  
31 health plans.

32 (j) Establish uniform billing and payment policies for qualified  
33 health plans offered in the Exchange to ensure consistent  
34 enrollment and disenrollment activities for individuals enrolled in  
35 the Exchange.

36 (k) Undertake activities necessary to market and publicize the  
37 availability of health care coverage and federal subsidies through  
38 the Exchange. The board shall also undertake outreach and  
39 enrollment activities that seek to assist enrollees and potential  
40 enrollees with enrolling and reenrolling in the Exchange in the

1 least burdensome manner, including populations that may  
2 experience barriers to enrollment, such as the disabled and those  
3 with limited English language proficiency.

4 (l) Select and set performance standards and compensation for  
5 navigators selected under subdivision (l) of Section 100502.

6 (m) Employ necessary staff.

7 (1) The board shall hire a chief fiscal officer, a chief operations  
8 officer, a director for the SHOP Exchange, a director of Health  
9 Plan Contracting, a chief technology and information officer, a  
10 general counsel, and other key executive positions, as determined  
11 by the board, who shall be exempt from civil service.

12 (2) (A) The board shall set the salaries for the exempt positions  
13 described in paragraph (1) and subdivision (i) of Section 100500  
14 in amounts that are reasonably necessary to attract and retain  
15 individuals of superior qualifications. The salaries shall be  
16 published by the board in the board's annual budget. The board's  
17 annual budget shall be posted on the Internet Web site of the  
18 Exchange. To determine the compensation for these positions, the  
19 board shall cause to be conducted, through the use of independent  
20 outside advisors, salary surveys of both of the following:

21 (i) Other state and federal health insurance exchanges that are  
22 most comparable to the Exchange.

23 (ii) Other relevant labor pools.

24 (B) The salaries established by the board under subparagraph  
25 (A) shall not exceed the highest comparable salary for a position  
26 of that type, as determined by the surveys conducted pursuant to  
27 subparagraph (A).

28 (C) The Department of Human Resources shall review the  
29 methodology used in the surveys conducted pursuant to  
30 subparagraph (A).

31 (3) The positions described in paragraph (1) and subdivision (i)  
32 of Section 100500 shall not be subject to otherwise applicable  
33 provisions of the Government Code or the Public Contract Code  
34 and, for those purposes, the Exchange shall not be considered a  
35 state agency or public entity.

36 (n) Assess a charge on the qualified health plans offered by  
37 carriers that is reasonable and necessary to support the  
38 development, operations, and prudent cash management of the  
39 Exchange. This charge shall not affect the requirement under  
40 Section 1301 of the federal act that carriers charge the same

1 premium rate for each qualified health plan whether offered inside  
2 or outside the Exchange.

3 (o) Authorize expenditures, as necessary, from the California  
4 Health Trust Fund to pay program expenses to administer the  
5 Exchange.

6 (p) Keep an accurate accounting of all activities, receipts, and  
7 expenditures, and annually submit to the United States Secretary  
8 of Health and Human Services a report concerning that accounting.  
9 Commencing January 1, 2016, the board shall conduct an annual  
10 audit.

11 (q) (1) Annually prepare a written report on the implementation  
12 and performance of the Exchange functions during the preceding  
13 fiscal year, including, at a minimum, the manner in which funds  
14 were expended and the progress toward, and the achievement of,  
15 the requirements of this title. This report shall be transmitted to  
16 the Legislature and the Governor and shall be made available to  
17 the public on the Internet Web site of the Exchange. A report made  
18 to the Legislature pursuant to this subdivision shall be submitted  
19 pursuant to Section 9795.

20 (2) In addition to the report described in paragraph (1), the board  
21 shall be responsive to requests for additional information from the  
22 Legislature, including providing testimony and commenting on  
23 proposed state legislation or policy issues. The Legislature finds  
24 and declares that activities including, but not limited to, responding  
25 to legislative or executive inquiries, tracking and commenting on  
26 legislation and regulatory activities, and preparing reports on the  
27 implementation of this title and the performance of the Exchange,  
28 are necessary state requirements and are distinct from the  
29 promotion of legislative or regulatory modifications referred to in  
30 subdivision (d) of Section 100520.

31 (r) Maintain enrollment and expenditures to ensure that  
32 expenditures do not exceed the amount of revenue in the fund, and  
33 if sufficient revenue is not available to pay estimated expenditures,  
34 institute appropriate measures to ensure fiscal solvency.

35 (s) Exercise all powers reasonably necessary to carry out and  
36 comply with the duties, responsibilities, and requirements of this  
37 act and the federal act.

38 (t) Consult with stakeholders relevant to carrying out the  
39 activities under this title, including, but not limited to, all of the  
40 following:

1 (1) Health care consumers who are enrolled in health plans.

2 (2) Individuals and entities with experience in facilitating  
3 enrollment in health plans.

4 (3) Representatives of small businesses and self-employed  
5 individuals.

6 (4) The State Medi-Cal Director.

7 (5) Advocates for enrolling hard-to-reach populations.

8 (u) Facilitate the purchase of qualified health plans in the  
9 Exchange by qualified individuals and qualified small employers  
10 no later than January 1, 2014.

11 (v) Report, or contract with an independent entity to report, to  
12 the Legislature by December 1, 2018, on whether to adopt the  
13 option in Section 1312(c)(3) of the federal act to merge the  
14 individual and small employer markets. In its report, the board  
15 shall provide information, based on at least two years of data from  
16 the Exchange, on the potential impact on rates paid by individuals  
17 and by small employers in a merged individual and small employer  
18 market, as compared to the rates paid by individuals and small  
19 employers if a separate individual and small employer market is  
20 maintained. A report made pursuant to this subdivision shall be  
21 submitted pursuant to Section 9795.

22 (w) With respect to the SHOP Program, collect premiums and  
23 administer all other necessary and related tasks, including, but not  
24 limited to, enrollment and plan payment, in order to make the  
25 offering of employee plan choice as simple as possible for qualified  
26 small employers.

27 (x) Require carriers participating in the Exchange to immediately  
28 notify the Exchange, under the terms and conditions established  
29 by the board when an individual is or will be enrolled in or  
30 disenrolled from any qualified health plan offered by the carrier.

31 (y) Ensure that the Exchange provides oral interpretation  
32 services in any language for individuals seeking coverage through  
33 the Exchange and makes available a toll-free telephone number  
34 for the hearing and speech impaired. The board shall ensure that  
35 written information made available by the Exchange is presented  
36 in a plainly worded, easily understandable format and made  
37 available in prevalent languages.

38 (z) This section shall become operative only if Section 4 of the  
39 act that added this section becomes inoperative pursuant to  
40 subdivision (z) of that Section 4.

1 SEC. 3. *This act is an urgency statute necessary for the*  
2 *immediate preservation of the public peace, health, or safety within*  
3 *the meaning of Article IV of the Constitution and shall go into*  
4 *immediate effect. The facts constituting the necessity are:*

5 *Protecting Californian’s privacy rights is of the utmost*  
6 *importance, and in order to protect the privacy rights of individuals*  
7 *applying for health care coverage through the California Health*  
8 *Benefit Exchange at the earliest possible time, it is necessary that*  
9 *this act take effect immediately.*

10 SECTION 1. Section 100509 is added to the Government Code,  
11 to read:

12 100509. (a) ~~The Exchange, or any of its employees, agents,~~  
13 ~~subcontractors, representatives, or partners, shall not disclose an~~  
14 ~~individual’s personal information to any other person or entity~~  
15 ~~without explicit permission from the individual.~~

16 (b) ~~If the Exchange discovers that personal information has been~~  
17 ~~disclosed in violation of subdivision (a), the Exchange shall report~~  
18 ~~the incident to the individuals affected and to the appropriate policy~~  
19 ~~committees of the Legislature within five business days of the date~~  
20 ~~the disclosure is discovered.~~

21 (c) ~~For purposes of this section, “personal information” means~~  
22 ~~any information that an individual has submitted to the Exchange~~  
23 ~~through the Exchange’s Internet Web site, call center, or other~~  
24 ~~technology, or in person through the Exchange’s employees,~~  
25 ~~agents, subcontractors, representatives, or partners.~~

26 SEC. 2. ~~This act is an urgency statute necessary for the~~  
27 ~~immediate preservation of the public peace, health, or safety within~~  
28 ~~the meaning of Article IV of the Constitution and shall go into~~  
29 ~~immediate effect. The facts constituting the necessity are:~~

30 ~~Protecting Californian’s privacy rights is of the utmost~~  
31 ~~importance, and in order to protect the privacy rights of individuals~~  
32 ~~applying for health care coverage through the California Health~~  
33 ~~Benefit Exchange at the earliest possible time, it is necessary that~~  
34 ~~this act take effect immediately.~~