

**LEGISLATIVE FISCAL ESTIMATE**  
[Third Reprint]  
**SENATE, No. 1877**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: APRIL 23, 2018

**SUMMARY**

**Synopsis:** New Jersey Health Insurance Market Preservation Act.”

**Type of Impact:** Indeterminate increase in State revenues.  
Indeterminate increase in State costs.

**Agencies Affected:** Department of Banking and Insurance.  
Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual Impact</u></b>
<b>State Cost</b>	Indeterminate Increase
<b>State Revenue</b>	Indeterminate Increase

- The Office of Legislative Services (OLS) concludes that the enactment of the bill will have an indeterminate net impact on State finances. The State shared responsibility tax will generate new revenues to support a reinsurance program established through separate legislation.
- Enactment of the bill may cause State to incur additional expenditures if eligible uninsured individuals obtain health insurance through Medicaid and NJ FamilyCare. Changes in the number of persons with health insurance may also affect Charity Care expenditures.
- Information on the number of New Jersey resident taxpayers who may be subject to the State shared responsibility tax is not available at this time. Internal Revenue Service data indicate that approximately 189,000 New Jersey income tax filers paid the federal shared responsibility payment in Tax Year 2015.
- The bill requires the State Treasurer to determine the amount of the State shared responsibility tax using the State average premium for qualified health plans which provide a bronze-level of coverage, which is unavailable at this time.

## **BILL DESCRIPTION**

The “New Jersey Health Insurance Market Preservation Act,” restores, at the State level, the recently repealed shared responsibility payment established by the federal Affordable Care Act (ACA). The ACA requires most individuals, other than those who qualify for certain exemptions, to obtain health insurance or pay a penalty (also known as the shared responsibility payment). Federal tax legislation recently enacted into law effectively eliminated the shared responsibility tax by reducing the penalty to \$0 beginning with tax year 2019.

The bill requires every New Jersey resident taxpayer to obtain health insurance coverage that qualifies as minimum essential health insurance coverage. If the taxpayer does not obtain coverage, the bill imposes a State shared responsibility tax equal to a taxpayer’s federal penalty under the ACA prior to the repeal of that provision, with certain modifications. The amount of the State shared responsibility tax is determined using the State average premium for qualified health plans which provide a bronze-level of coverage.

The bill requires the State Treasurer to establish a program for determining whether to certify that an individual is entitled to an exemption from either the individual responsibility requirement or the State shared responsibility tax by reason of religious conscience or hardship. The threshold to qualify for a hardship exemption is determined based on an individual’s required contribution for health insurance coverage under the ACA.

The bill also requires the State Treasurer to determine the income threshold for minimum essential coverage to be considered unaffordable. The shared responsibility tax is not imposed for any month during a calendar year if the taxpayer’s gross income is below the State minimum taxable threshold. If a taxpayer is subject to the State shared responsibility tax and the federal penalty, the taxpayer is allowed a credit against the taxpayer’s State gross income tax obligation for that taxable year, in the amount of the taxpayer’s federal penalty payment, but not to exceed the amount of the taxpayer’s State tax imposed by the bill in the taxable year.

The bill requires State shared responsibility tax revenues to be deposited into the New Jersey Health Insurance Premium Security Fund established by separate legislation. If the reinsurance program is not established, the State shared responsibility tax revenues are to be deposited into the Health Care Subsidy Fund to support the Children’s Health Insurance Program.

For purposes of administering the tax, the bill requires applicable entities, including employers, insurers, and the Department of Human Services (with respect to the Medicaid and NJ FamilyCare programs), that provide minimum essential coverage to an individual during a calendar year to submit a return to the State Treasurer with information about individuals and their coverage. To minimize the reporting burden, the return may also be in the form of a return required under the ACA. Finally, the bill requires the State Treasurer, in consultation with the Commissioner of Banking and Insurance, to send a notification containing information on the services available to obtain minimum essential coverage to each gross income taxpayer who files a gross income tax return indicating that the taxpayer or one of their dependents is not enrolled in minimum essential coverage as required by the bill.

The bill is scheduled to take effect on January 1, 2019.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The OLS concludes that the enactment of the bill will have an indeterminate net impact on State finances. The overall fiscal impact of the bill will be affected by the behavior of: (1) New Jersey resident taxpayers who are enrolled in a health insurance plan through the ACA and choose not to maintain their coverage, even if they are subject to the State shared responsibility tax; (2) New Jersey resident taxpayers who are enrolled in a health insurance plan and choose to maintain their coverage in order to avoid the State shared responsibility tax; and (3) New Jersey resident taxpayers who currently do not maintain minimum essential coverage and choose to obtain health insurance. The OLS cannot predict how many individuals will not maintain their health insurance after the repeal of the individual health insurance mandate or the number of individuals who may be incentivized to obtain health insurance in order to avoid paying the State shared responsibility tax.

The State shared responsibility tax established by the bill will generate additional revenues to be deposited in the New Jersey Health Insurance Premium Security Fund. Enactment of the bill may cause some individuals, who would otherwise drop their health insurance absent the bill, to maintain their Medicaid and NJ FamilyCare coverage, thereby maintaining State expenditures at a higher level. Some individuals may decide to acquire health insurance in order to avoid paying the State shared responsibility tax. To the extent that these individuals enroll in Medicaid and NJ FamilyCare, the State will incur additional costs. An increase or decrease in the number of individuals who have health insurance may also affect State Charity Care expenditures. For example, if more individuals obtain health insurance, incidence of Charity Care will be lower than otherwise, thereby lowering State expenditures in future years.

Information on the number of New Jersey resident taxpayers who may be required to pay the State shared responsibility tax and the amount of the State shared responsibility tax are not available at this time. Data available through the federal Centers for Medicare and Medicaid Services indicates that approximately 244,000 individuals in New Jersey had effectuated coverage through the ACA Marketplace as of March 15, 2017. According to the Internal Revenue Service's Statistics of Income (SOI) for Tax Year 2014, 221,150 New Jersey resident tax returns were subject to the ACA shared responsibility payment, remitting a total of \$51.1 million to the federal government. The SOI data for Tax Year 2015 (the most recent year for which data are available) show that 188,750 New Jersey tax returns were subject to the shared responsibility payment, remitting a total of \$93.3 million. It is unclear from this data whether the decline in the number of returns indicating the remittance of a shared responsibility payment is due to an increase in the number of individuals obtaining health insurance, an increase in the number of individual mandate exemptions, or both.

The bill requires New Jersey resident taxpayers, if they do not maintain health insurance coverage that qualifies as minimum health insurance coverage, to pay the State shared responsibility tax. For 2016 through 2018, the federal shared responsibility payment is the greater of: (1) 2.5% of applicable income (generally household income in excess of filing thresholds); or (2) \$695 per taxpayer and \$347.50 per child, up to a family maximum of \$2,085. After 2016, the flat dollar amounts are adjusted for inflation. The payment amount is capped at the cost of the national average premium for a bronze-level health plan available through the ACA Marketplace. In 2017 the national average premium for a bronze-level health plan available through the marketplace was \$3,264 per year (\$272 per month) for an individual and \$16,320 per year (\$1,360 per month) for a family with five or more members.

The bill requires the State shared responsibility tax to be calculated using the State average premium for bronze-level plans. Information available through the National Conference of State Legislatures indicates that the average monthly premium for a bronze-level plan increased by

nine percent from \$481 per month in 2017 to \$522 in 2018. In November 2017, the Congressional Budget Office estimated that repealing the individual health insurance mandate would cause average premiums in the non-group market to increase by 10 percent per year over the next decade. Increases in health insurance premiums may cause some individuals to drop their health insurance coverage, thereby increasing the pool of taxpayers required to pay the State shared responsibility tax.

The OLS notes that the federal government has recently implemented a number of policy changes, such as the cessation of federal reimbursement for cost-sharing reductions, shorter open enrollment periods, reduced funding for state outreach and enrollment assistance, and the elimination of the individual mandate penalty, that may affect the number of individuals who obtain health insurance through the ACA Marketplace. In February 2018, the Urban Institute issued a report analyzing the impact of certain ACA policy changes, such as repeal of the individual health insurance mandate and changes to proposed regulations governing short-term, limited duration health insurance policies, on health insurance coverage, premiums in the ACA-compliant non-group insurance market, and federal spending in 2019.

The Urban Institute estimates that 456,000 people in New Jersey have ACA-compliant non-group health insurance either through the ACA Marketplace or the purchase of individual health insurance policies. The Urban Institute estimates that ACA policy changes implemented since 2017, including repeal of the individual health insurance mandate, would cause the number of persons covered by ACA-compliant non-group health insurance to decline by 106,000, or 23.2%. The Urban Institute also projected that number of uninsured persons is anticipated to increase by 92,000 persons. The OLS notes that New Jersey does not allow insurers to offer short-term, limited duration policies so it is likely that the decline in the number of insured individuals and the increase in the number of uninsured individuals is due to other ACA policy changes, such as repeal of the individual mandate and increases in health insurance premiums.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).