

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

328U0464

SENATE ENGROSSED NO. **SB 139** - 02/04/2013

Introduced by: Senators Holien, Adelstein, Begalka, Bradford, Brown, Ewing, Frerichs, Heineman (Phyllis), Jensen, Johnston, Kirkeby, Krebs, Lederman, Lucas, Maher, Monroe, Novstrup (Al), Olson (Russell), Omdahl, Otten (Ernie), Peters, Rampelberg, Rave, Rhoden, Tidemann, Welke, and White and Representatives Cronin, Campbell, Conzet, Ecklund, Erickson, Feickert, Gibson, Gosch, Greenfield, Haggar (Don), Haggar (Jenna), Hajek, Hansen, Hawks, Hawley, Heinert, Hickey, Hoffman, Kaiser, Kirschman, Kopp, Latterell, Lust, Mickelson, Munsterman, Nelson, Novstrup (David), Olson (Betty), Parsley, Peterson, Qualm, Rounds, Rozum, Russell, Schoenfish, Schrempp, Sly, Soli, Solum, Stalzer, Steele, Tulson, Tyler, Verchio, Werner, Westra, Wick, and Wink

1 FOR AN ACT ENTITLED, An Act to regulate certain market activity in a health exchange.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Any qualified health plan as defined by the Patient Protection and Affordable
4 Care Act of 2010 sold in South Dakota through a public health care exchange, as mandated by
5 the Patient Protection and Affordable Care Act of 2010, shall provide for placement through a
6 licensed insurance producer upon enrollment. Any commission paid by a health insurance
7 carrier for the sale of a qualified health plan through a public health exchange shall be the same
8 as a commission paid by the same health insurance carrier outside the public exchange for a
9 similar plan.

10 Section 2. That § 58-18B-40 be amended to read as follows:



1 58-18B-40. No small employer carrier may, directly or indirectly, enter into any contract,
2 agreement, or arrangement with an insurance producer that provides for or results in the
3 compensation paid to an agent for the sale of a health benefit plan to be varied because of the
4 health status, claims experience, industry, occupation, or geographic location of the small
5 employer.

6 Any qualified health plan sold in South Dakota through a health care exchange, as mandated
7 by the Patient Protection and Affordable Care Act of 2010, shall provide for placement through
8 a licensed insurance producer upon enrollment. Any commission paid by a health insurance
9 carrier for the sale of a health insurance plan through a health exchange shall be the same as
10 commission paid by the same health insurance carrier outside the exchange for a similar plan.

11 Section 3. That chapter 58-33A be amended by adding thereto a NEW SECTION to read
12 as follows:

13 No multi-state plan as described in Section 1334 of the Patient Protection and Affordable
14 Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and
15 Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010) may sell,
16 solicit, negotiate, or otherwise transact health insurance in this state outside of any public
17 exchange which may be operating in this state.