

Stricken language would be deleted from and underlined language would be added to present law.
Act 1500 of the Regular Session

State of Arkansas *As Engrossed: H4/12/13 H4/16/13*

89th General Assembly

Regular Session, 2013

A Bill

HOUSE BILL 1508

By: Representative Biviano

By: Senator J. Dismang

For An Act To Be Entitled

AN ACT TO ENACT THE *ARKANSAS HEALTH INSURANCE*
MARKETPLACE ACT; TO PROMOTE COMPETITION AMONG HEALTH
INSURANCE CARRIERS; TO DECREASE THE COST OF HEALTH
INSURANCE; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO ENACT THE ARKANSAS HEALTH INSURANCE
MARKETPLACE ACT; TO PROMOTE COMPETITION
AMONG HEALTH INSURANCE CARRIERS; TO
DECREASE THE COST OF HEALTH INSURANCE;
AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 61, is amended to add an
additional subchapter to read as follows:

Subchapter 8 – Arkansas Health Insurance Marketplace Act

23-61-801. Title.

This subchapter shall be known and may be cited as the "Arkansas Health
Insurance Marketplace Act".

23-61-802. Definitions.

As used in this subchapter:



1 (1) "Federal act" means the federal healthcare laws established
2 by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152, and any amendments
3 to, or regulations or guidance issued under, those statutes existing on the
4 effective date of this act;

5 (2)(A) "Health benefit plan" means a policy, contract,
6 certificate, or agreement offered or issued by a health insurer to provide,
7 deliver, arrange for, pay for, or reimburse any of the costs of healthcare
8 services.

9 (B) "Health benefit plan" does not include:

10 (i) Coverage only for accident or disability income
11 insurance, or both;

12 (ii) Coverage issued as a supplement to liability
13 insurance;

14 (iii) Liability insurance, including without
15 limitation general liability insurance and automobile liability insurance;

16 (iv) Workers' compensation or similar insurance;

17 (v) Automobile medical payment insurance;

18 (vi) Credit-only insurance;

19 (vii) Coverage for on-site medical clinics; or

20 (viii) Other similar insurance coverage, specified
21 in federal regulations issued under the Health Insurance Portability and
22 Accountability Act of 1996, Pub. L. No. 104-191, and existing on the
23 effective date of this act, under which benefits for healthcare services are
24 secondary or incidental to other insurance benefits.

25 (C) "Health benefit plan" does not include the following
26 benefits if they are provided under a separate policy, certificate, or
27 contract of insurance or are otherwise not an integral part of the plan:

28 (i) Limited scope dental or vision benefits;

29 (ii) Benefits for long-term care, nursing home care,
30 home health care, community-based care, or a combination of these; or

31 (iii) Other similar, limited benefits specified in
32 federal regulations issued under the Health Insurance Portability and
33 Accountability Act of 1996, Pub. L. No. 104-191, and existing on the
34 effective date of this act.

35 (D) "Health benefit plan" does not include the following
36 benefits if the benefits are provided under a separate policy, certificate,

1 or contract of insurance, there is no coordination between the provision of
2 the benefits and any exclusion of benefits under any group health plan
3 maintained by the same plan sponsor, and the benefits are paid with respect
4 to an event without regard to whether benefits are provided with respect to
5 such an event under any group health plan maintained by the same plan
6 sponsor:

7 (i) Coverage only for a specified disease or
8 illness; or

9 (ii) Hospital indemnity or other fixed indemnity
10 insurance.

11 (E) "Health benefit plan" does not include the following
12 if offered as a separate policy, certificate, or contract of insurance:

13 (i) Medicare supplemental health insurance as
14 defined under section 1882(g)(1) of the Social Security Act, Pub. L. No. 74-
15 271, as existing on the effective date of this act;

16 (ii) Coverage supplemental to the coverage provided
17 to military personnel and their dependents under Chapter 55 of Title 10 of
18 the United States Code and the Civilian Health and Medical Program of the
19 Uniformed Services, 32 C.F.R. Part 199; or

20 (iii) Similar supplemental coverage provided to
21 coverage under a group health plan;

22 (3) "Health insurance" means insurance that is primarily for the
23 diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts
24 paid for the purpose of affecting any structure of the body, including
25 transportation that is essential to obtaining health insurance, but
26 excluding:

27 (A) Coverage only for accident or disability income
28 insurance, or any combination thereof;

29 (B) Coverage issued as a supplement to liability
30 insurance;

31 (C) Liability insurance, including general liability
32 insurance and automobile liability insurance;

33 (D) Worker's compensation or similar insurance;

34 (E) Automobile medical payment insurance;

35 (F) Credit-only insurance;

36 (G) Coverage for on-site medical clinics;

1 (H) Coverage only for limited scope vision benefits;
2 (I) Benefits for long-term care, nursing home care, home
3 health care, community-based care, or any combination thereof;
4 (J) Coverage for specified disease or critical illness;
5 (K) Hospital indemnity or other fixed indemnity insurance;
6 (L) Medicare supplement policies;
7 (M) Medicare, Medicaid, or the Federal Employee Health
8 Benefit Program;
9 (N) Coverage only for medical and surgical outpatient
10 benefits;
11 (O) Excess or stop-loss insurance; and
12 (P) Other similar insurance coverage:
13 (i) Under which benefits for health insurance are
14 secondary or incidental to other insurance benefits; or
15 (ii) Specified in federal regulations issued under
16 the Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
17 104-191, and existing on the effective date of this act, under which benefits
18 for healthcare services are secondary or incidental to other insurance
19 benefits;
20 (4) "Health insurer" means an entity that provides health
21 insurance or a health benefit plan in the State of Arkansas, including
22 without limitation an insurance company, medical services plan, hospital
23 plan, hospital medical service corporation, health maintenance organization,
24 fraternal benefits society, or any other entity providing a plan of health
25 insurance or health benefits subject to state insurance regulation;
26 (5) "Qualified employer" means a small employer that elects to
27 make its full-time employees eligible for one (1) or more qualified health
28 plans offered through the small business health options program, and at the
29 option of the employer, some or all of its part-time employees, provided that
30 the employer:
31 (A) Has its principal place of business in this state and
32 elects to provide coverage through the small business health options program
33 to all of its eligible employees, wherever employed; or
34 (B) Elects to provide coverage through the small business
35 health options program to all of its eligible employees who are principally
36 employed in this state;

1 (6) "Qualified health plan" means a health benefit plan that has
2 in effect a certification that the plan meets the criteria for certification
3 described in section 1311(c) of the federal act; and

4 (7)(A) "Small employer" means an employer that employed an
5 average of not more than fifty (50) employees during the preceding calendar
6 year.

7 (B) For purposes of this subdivision (7):

8 (i) All persons treated as a single employer under
9 subsection (b), subsection (c), subsection (m), or subsection (o) of section
10 414 of the Internal Revenue Code of 1986 as existing on the effective date of
11 this act shall be treated as a single employer;

12 (ii) An employer and any predecessor employer shall
13 be treated as a single employer;

14 (iii) All employees shall be counted, including
15 part-time employees and employees who are not eligible for coverage through
16 the employer;

17 (iv) If an employer was not in existence throughout
18 the preceding calendar year, the determination of whether that employer is a
19 small employer shall be based on the average number of employees that is
20 reasonably expected that the employer will employ on business days in the
21 current calendar year; and

22 (v) An employer that makes enrollment in qualified
23 health plans available to its employees through the small business health
24 options program and would cease to be a small employer because of an increase
25 in the number of its employees shall continue to be treated as a small
26 employer for purposes of this subchapter as long as it continuously makes
27 enrollment through the small business health options program available to its
28 employees.

29
30 23-61-803. Arkansas Health Insurance Marketplace.

31 (a) There is created a nonprofit legal entity to be known as the
32 "Arkansas Health Insurance Marketplace".

33 (b)(1) The Arkansas Health Insurance Marketplace is created as a
34 political subdivision, instrumentality, and body politic of the State of
35 Arkansas and, as such, is not a state agency.

36 (2) Except to the extent provided by this subchapter, the

1 Arkansas Health Insurance Marketplace is exempt from:

2 (A) All state, county, and local taxes; and

3 (B) All laws other than the Freedom of Information Act of
4 1967, § 25-19-101 et seq., governing state agencies, including without
5 limitation:

6 (i) The Arkansas Procurement Law, § 19-11-201 et
7 seq.;

8 (ii) The Uniform Classification and Compensation
9 Act, § 21-5-201 et seq.; and

10
11 (iii)(a) The Arkansas Administrative Procedure Act,
12 § 25-15-201 et seq.

13 (b) The Arkansas Health Insurance Marketplace
14 shall adopt policies, procedures, and rules to implement its obligations
15 under this subchapter.

16 (3)(A) Prior to the adoption, amendment, or repeal of any
17 policy, procedure, or rule, the Arkansas Health Insurance Marketplace shall:

18 (i)(a) Give at least thirty (30) days' notice of its
19 intended action. The thirty-day period shall begin on the first day of the
20 publication of notice.

21 (b) The notice shall include a statement of
22 the terms or substance of the intended action or a description of the
23 subjects and issues involved and the time, the place where, and the manner in
24 which interested persons may present their views on the intended action or
25 the subjects and issues involved.

26 (c) The notice shall be mailed to any person
27 specified by law and to all persons who have requested advance notice of
28 rule-making proceedings.

29 (d)(1) Unless otherwise provided by law, the
30 notice shall be published in a newspaper of general daily circulation for
31 three (3) consecutive days and, when appropriate, in those trade, industry,
32 or professional publications that the Arkansas Health Insurance Marketplace
33 may select.

34 (2) The notice shall be published by the
35 Secretary of State on the Internet for thirty (30) days in accordance with §
36 25-15-218;

1 (ii)(a) Afford all interested persons at least
2 thirty (30) days to submit written data, views, or arguments, orally or in
3 writing. The thirty-day period shall begin on the first day of the
4 publication of notice under subdivision (b)(3)(A)(i)(a) of this section.

5 (b) Opportunity for oral hearing shall be
6 granted if requested by twenty-five (25) persons, by a governmental
7 subdivision or agency, or by an association having no fewer than twenty-five
8 (25) members.

9 (c) The Arkansas Health Insurance Marketplace
10 shall fully consider all written and oral submissions concerning the proposed
11 rule before finalizing the language of the proposed rule and filing the
12 proposed rule as required by subdivision (b)(3)(E) of this section.

13 (d) Upon the adoption, amendment, or repeal of
14 a policy, procedure, or rule, the Arkansas Health Insurance Marketplace, if
15 requested to do so by an interested person either prior to adoption,
16 amendment, or repeal or within thirty (30) days thereafter, shall issue a
17 concise statement of the principal reasons for and against its adoption,
18 amendment, or repeal, incorporating therein its reasons for overruling the
19 considerations urged against its adoption, amendment, or repeal; and

20 (iii) Comply with § 25-15-301 et seq.

21 (B) The thirty-day periods for giving public notice under
22 subdivision (b)(3)(A)(i)(a) of this section and for receiving written data,
23 views, or arguments, orally or in writing under subdivision (b)(3)(A)(ii)(a)
24 of this section shall run concurrently.

25 (C)(i) If the Arkansas Health Insurance Marketplace finds
26 that imminent peril to the public health, safety, or welfare or compliance
27 with federal laws or regulations requires adoption of a policy, procedure, or
28 rule upon less than thirty (30) days' notice and states in writing its
29 reasons for that finding, it may proceed without prior notice or hearing, or
30 upon any abbreviated notice and hearing that it may choose, to adopt an
31 emergency rule.

32 (ii) The rule may be effective for no longer than
33 one hundred twenty (120) days.

34 (iii) If, after the expiration of the effective
35 period of an emergency rule, the Arkansas Health Insurance Marketplace wishes
36 to adopt a successive emergency rule that is identical or substantially

1 similar to the expired emergency rule, the Arkansas Health Insurance
2 Marketplace shall not adopt the successive emergency rule earlier than thirty
3 (30) days after the expiration of the emergency rule.

4 (D)(i) The Arkansas Health Insurance Marketplace shall
5 file with the Arkansas Health Insurance Marketplace Legislative Oversight
6 Committee, the Secretary of State, the Arkansas State Library, and the Bureau
7 of Legislative Research a copy of each policy, procedure, or rule adopted by
8 it and a statement of financial impact for the rule.

9 (ii) The Secretary of State shall keep a copy of
10 each policy, procedure, or rule filed under subdivision (b)(3)(D)(i) of this
11 section in the permanent register required under § 25-15-204(d)(2).

12 (iii)(a) The scope of the financial impact statement
13 shall be determined by the Arkansas Health Insurance Marketplace but at a
14 minimum shall include the estimated cost of complying with the policy,
15 procedure, or rule and the estimated cost for the Arkansas Health Insurance
16 Marketplace to implement the policy, procedure, or rule.

17 (b) If the Arkansas Health Insurance
18 Marketplace has reason to believe that the development of a financial impact
19 statement will be so speculative as to be cost prohibitive, the Arkansas
20 Health Insurance Marketplace shall submit a statement and explanation to that
21 effect.

22 (c) If the purpose of an Arkansas Health
23 Insurance Marketplace policy, procedure, or rule is to implement a federal
24 rule or regulation, the financial impact statement shall be limited to any
25 incremental additional cost of the state policy, procedure, or rule, as
26 opposed to the federal rule or regulation.

27 (E)(i)(a) Each policy, procedure, or rule adopted by the
28 Arkansas Health Insurance Marketplace is effective thirty (30) days after
29 filing of the final policy, procedure, or rule unless a later date is
30 specified by law or in the rule itself.

31 (b) A final rule shall not be filed until the
32 thirty-day public comment period required under subdivision (b)(3)(A)(ii)(a)
33 of this section has expired.

34 (c)(1) After the expiration of the thirty-day
35 public comment period and before the effective date of the rule, the Arkansas
36 Health Insurance Marketplace shall take appropriate measures to make the

1 final rule known to the persons who may be affected by the rule.

2 (2) Appropriate measures shall include
3 without limitation posting the following information on the Arkansas Health
4 Insurance Marketplace's website:

5 (A) The final rule;

6 (B) Copies of all written comments
7 submitted to the Arkansas Health Insurance Marketplace regarding the rule;

8 (C) A summary of all written and
9 oral comments submitted to the Arkansas Health Insurance Marketplace
10 regarding the rule and the Arkansas Health Insurance Marketplace's response
11 to those comments; and

12 (D) The proposed effective date of
13 the final rule.

14 (ii)(a) However, an emergency rule may become
15 effective immediately upon filing or at a stated time less than thirty (30)
16 days after filing if the Arkansas Health Insurance Marketplace finds that
17 this effective date is necessary because of imminent peril to the public
18 health, safety, or welfare.

19 (b) The Arkansas Health Insurance
20 Marketplace's finding and a brief statement of the reasons for the finding
21 shall be filed with the rule.

22 (c) The Arkansas Health Insurance Marketplace
23 shall take appropriate measures to make emergency rules known to the persons
24 who may be affected by the emergency rules.

25 (F) The Arkansas Health Insurance Marketplace Oversight
26 Committee shall review the proposed revised or amended policy, procedure, or
27 rule and, if it is believed that the rule or regulation is contrary to
28 legislative intent, shall file a statement thereof with the Legislative
29 Council.

30 (c) The Arkansas Health Insurance Marketplace shall operate subject to
31 the supervision and control of the Board of Directors of the Arkansas Health
32 Insurance Marketplace. The board shall consist of the following members to
33 be appointed on or before July 1, 2013:

34 (1)(A) Three (3) members appointed by the Governor.

35 (B) One (1) member appointed by the Governor shall be a
36 representative of insurance agents or brokers licensed to sell health

1 insurance in the State of Arkansas.

2 (C) Two (2) members appointed by the Governor shall be
3 consumer representatives;

4 (2)(A) Three (3) members appointed by the President Pro Tempore
5 of the Senate.

6 (B) One (1) of the members appointed by the President Pro
7 Tempore of the Senate shall be a representative of a health insurer.

8 (C) One (1) of the members appointed by the President Pro
9 Tempore of the Senate shall be a representative of small employers;

10 (3)(A) Three (3) members appointed by the Speaker of the House
11 of Representatives.

12 (B) One (1) of the members appointed by the Speaker of the
13 House of Representatives shall be a representative of a health insurer.

14 (C) One (1) member appointed by the Speaker of the House
15 of Representatives shall be a member of a health-related profession licensed
16 in the State of Arkansas;

17 (4) The Insurance Commissioner or his or her designee; and

18 (5) The Director of the Department of Human Services or his or
19 her designee.

20 (d)(1)(A) The initial members appointed by the Governor under
21 subdivision (c)(1) of this section shall serve terms as follows:

22 (i) One (1) initial member shall be appointed to a
23 term of four (4) years;

24 (ii) One (1) initial member shall be appointed to a
25 term of six (6) years; and

26 (iii) One (1) initial member shall be appointed to a
27 term of eight (8) years.

28 (B) A member subsequently appointed to the board under
29 subdivision (c)(1) of this section shall serve a term of six (6) years.

30 (2)(A) The initial members appointed by the President Pro
31 Tempore of the Senate under subdivision (c)(2) of this section shall serve
32 terms as follows:

33 (i) One (1) initial member shall be appointed to a
34 term of four (4) years;

35 (ii) One (1) initial member shall be appointed to a
36 term of six (6) years; and

1 (iii) One (1) initial member shall be appointed to a
2 term of eight (8) years.

3 (B) A member subsequently appointed to the board under
4 subdivision (c)(2) of this section shall serve a term of six (6) years.

5 (3)(A) The initial members appointed by the Speaker of the House
6 of Representatives under subdivision (c)(3) of this section shall serve terms
7 as follows:

8 (i) One (1) initial member shall be appointed to a
9 term of four (4) years;

10 (ii) One (1) initial member shall be appointed to a
11 term of six (6) years; and

12 (iii) One (1) initial member shall be appointed to a
13 term of eight (8) years.

14 (B) A member subsequently appointed to the board under
15 subdivision (c)(3) of this section shall serve a term of six (6) years.

16 (e) The appointing authorities under this section shall ensure that a
17 majority of the voting members of the board have relevant experience in:

18 (1) Health benefits administration;

19 (2) Healthcare finance;

20 (3) Health plan purchasing;

21 (4) Healthcare delivery system administration; or

22 (5) Public health or health policy issues related to the small
23 group and individual markets and the uninsured.

24 (f) The board shall select one (1) of its members as chair.

25 (g)(1) Subject to review by the Arkansas Health Insurance Marketplace
26 Legislative Oversight Committee, the board may authorize by a majority vote
27 of the total membership of the board cast during its first regularly
28 scheduled meeting of each calendar year:

29 (A) Payment to its members of a stipend per day not to
30 exceed one hundred dollars (\$100) for each meeting attended or for any day
31 while performing substantive business of the board; and

32 (B) Reimbursement of actual expenses while performing
33 substantive business of the board.

34 (2) Members of the board shall receive no other compensation,
35 expense reimbursement, or in-lieu-of payments.

36 (h)(1) The board shall hire the Executive Director of the Arkansas

1 Health Insurance Marketplace to:

2 (A) Plan and administer the Arkansas Health Insurance
3 Marketplace; and

4 (B) Employ necessary staff.

5 (2) The board may plan and administer the Arkansas Health
6 Insurance Marketplace and employ necessary staff on an interim basis until
7 the executive director is hired.

8 (3) The employees of the Arkansas Health Insurance Marketplace
9 are not eligible to participate in the Arkansas Public Employees' Retirement
10 System under § 24-4-101 et seq.

11 (i)(1) Neither the board nor its employees shall be liable for any
12 obligations of the Arkansas Health Insurance Marketplace.

13 (2) The board may provide in its bylaws or rules for
14 indemnification of and legal representation for the board members and board
15 employees.

16 (j)(1) The board shall adopt articles, bylaws, and operating rules in
17 accordance with this subchapter within ninety (90) days after the appointment
18 of the board.

19 (2) The articles, bylaws, and operating rules shall be reviewed
20 by the Arkansas Health Insurance Marketplace Legislative Oversight Committee.

21 (k) The board shall keep an accurate accounting of all activities,
22 receipts, and expenditures on behalf of the Arkansas Health Insurance
23 Marketplace and report to the Arkansas Health Insurance Marketplace
24 Legislative Oversight Committee as requested by the Arkansas Health Insurance
25 Marketplace Legislative Oversight Committee.

26 (l)(1)(A) On and after July 1, 2015, the board shall have the
27 authority to apply for and expend on behalf of the Arkansas Health Insurance
28 Marketplace any state, federal, or private grant funds available to assist
29 with the implementation and operation of the Arkansas Health Insurance
30 Marketplace.

31 (B) Before July 1, 2015, the board shall coordinate with
32 the Insurance Commissioner the application for state, federal, or private
33 grant funds to plan, implement, and operate the Arkansas Health Insurance
34 Marketplace.

35 (2)(A) Before July 1, 2015, the Insurance Commissioner may apply
36 for any state, federal, or private grant funds available to assist with the

1 implementation and operation of the Arkansas Health Insurance Marketplace.

2 (B) If the Insurance Commissioner applies for and receives
3 any state, federal, or private grant funds available to assist with the
4 implementation and operation of the Arkansas Health Insurance Marketplace,
5 the Insurance Commissioner shall enter into a memorandum of understanding
6 with the Arkansas Health Insurance Marketplace concerning the use and
7 expenditure of the grant funds.

8 (m)(1) The board may contract with eligible entities to assist with
9 the planning, implementation, and operation of the Arkansas Health Insurance
10 Marketplace.

11 (2) For purposes of this subsection:

12 (A) An eligible entity includes without limitation an
13 entity that has experience in individual and small group health insurance,
14 benefit administration, or other experience relevant to the responsibilities
15 to be assumed by the entity; and

16 (B) A health insurer or an affiliate of a health insurer
17 is not an eligible entity.

18 (3) In contracting with an eligible entity under subdivision
19 (m)(1) of this section, the board shall give preference to eligible entities
20 that have relevant experience.

21 (4)(A) The board shall establish a competitive bidding process
22 for awarding contracts under this subchapter to an eligible entity.

23 (B) The competitive bidding process for awarding contracts
24 under this subchapter to an eligible entity shall be reviewed by the Arkansas
25 Health Insurance Marketplace Legislative Oversight Committee.

26 (n) The board may enter into information-sharing agreements with
27 federal and state agencies and other state marketplaces to carry out its
28 responsibilities under this subchapter, provided such agreements:

29 (1) Include adequate protections with respect to the
30 confidentiality of the information to be shared; and

31 (2) Comply with all applicable state and federal laws and
32 regulations.

33 (o) As a condition of participating in the Arkansas Health Insurance
34 Marketplace, a health insurer shall pay the assessments, submit the reports,
35 and provide the information required by the board or the Insurance
36 Commissioner to implement this subchapter.

1 (p) The board and any eligible entity under subdivision (m)(1) of this
2 section shall provide claims and other plan and enrollment data to the
3 Department of Human Services and the Insurance Commissioner upon request to:

4 (1) Facilitate compliance with reporting requirements under
5 state and federal law; and

6 (2) Assess the performance of the Health Care Independence
7 Program established by the Healthcare Independence Act of 2013, § 20-77-2101
8 et seq., if enacted, including without limitation the program's quality,
9 cost, and consumer access.

10
11 23-61-804. Duties of Arkansas Health Insurance Marketplace.

12 The Arkansas Health Insurance Marketplace shall:

13 (1)(A) Implement procedures and criteria for the certification,
14 recertification, and decertification of health benefit plans as qualified
15 health plans in coordination with the Insurance Commissioner and in
16 compliance with state and federal law.

17 (B) The procedures and criteria shall comply with
18 applicable:

19 (i) Federal law;

20 (ii) Federal waivers obtained by the state to
21 implement the Health Care Independence Program established by the Healthcare
22 Independence Act of 2013, § 20-77-2101 et seq., if enacted; and

23 (iii) Rules promulgated by the State Insurance
24 Department and the Department of Human Services under the Healthcare
25 Independence Act of 2013, § 20-77-2101 et seq., if enacted;

26 (2) Provide for the operation of a toll-free telephone hotline
27 to respond to requests for assistance;

28 (3) Maintain an Internet website through which enrollees and
29 prospective enrollees of qualified health plans may obtain standardized
30 comparative information on such plans;

31 (4) Assign a rating to each qualified health plan offered
32 through the Arkansas Health Insurance Marketplace and determine each
33 qualified health plan's level of coverage in accordance with regulations
34 issued by the Secretary of the United States Department of Health and Human
35 Services under section 1302(d)(2)(A) of the federal act;

36 (5) Use a standardized format for presenting health benefit

1 options in the Arkansas Health Insurance Marketplace;

2 (6) Review compensation rates for licensed brokers and agents;

3 (7) Establish and make available by electronic means a
4 calculator to determine the actual cost of coverage after application of a
5 premium tax credit under section 36B of the Internal Revenue Code of 1986 as
6 existing on the effective date of this act and any cost-sharing reduction
7 under section 1402 of the federal act;

8 (8)(A) Establish a small business health options program through
9 which qualified employers may access coverage for their employees.

10 (B) The small business health options program, without
11 limitation, shall enable a qualified employer to specify a level of coverage
12 so that any of its employees may enroll in a qualified health plan offered
13 through the program at the specified level of coverage;

14 (9) Subject to section 1411 of the federal act, grant a
15 certification attesting that, for purposes of the individual responsibility
16 penalty under section 5000A of the Internal Revenue Code of 1986 as existing
17 on the effective date of this act, an individual is exempt from the
18 individual responsibility requirement or from the penalty imposed by that
19 section of the Internal Revenue Code of 1986 because:

20 (A) There is no affordable qualified health plan available
21 through the Arkansas Health Insurance Marketplace, or the individual's
22 employer, covering the individual; or

23 (B) The individual meets the requirements for any other
24 such exemption from the individual responsibility requirement or penalty;

25 (10) Transfer to the Secretary of the United States Department
26 of the Treasury the following:

27 (A) A list of the individuals who are issued a
28 certification under subdivision (10) of this section, including the name and
29 taxpayer identification number of each individual;

30 (B) The name and taxpayer identification number of each
31 individual who was an employee of an employer but who was determined to be
32 eligible for the premium tax credit under section 36B of the Internal Revenue
33 Code of 1986 as existing on the effective date of this act because:

34 (i) The employer did not provide minimum essential
35 coverage; or

36 (ii) The employer provided the minimum essential

1 coverage, but it was determined under section 36B(c)(2)(C) of the Internal
2 Revenue Code of 1986 as existing on the effective date of this act either to
3 be unaffordable to the employee or not to provide the required minimum
4 actuarial value; and

5 (C) The name and taxpayer identification number of each
6 individual who:

7 (i) Notifies the Arkansas Health Insurance
8 Marketplace under section 1411(b)(4) of the federal act that he or she has
9 changed employers; and

10 (ii) Ceases coverage under a qualified health plan
11 during a plan year and the effective date of that cessation;

12 (11) Provide to each employer the name of each employee of the
13 employer described in subdivision (10)(B) of this section who ceases coverage
14 under a qualified health plan during a plan year and the effective date of
15 the cessation;

16 (12)(A) Select entities qualified to serve as navigators and
17 award grants to enable navigators to:

18 (i) Conduct public education activities to raise
19 awareness of the availability of qualified health plans;

20 (ii) Distribute fair and impartial information
21 concerning enrollment in qualified health plans and the availability of
22 premium tax credits under section 36B of the Internal Revenue Code of 1986 as
23 existing on the effective date of this act and cost-sharing reductions under
24 section 1402 of the federal act;

25 (iii) Facilitate enrollment in qualified health
26 plans;

27 (iv) Provide referrals to any applicable office of
28 health insurance consumer assistance or health insurance ombudsman or to any
29 other appropriate state agency or agencies for any enrollee with a grievance,
30 complaint, or question regarding his or her health benefit plan or health
31 benefit coverage or a determination under his or her health benefit plan or
32 health benefit coverage; and

33 (v) Provide information in a manner that is
34 culturally and linguistically appropriate to the needs of the population
35 being served by the Arkansas Health Insurance Marketplace.

36 (B) The board shall ensure in the navigator selection

1 process that the navigators are geographically, culturally, ethnically, and
2 racially representative of the populations served; and

3 (13) Otherwise comply with a requirement the board determines is
4 necessary to obtain or maintain the approval to establish or administer a
5 state-based health insurance marketplace.

6

7 23-61-805. Funding – Publication of costs.

8 (a)(1) The General Assembly shall establish a reasonable initial
9 assessment or user fee and reasonable increases or decreases in the amount of
10 future assessments or user fees and penalties and interest charges for
11 nonpayment of an assessment or user fee charged to participating health
12 insurers for the efficient operation of the exchange.

13 (2) Beginning October 1, 2014, and annually by October 1
14 thereafter, the Arkansas Health Insurance Marketplace shall report to the
15 Arkansas Health Insurance Marketplace Legislative Oversight Committee in the
16 manner and format that the committee requires the Arkansas Health Insurance
17 Marketplace's recommendations for the initial assessment or user fee and
18 increases or decreases in the amount of future assessments or user fees and
19 penalties and interest charges for nonpayment of an assessment or user fee
20 charged to participating health insurers.

21 (3) Beginning January 1, 2015, and annually by January 1
22 thereafter, the Arkansas Health Insurance Marketplace Legislative Oversight
23 Committee shall review the recommendations of the Arkansas Health Insurance
24 Marketplace under subdivision (a)(1) of this section and report to the
25 President Pro Tempore of the Senate and the Speaker of the House of
26 Representatives the committee's recommendations for the initial assessment or
27 user fee and future increases or decreases in the amount of assessments or
28 user fees and penalties and interest charges for nonpayment of an assessment
29 or user fee charged to participating health insurers.

30 (b)(1) An assessment may be offset in an amount equal to the amount of
31 the assessment paid to the Arkansas Health Insurance Marketplace against the
32 premium tax payable for the year in which the assessment is levied.

33 (2) An offset shall not be allowed for a penalty assessed under
34 subsection (c) of this section.

35 (c)(1) All assessments and fees shall be due and payable upon receipt
36 and shall be delinquent if not paid within thirty (30) days of the receipt of

1 notice of the assessment by the health insurer.

2 (2)(A) Failure to timely pay the assessment shall automatically
3 subject the health insurer to a penalty not to exceed ten percent (10%) of
4 the assessment plus interest as established under subsection (a) of this
5 section.

6 (B) The penalty and interest is due and payable within the
7 next thirty-day period.

8 (3) The Board of Directors of the Arkansas Health Insurance
9 Marketplace and the Insurance Commissioner may enforce the collection of the
10 assessment and penalty and interest in accordance with this subchapter and
11 the Arkansas Insurance Code.

12 (4) The board may waive the penalty and interest authorized by
13 this subsection if the board determines that compelling circumstances exist
14 that justify a waiver.

15 (d)(1) The Arkansas Health Insurance Marketplace shall publish the
16 average costs of licensing, regulatory fees, and any other payments required
17 by the Arkansas Health Insurance Marketplace and the administrative costs of
18 the Arkansas Health Insurance Marketplace on an Internet website to educate
19 consumers on such costs.

20 (2) Information published under subdivision (d)(1) of this
21 section shall include information on moneys lost to waste, fraud, and abuse.

22
23 23-61-806. Rules.

24 (a) The Insurance Commissioner may promulgate rules to implement this
25 subchapter.

26 (b) Rules promulgated under this section shall not conflict with or
27 prevent the application of regulations promulgated by the Secretary of the
28 United States Department of Health and Human Services under the federal act.

29
30 23-61-807. Relation to other laws.

31 (a) This subchapter is amendatory to the Arkansas Insurance Code.

32 (b) Provisions of the Arkansas Insurance Code that are not in conflict
33 with this subchapter are applicable to this subchapter.

34 (c) This subchapter and actions taken by the Arkansas Health Insurance
35 Marketplace under this subchapter shall not be construed to preempt or
36 supersede the authority of the Insurance Commissioner to regulate the

1 business of insurance within this state.

2 (d) Except as expressly provided to the contrary in this subchapter, a
3 health insurer offering a qualified health plan in this state shall comply
4 fully with all applicable health insurance laws of this state and regulations
5 adopted and orders issued by the commissioner.

6
7 SECTION 2. Arkansas Code Title 10, Chapter 3, is amended to add an
8 additional subchapter to read as follows:

9
10 Subchapter 27 – Arkansas Health Insurance Marketplace Legislative Oversight
11 Committee

12
13 10-3-2701. Arkansas Health Insurance Marketplace Legislative Oversight
14 Committee.

15 (a) The Arkansas Health Insurance Marketplace Legislative Oversight
16 Committee is established.

17 (b)(1) The Arkansas Health Insurance Marketplace Legislative Oversight
18 Committee shall consist of the following members of the General Assembly
19 appointed as follows:

20 (A) Six (6) members of the House of Representatives shall
21 be appointed to the Arkansas Health Insurance Marketplace Legislative
22 Oversight Committee by the Speaker of the House of Representatives; and

23 (B) Six (6) members of the Senate shall be appointed to the
24 Arkansas Health Insurance Marketplace Legislative Oversight Committee by the
25 President Pro Tempore of the Senate.

26 (2) In making appointments, each appointing officer shall select
27 members who have appropriate experience and knowledge of the issues to be
28 examined by the Arkansas Health Insurance Marketplace Legislative Oversight
29 Committee and may consider racial, gender, and geographical diversity among
30 the membership.

31 (c)(1) The Arkansas Health Insurance Marketplace Legislative Oversight
32 Committee shall study matters pertaining to the Arkansas Health Insurance
33 Marketplace Act, § 23-61-801 et seq., as the Arkansas Health Insurance
34 Marketplace Legislative Oversight Committee considers necessary to fulfill
35 its mandate.

36 (2) The Arkansas Health Insurance Marketplace Legislative

1 Oversight Committee may request reports from the Arkansas Health Insurance
2 Marketplace pertaining to the operations, programs, or finances of the
3 Arkansas Health Insurance Marketplace as it deems necessary.

4 (d) Annually by December 15, the Arkansas Health Insurance Marketplace
5 Legislative Oversight Committee shall provide to the General Assembly any
6 analysis or findings resulting from its activities under this section that
7 the Arkansas Health Insurance Marketplace Legislative Oversight Committee
8 deems relevant.

9 (e)(1) The President Pro Tempore of the Senate and the Speaker of the
10 House of Representatives shall each designate a cochair of the Arkansas
11 Health Insurance Marketplace Legislative Oversight Committee.

12 (2) The Arkansas Health Insurance Marketplace Legislative
13 Oversight Committee shall meet at least quarterly upon the joint call of the
14 cochairs of the Arkansas Health Insurance Marketplace Legislative Oversight
15 Committee.

16 (3) A majority of the Arkansas Health Insurance Marketplace
17 Legislative Oversight Committee constitutes a quorum.

18 (4) No action may be taken by the Arkansas Health Insurance
19 Marketplace Legislative Oversight Committee except by a majority vote at a
20 meeting at which a quorum is present.

21 (f) Members of the Arkansas Health Insurance Marketplace Legislative
22 Oversight Committee are entitled to per diem and mileage reimbursement at the
23 same rate authorized by law for attendance at meetings of interim committees
24 of the General Assembly and shall be paid from the same source.

25 (g)(1) With the consent of both the President Pro Tempore of the
26 Senate and the Speaker of the House of Representatives, the Arkansas Health
27 Insurance Marketplace Legislative Oversight Committee may meet during a
28 session of the General Assembly to perform its duties under this section.

29 (2) This subsection does not limit the authority of the Arkansas
30 Health Insurance Marketplace Legislative Oversight Committee to meet during a
31 recess as authorized by § 10-3-211 or § 10-2-223.

32
33 SECTION 3. NOT TO BE CODIFIED. (a)(1) The health insurance
34 marketplace developed through a Federally-facilitated Exchange Partnership
35 model shall transfer to the control of the Arkansas Health Insurance
36 Marketplace on July 1, 2015, if the Board of Directors of the Arkansas Health

1 Insurance Marketplace determines that the establishment of a state-based
2 marketplace is approved by the United States Department of Health and Human
3 Services on or before July 1, 2015.

4 (2) The board may extend the date of transfer under subdivision
5 (a)(1) of this section.

6 (b) The board shall participate in the Federally-facilitated Exchange
7 Partnership to assist in planning the transition to a state-based health
8 insurance marketplace.

9
10 SECTION 4. NOT TO BE CODIFIED. Legislative intent.

11 It is the intent of the General Assembly by the enactment of this act
12 to establish a private, nonprofit, health insurance marketplace.

13
14 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly of the State of Arkansas that the federal healthcare laws
16 established by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152, allow
17 each state to establish a health insurance marketplace or opt to participate
18 in a health insurance marketplace operated by the United States Department of
19 Health and Human Services; that the state has elected to create a state-based
20 marketplace effective on July 1, 2015; and that this act should become
21 effective at the earliest opportunity to begin the process of planning for
22 the implementation of a state-based marketplace and transitioning to a state-
23 based marketplace. Therefore, an emergency is declared to exist, and this
24 act being immediately necessary for the preservation of the public peace,
25 health, and safety shall become effective on:

26 (1) The date of its approval by the Governor;

27 (2) If the bill is neither approved nor vetoed by the Governor,
28 the expiration of the period of time during which the Governor may veto the
29 bill; or

30 (3) If the bill is vetoed by the Governor and the veto is
31 overridden, the date the last house overrides the veto.

32
33
34 /s/Biviano

35
36 APPROVED: 04/23/2013

