

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

As Engrossed: S3/2/15

# A Bill

SENATE BILL 343

5 By: Senators J. Hendren, *Rapert*  
6 By: Representative *Collins*  
7

## For An Act To Be Entitled

9 AN ACT TO PROHIBIT THE ESTABLISHMENT THROUGH STATE  
10 LAW OF A STATE-BASED HEALTH INSURANCE EXCHANGE IN  
11 THIS STATE UNDER THE PATIENT PROTECTION AND  
12 AFFORDABLE CARE ACT AND THE HEALTH CARE AND EDUCATION  
13 RECONCILIATION ACT OF 2010; AND FOR OTHER PURPOSES.  
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### Subtitle

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17 TO PROHIBIT THE ESTABLISHMENT THROUGH  
18 STATE LAW OF A STATE-BASED HEALTH  
19 INSURANCE EXCHANGE IN THIS STATE UNDER  
20 THE PATIENT PROTECTION AND AFFORDABLE  
21 CARE ACT AND THE HEALTH CARE AND  
22 EDUCATION RECONCILIATION ACT OF 2010.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 *SECTION 1. DO NOT CODIFY. Findings and intent.*

28 *(a) On March 4, 2015, the United States Supreme Court shall hear oral*  
29 *arguments in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S.*  
30 *, 135 S. Ct. 475 (2014), that could potentially change the landscape for*  
31 *implementation of a state-based health insurance exchange and a health*  
32 *insurance exchange operated by the federal government for states without a*  
33 *state-based health insurance exchange under the Patient Protection and*  
34 *Affordable Care Act, Pub. L. No. 111-148, and the Health Care and Education*  
35 *Reconciliation Act of 2010, Pub. L. No. 111-152.*

36 *(b) The health insurance marketplace developed through a federally*



1 facilitated exchange partnership model is expected to transfer to the control  
2 of the Arkansas Health Insurance Marketplace on July 1, 2015, if the Board of  
3 Directors of the Arkansas Health Insurance Marketplace determines that the  
4 implementation of a state-based health insurance marketplace is approved by  
5 the United States Department of Health and Human Services on or before July  
6 1, 2015.

7 (c) The purpose of this act is to prohibit the implementation through  
8 state law of a state-based health insurance exchange in this state under the  
9 Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the  
10 Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152,  
11 before the United States Supreme Court issues a ruling in King v. Burwell,  
12 759 F.3d 358 (4th Cir.), cert. granted, U.S. , 135 S. Ct. 475 (2014).

13 (d)(1) It is the intent of this act that until a ruling is issued in  
14 King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S. , 135 S. Ct.  
15 475 (2014), that is expected before July 1, 2015, this state should not  
16 implement through state law a state-based health insurance exchange in this  
17 state.

18 (2) If a ruling in King v. Burwell, 759 F.3d 358 (4th Cir.),  
19 cert. granted, U.S. , 135 S. Ct. 475 (2014), modifies the eligibility  
20 requirements for subsidies in a health insurance exchange operated by the  
21 federal government under the Patient Protection and Affordable Care Act, Pub.  
22 L. No. 111-148, and the Health Care and Education Reconciliation Act of 2010,  
23 Pub. L. No. 111-152, a state-based health insurance exchange should not be  
24 implemented in this state without the legal authority to establish and  
25 operate an exchange under state law and the approval of the General Assembly.

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27 SECTION 2. DO NOT CODIFY. Implementation of state-based health  
28 insurance exchange.

29 (a) A state-based health insurance exchange shall not be  
30 implemented in this state until after the decision of the United States  
31 Supreme Court in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted,  
32 U.S. , 135 S. Ct. 475 (2014).

33 (b) If the Board of Directors of the Arkansas Health Insurance  
34 Marketplace determines that the decision in King v. Burwell, 759 F.3d 358  
35 (4th Cir.), cert. granted, U.S. , 135 S. Ct. 475 (2014):

36 (1) Allows subsidies under the Patient Protection and

1 Affordable Care Act, Pub. L. No. 111-148, and the Health Care and Education  
2 Reconciliation Act of 2010, Pub. L. No. 111-152, for a state-based health  
3 insurance exchange, but not for a health insurance exchange operated by the  
4 federal government, then implementation of an appropriate health insurance  
5 exchange for the State of Arkansas shall be determined by a future act of the  
6 General Assembly; or

7 (2) Allows subsidies under the Patient Protection and  
8 Affordable Care Act, Pub. L. No. 111-148, and the Health Care Education  
9 Reconciliation Act of 2010, Pub. L. No. 111-152, for both a state-based  
10 health insurance exchange and a health insurance exchange operated by the  
11 federal government, then the authority of the Arkansas Health Insurance  
12 Marketplace to implement a state-based health insurance exchange shall not be  
13 affected by this act.

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15 /s/J. Hendren  
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