

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

SENATE BILL 709

5 By: Senators Irvin, Bledsoe, G. Baker, Rapert, Files, J. Hutchinson, M. Lamoureux, E. Williams, Holland,  
6 J. Dismang, J. Key, B. Sample, Whitaker, Hendren, B. Pritchard  
7 By: Representatives J. Burris, Baird, Benedict, Biviano, Clemmer, Dale, Deffenbaugh, English, Eubanks,  
8 Garner, Hammer, Harris, Hickerson, Hobbs, Hopper, Hubbard, D. Hutchinson, Johnston, Lea, Mauch, D.  
9 Meeks, S. Meeks, Rice, Sanders

## For An Act To Be Entitled

10  
11 AN ACT TO CREATE THE HEALTHCARE REFORM ACCOUNTABILITY  
12 ACT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
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14

## Subtitle

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16 AN ACT TO CREATE THE HEALTHCARE REFORM  
17 ACCOUNTABILITY ACT AND TO DECLARE AN  
18 EMERGENCY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code Title 25, Chapter 1 is amended to add an  
25 additional subchapter to read as follows:

26 Subchapter 4 – The Healthcare Reform Accountability Act

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28 25-1-401. Title.

29 This subchapter shall be known and may be cited as the "Healthcare  
30 Reform Accountability Act".

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32 25-1-402. Findings.

33 The General Assembly finds that:

- 34 (1) State officers are not agents of the federal government;  
35 (2) The Federal Government may neither issue directives  
36 requiring the states to address particular problems nor command the states'



1 officers or those of their political subdivisions to administer or enforce a  
2 federal regulatory program;

3 (3) Congressional mandates to the states to enact or enforce a  
4 federal regulatory program are fundamentally incompatible with our  
5 constitutional system of dual sovereignty;

6 (4) The holdings of the United States Supreme Court cited in  
7 this section, from Printz v. United States, 521 US 898 - 1997, underlie the  
8 American system of dual sovereignty; and

9 (5) The United States Supreme Court has repeatedly held that the  
10 federal government may not commandeer the political authority of the states  
11 in order to enact or enforce a federal regulatory program.

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13 25-1-403. Requirements for state agency enforcement of the Patient  
14 Protection and Affordable Care Act.

15 (a) A department or agency of this state shall not implement or  
16 enforce any part of the federal Patient Protection and Affordable Care Act,  
17 Pub. L. No. 111-148, unless:

18 (1) The department or agency reports to the legislature under  
19 subsection (b) of this section; and

20 (2) The department or agency is specifically authorized under  
21 existing state legislation, state rules, or some combination of the two (2)  
22 to implement or enforce the federal Patient Protection and Affordable Care  
23 Act, Pub. L. No. 111-148.

24 (b) The reports required under subsection (a) of this section shall  
25 include without limitation:

26 (1)(A) The specific Arkansas authorization under existing state  
27 legislation, state rules, or some combination of the two (2) to implement and  
28 enforce the federal Patient Protection and Affordable Care Act, Pub. L. No.  
29 111-148; and

30 (B) The specific provision of the federal Patient  
31 Protection and Affordable Care Act, Pub. L. No. 111-148, that is to be  
32 implemented or enforced;

33 (2) Whether the provision of the federal Patient Protection and  
34 Affordable Care Act, Pub. L. No. 111-148 to be implemented and enforced  
35 allows for a state waiver or any other alternatives to the federal provision;

36 (3) An explanation of the nature of the duty or duties created

1 by that provision of the federal Patient Protection and Affordable Care Act,  
2 Pub. L. No. 111-148 and an explanation of how that duty or duties will be  
3 implemented;

4 (4) An estimate of the number of the inhabitants of the state  
5 who will be directly affected;

6 (5) The cost to the state or citizens of the state to implement  
7 and sustain the federal reform provision; and

8 (6) The consequences to the state, if it does not implement or  
9 enforce that federal reform provision

10 (c) The reports required under subsection (a) of this section shall be  
11 accessible, at a minimum, through the Arkansas state government website.

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13 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
14 General Assembly of the State of Arkansas that Congress has enacted the  
15 Patient Protection and Affordable Care Act, Pub. L. No. 111-148; that the  
16 Patient Protection and Affordable Care Act, Pub. L. No. 111-148 requires  
17 state agencies to perform acts that should be noticed to the people of this  
18 state; and that this act is immediately necessary because state agencies have  
19 already begun to perform acts that would be required to be posted on a  
20 website under this act. Therefore, an emergency is declared to exist and  
21 this act being immediately necessary for the preservation of the public  
22 peace, health, and safety shall become effective on:

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

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

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

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