

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/12/13

A Bill

HOUSE BILL 1508

5 By: Representative Biviano
6 *By: Senator J. Dismang*
7

For An Act To Be Entitled

9 AN ACT TO ENACT THE *ARKANSAS HEALTH INSURANCE*
10 *MARKETPLACE* ACT; TO PROMOTE COMPETITION AMONG HEALTH
11 INSURANCE CARRIERS; TO DECREASE THE COST OF HEALTH
12 *INSURANCE; TO DECLARE AN EMERGENCY;* AND FOR OTHER
13 PURPOSES.
14

Subtitle

15
16
17 *TO ENACT THE ARKANSAS HEALTH INSURANCE*
18 *MARKETPLACE ACT; TO PROMOTE COMPETITION*
19 *AMONG HEALTH INSURANCE CARRIERS; TO*
20 *DECREASE THE COST OF HEALTH INSURANCE;*
21 *AND TO DECLARE AN EMERGENCY.*
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 *SECTION 1. Arkansas Code Title 23, Chapter 61, is amended to add an*
27 *additional subchapter to read as follows:*
28

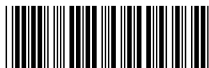
29 *Subchapter 8 – Arkansas Health Insurance Marketplace Act*
30

31 *23-61-801. Title.*

32 *This subchapter shall be known and may be cited as the "Arkansas Health*
33 *Insurance Marketplace Act".*
34

35 *23-61-802. Definitions.*

36 *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) 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-period 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 must 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 agency shall not adopt the
2 successive emergency rule earlier than thirty (30) days after the expiration
3 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 (c)(1) 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 agency shall
20 submit a statement and explanation to that effect.

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

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

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

33 (c)(1) After the expiration of the thirty-day
34 public comment period and before the effective date of the rule, the Arkansas
35 Health Insurance Marketplace shall take appropriate measures to make the
36 final rule known to the persons who may be affected by the rule.

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

4 (A) The final rule;

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

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

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

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

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

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

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

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

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

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

1 (C) Two (2) members appointed by the Governor shall be
2 consumer representatives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (iii) One (1) initial member shall be appointed to a

1 term of eight (8) years.

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

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

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

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

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

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

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

17 (1) Health benefits administration;

18 (2) Healthcare finance;

19 (3) Health plan purchasing;

20 (4) Healthcare delivery system administration; or

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

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

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

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

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

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

35 (h)(1) The board shall hire the Executive Director of the Arkansas
36 Health Insurance Marketplace to:

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

3 (B) Employ necessary staff.

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

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

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

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

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

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

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

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

29 (2)(A) The Insurance Commissioner may apply for any state,
30 federal, or private grant funds available to assist with the implementation
31 and operation of the Arkansas Health Insurance Marketplace.

32 (B) If the Insurance Commissioner applies for and receives
33 any state, federal, or private grant funds available to assist with the
34 implementation and operation of the Arkansas Health Insurance Marketplace,
35 the Insurance Commissioner shall enter into a memorandum of understanding
36 with the Arkansas Health Insurance Marketplace concerning the use and

1 expenditure of the grant funds.

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

5 (2) For purposes of this subsection:

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

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

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

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

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

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

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

25 (2) Comply with all applicable state and federal laws and
26 regulations.

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

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

34 (1) Facilitate compliance with reporting requirements under
35 state and federal law; and

36 (2) Assess the performance of the Arkansas Health Independence

1 Program, including without limitation the program's quality, cost, and
2 consumer access.

3
4 23-61-804. Duties of Arkansas Health Insurance Marketplace.

5 The Arkansas Health Insurance Marketplace shall:

6 (1)(A) Implement procedures and criteria for the certification,
7 recertification, and decertification of health benefit plans as qualified
8 health plans in coordination with the Insurance Commissioner and in
9 compliance with state and federal law.

10 (B) The procedures and criteria shall comply with
11 applicable:

12 (i) Federal law;

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

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

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

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

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

29 (5) Use a standardized format for presenting health benefit
30 options in the Arkansas Health Insurance Marketplace;

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

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

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

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

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

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

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

18 (10) Transfer to the Secretary of the United States Department
19 of the Treasury the following:

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

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

27 (i) The employer did not provide minimum essential
28 coverage; or

29 (ii) The employer provided the minimum essential
30 coverage, but it was determined under section 36B(c)(2)(C) of the Internal
31 Revenue Code of 1986 as existing on the effective date of this act either to
32 be unaffordable to the employee or not to provide the required minimum
33 actuarial value; and

34 (C) The name and taxpayer identification number of each
35 individual who:

36 (i) Notifies the Arkansas Health Insurance

1 Marketplace under section 1411(b)(4) of the federal act that he or she has
2 changed employers; and

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

5 (11) Provide to each employer the name of each employee of the
6 employer described in subdivision (11)(B) of this section who ceases coverage
7 under a qualified health plan during a plan year and the effective date of
8 the cessation;

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

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

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

18 (iii) Facilitate enrollment in qualified health
19 plans;

20 (iv) Provide referrals to any applicable office of
21 health insurance consumer assistance or health insurance ombudsman or to any
22 other appropriate state agency or agencies for any enrollee with a grievance,
23 complaint, or question regarding his or her health benefit plan, coverage, or
24 a determination under that plan or coverage.

25 (B) The board shall ensure in the navigator selection
26 process that the navigators are geographically, culturally, ethnically, and
27 racially representative of the populations served; and

28 (E) Provide information in a manner that is culturally and
29 linguistically appropriate to the needs of the population being served by the
30 Arkansas Health Insurance Marketplace; and

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

34
35 23-61-805. Funding – Publication of costs.

36 (a)(1) The General Assembly shall establish a reasonable initial

1 assessment or user fee and reasonable increases or decreases in the amount of
2 future assessments or user fees and penalties and interest charges for
3 nonpayment of an assessment or user fee charged to participating health
4 insurers for the efficient operation of the exchange.

5 (2) Beginning October 1, 2014, and annually by October 1
6 thereafter, the Arkansas Health Insurance Marketplace shall report to the
7 Arkansas Health Insurance Marketplace Legislative Oversight Committee in the
8 manner and format that the committee requires its recommendations for the
9 initial assessment or user fee and 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.

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

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

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

27 (c)(1) All assessments and fees shall be due and payable upon receipt
28 and shall be delinquent if not paid within thirty (30) days of the receipt of
29 notice of the assessment by the health insurer.

30 (2)(A) Failure to timely pay the assessment will automatically
31 subject the health insurer to a penalty not to exceed ten percent (10%) of the
32 assessment and interest as established by the board.

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

35 (3) The Board of Directors of the Arkansas Health Insurance
36 Marketplace and the Insurance Commissioner may enforce the collection of the

1 assessment and penalty and interest in accordance with this subchapter and
2 the Arkansas Insurance Code.

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

6 (d)(1) The Arkansas Health Insurance Marketplace shall publish the
7 average costs of licensing, regulatory fees, and any other payments required
8 by the Arkansas Health Insurance Marketplace and the administrative costs of
9 the Arkansas Health Insurance Marketplace on an Internet website to educate
10 consumers on such costs.

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

13
14 23-61-806. Rules.

15 (a) The Insurance Commissioner may promulgate rules to implement this
16 subchapter.

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

20
21 23-61-807. Relation to other laws.

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

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

25 (c) This subchapter and actions taken by the Arkansas Health Insurance
26 Marketplace under this subchapter shall not be construed to preempt or
27 supersede the authority of the Insurance Commissioner to regulate the
28 business of insurance within this state.

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

33
34 SECTION 2. Arkansas Code Title 10, Chapter 3, is amended to add an
35 additional subchapter to read as follows:

36

1 Subchapter 27 – Arkansas Health Insurance Marketplace Legislative Oversight
2 Committee

3
4 10-3-2701. Arkansas Health Insurance Marketplace Legislative Oversight
5 Committee.

6 (a) The Arkansas Health Insurance Marketplace Legislative Oversight
7 Committee is established.

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

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

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

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

22 (c)(1) The Arkansas Health Insurance Marketplace Legislative Oversight
23 Committee shall study matters pertaining to the Arkansas Health Insurance
24 Marketplace Act, § 23-61-801 et seq., as the Arkansas Health Insurance
25 Marketplace Legislative Oversight Committee considers necessary to fulfill
26 its mandate.

27 (2) The Arkansas Health Insurance Marketplace Legislative
28 Oversight Committee may request reports from the Arkansas Health Insurance
29 Marketplace pertaining to the operations, programs, or finances of the
30 Arkansas Health Insurance Marketplace as it deems necessary.

31 (d) Annually by December 15, the Arkansas Health Insurance Marketplace
32 Legislative Oversight Committee shall provide to the General Assembly any
33 analysis or findings resulting from its activities under this section that
34 the Arkansas Health Insurance Marketplace Legislative Oversight Committee
35 deems relevant.

36 (e)(1) The President Pro Tempore of the Senate and the Speaker of the

1 House of Representatives shall each designate a cochair of the Arkansas
2 Health Insurance Marketplace Legislative Oversight Committee.

3 (2) The Arkansas Health Insurance Marketplace Legislative
4 Oversight Committee shall meet at least quarterly upon the joint call of the
5 cochairs of the Arkansas Health Insurance Marketplace Legislative Oversight
6 Committee.

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

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

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

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

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

23
24 SECTION 3. NOT TO BE CODIFIED. (a)(1) The health insurance
25 marketplace developed through a Federally-facilitated Exchange Partnership
26 model shall transfer to the control of the Arkansas Health Insurance
27 Marketplace on July 1, 2015, if the Board of Directors of the Arkansas Health
28 Insurance Marketplace determines that the establishment of a state-based
29 marketplace is approved by the United States Department of Health and Human
30 Services on or before July 1, 2015.

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

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

36

