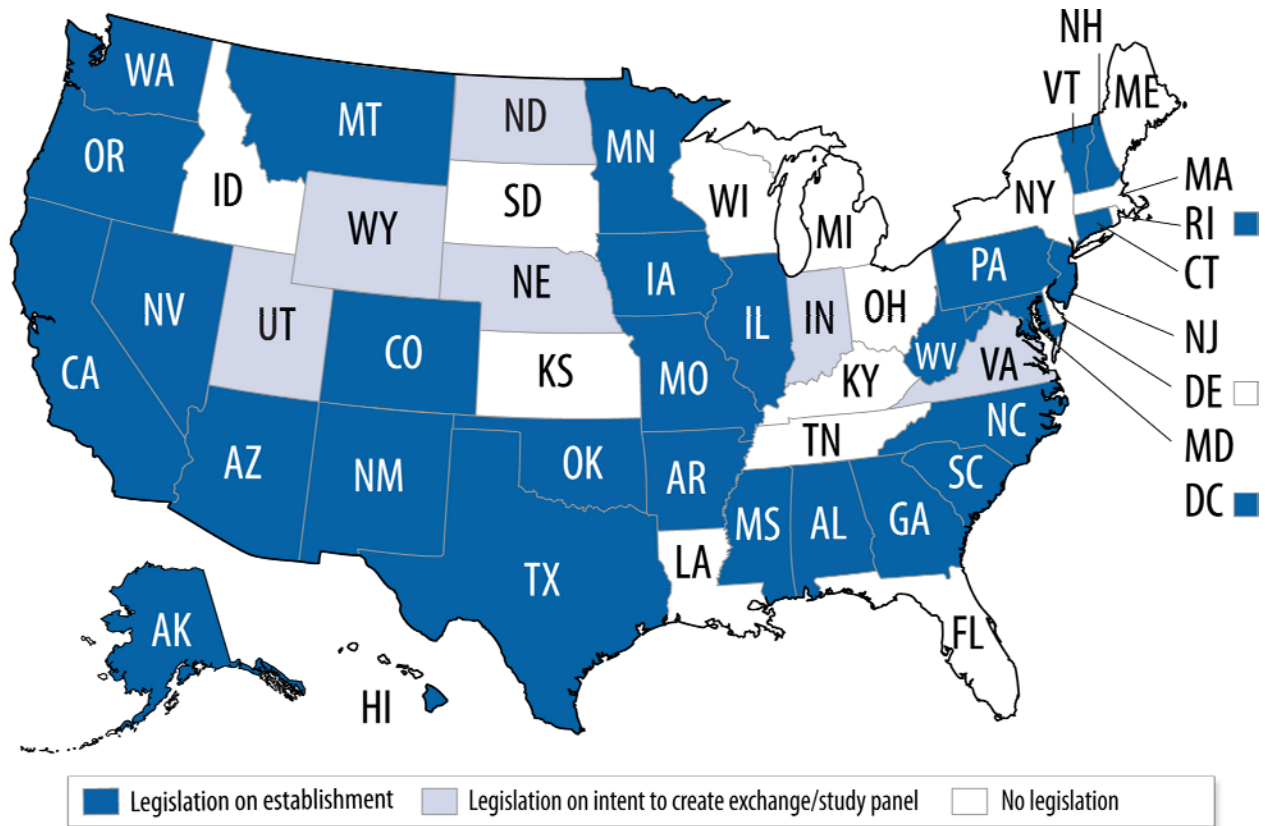


Analysis of State Health Insurance Exchange Legislation

Establishment Status and Governance Issues

Tracking 2011 State Legislation on Exchanges



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I. Status of 2011 State Legislation on Health Insurance Exchanges

Table 1. States with Legislation Introduced to Establish an ACA-Compliant Health Insurance Exchange (bill number ¹)	
Legislation Passed or Enacted (4 states)	
California (SB900 and AB1602 ²) Maryland (HB166)	Washington (SB5445 ³) West Virginia (SB408)
Legislation Pending (21 states)	
Alabama (HB401) Alaska (SB70) Colorado (SB11-200 ⁴) Connecticut (SB1204, HB6323, SB921) District of Columbia (B19-0002) Hawaii (SB1348, HB1201) Illinois (SB1729) Iowa (SF348, SF391) Minnesota (HF497, HF1204) Missouri (HB609 ⁵) Nevada (SB440)	New Hampshire (SB163) New Jersey (S2553, S1288, S2597) North Carolina (HB126, HB115, SB418 ⁶) Oklahoma (HB2130 ⁷) Oregon (SB99 ⁸) Pennsylvania (HB627) Rhode Island (SB87 ⁹) South Carolina (HB3738) Texas (SB1782, SB1510, SB1586, HB636) Vermont (HB202 ¹⁰)
Legislation Failed, Withdrawn, or Expired (6 states)	
Arizona (SB1524, HB2666) ¹¹ Arkansas (HB2138) ¹² Georgia (HB476) ¹³	Mississippi (HB1220) ¹⁴ Montana (HB124, HB620) ¹⁵ New Mexico (SB38 ¹⁶ /370)

¹ Multiple bill numbers indicate separate pieces of legislation with differing authors and provisions, not a Senate or House companion bill in the other chamber.

² California Exchange legislation included two complimentary bills, which were passed during the 2010 legislative session and signed by the governor on September 30, 2010.

³ After passage in the House, Washington SB5445 passed the Senate on April 18, 2011 and is before the Governor.

⁴ Colorado SB11-200 passed the Senate on April 25, 2011.

⁵ Missouri HB609 passed the House on April 14, 2011 and is now pending in the Senate.

⁶ North Carolina SB148 is a compromise version of HB126 and HB115 prepared by the Insurance Commissioner.

⁷ The Senate President announced on March 31, 2011 that the Oklahoma Senate will not take up the House approved HB2130.

⁸ Oregon SB99 passed the Senate on April 25, 2011 and is now being considered by the House.

⁹ Rhode Island SB87 passed the Senate on April 5, 2011 and is now pending in the House.

¹⁰ Vermont HB202 passed the House on March 24, 2011 and is pending approval in the Senate.

¹¹ Arizona SB1524 and HB2666 expired without passing upon the close of the 2011 legislative session.

¹² Arkansas HB2138 was withdrawn by the author March 31, 2011, but recommended for interim study by the legislature.

¹³ Georgia HB476 was withdrawn by the House leadership in consultation with the Governor just prior to the close of the 2011 legislative session.

¹⁴ Mississippi HB1220 passed the House and Senate, but expired when not voted out of Conference Committee before the end of the legislative session.

¹⁵ Montana HB124 and HB620 were voted down by the House Business and Labor Committee on March 23, 2011.

¹⁶ New Mexico SB38 passed both chambers of the legislature but was vetoed by Governor Martinez on April 8, 2011.

I. State Legislation on Health Insurance Exchanges (cont.)

Table 2. States with Legislation Introduced Regarding Intent to Create an ACA-Compliant State Exchange (bill number)	
Establishes a study panel or commission	
Passed or Enacted (3 states)	
Mississippi (HB377 ¹⁷) Utah (HB128 ¹⁸)	Wyoming (HB50 ¹⁹)
Pending (3 states)	
Illinois (HB1577) Indiana (SB580)	Nebraska (LB240)
Only indicates intent to create a state exchange	
Passed or Enacted (1 state)	
Virginia (HB2434)	
Pending (4 states)	
Arkansas (SB880, SB904, HB2104) Hawaii (SB1275)	North Dakota (HB1126) Oklahoma (SB960)

Table 3. States without Legislation Regarding an ACA-Compliant State Exchange	
No Legislation Introduced (14 states)	
Delaware	Massachusetts ²¹
Florida	Michigan
Idaho	New York
Kansas	Ohio
Kentucky	South Dakota
Louisiana ²⁰	Tennessee
Maine	Wisconsin

¹⁷ Mississippi HB377 passed both the House and Senate in March but has not yet been signed by the Governor as of April 25, 2011.

¹⁸ Utah HB128, which was passed in March and signed into law in April, includes a number of insurance market changes, along with a Health System Reform Task Force to evaluate options for transitioning the state's existing exchange into compliance with the ACA.

¹⁹ Wyoming HB50 was passed by the legislature and signed by the governor on March 10, 2011.

²⁰ The Jindal Administration announced on March 23, 2011 that Louisiana would not be pursuing establishment legislation of a state exchange, and would instead allow the federal government to operate an exchange in the state.

²¹ Massachusetts is currently developing legislation to bring the Commonwealth Connector, an exchange entity created prior to the passage of the ACA, into compliance with the ACA's state exchange requirements.

II. Exchange Administration and Governance

Table 4. Governance Model in State Exchange Legislation (bill number)	
State legislation with an Exchange operated by a State Agency (3 states)	
Iowa (SF391 ²²) Minnesota (HF1204 ²³)	Vermont (HB202 ²⁴)
State legislation establishing an Exchange as a quasi-governmental entity	
Free-standing (20 states)	
Arizona (SB1524) Arkansas (HB2138) California (SB900) Colorado (SB11-200) Connecticut (SB1204, HB6323, SB921) Georgia (HB476) Illinois (SB1729) Iowa (SF348) Maryland (HB166) Mississippi (HB1220) Missouri (HB609)	Montana (HB620) Nevada (SB440) New Hampshire (SB163) New Mexico (SB38/370) Oregon (SB99) Pennsylvania (HB627) Rhode Island (SB87) South Carolina (HB3738) Texas (SB1782, SB1510, SB1586, HB636)
Administratively housed in or supervised by a state agency (8 states)	
Alabama (HB 401) Alaska (SB70) Arizona (HB2666) District of Columbia (B19-0002)	Montana (HB124) New Jersey (S1288, S2553) Oklahoma (HB2130) West Virginia (SB408)
State legislation establishing an Exchange as a not-for-profit organization	
Free-standing (5 states)	
Hawaii (SB1348, HB1201) Minnesota (HF497) New Jersey (S2597)	North Carolina (HB126, HB115, SB418) Washington (HB1740, SB5445)
Administratively housed in or supervised by a state agency	
None	

²² Iowa SF391 directs the Commissioner of Insurance, at his or her discretion, to establish an exchange that is either operated by the insurance division of the Department of Commerce or is a not-for-profit corporation.

²³ Minnesota HF1204 creates the Minnesota Health Benefit Exchange as a state agency administered by the Commissioners of Commerce, Health, and Human Services under the guidance and direction of a nine-member board of directors.

²⁴ Vermont HB202 directs Green Mountain Care to be staffed and administered by the Vermont Department of Health Access. However, a newly-created Green Mountain Care Board will be charged with policy-setting for the program.

III. Board Composition and Conflict of Interest

Table 5. Conflict of Interest on Exchange Governing Boards (bill number)	
State legislation that prohibits insurers or brokers from serving on the Exchange Board (19 states)	
Arizona (SB1524)	Nevada (SB440)
California (SB900)	New Jersey (S2597, S2553, S1288 ²⁶)
Connecticut (SB1204, HB6323)	New Mexico (SB38/370)
District of Columbia (B19-0002)	North Carolina (HB126, SB418)
Georgia (HB476)	Rhode Island (SB87)
Illinois (SB1729 ²⁵)	South Carolina (HB3738)
Maryland (HB166)	Texas (SB1782)
Minnesota (HF1204)	Vermont (HB202 ²⁷)
Iowa (SF348)	Washington (SB5445 ²⁸)
Montana (HB 124)	
State legislation that permits but does not require insurers and/or brokers to serve on the Exchange Board (7 states)	
Arkansas (HB2138)	Oregon (SB99)
Colorado (SB11-200)	Pennsylvania (HB627)
Hawaii (SB1348, HB1201)	Texas (SB1510, SB1586, HB636)
Minnesota (HF497)	
State legislation that requires insurers <i>and</i> brokers to serve on the Exchange Board (8 states)	
Alabama (HB 401)	Montana (HB620)
Arizona (HB2666)	New Hampshire (SB163)
Mississippi (HB1220)	Oklahoma (HB2130)
Missouri (HB609)	West Virginia (SB408 ²⁹)
State legislation that requires insurers but not brokers to serve on the Exchange Board (3 states)	
Alaska (SB70)	North Carolina (HB115)
Connecticut (SB921)	

²⁵ Illinois SB1729 prohibits insurers from board membership, but dedicates one slot for a licensed producer.

²⁶ New Jersey S1288 prohibits insurers from the board but is silent regarding membership for agents/brokers.

²⁷ While not explicitly a governing board, the Green Mountain Care Board (Vermont HB202) prohibits board members from being an employee of or having any financial interest in an entity that will be regulated by the board/program.

²⁸ Washington SB5445 does not explicitly prohibit insurers or insurance agents or brokers from board membership; however, it states that board members may not have any conflicts of interest related to the work of the board.

²⁹ West Virginia SB408 requires that insurers form a committee to select a representative to serve on the board; however, the representative may not be employed by or have any financial relationship with any insurer.