Draft Legislation prepared by Conduit for Action

December 5, 2014

REPEAL AUTHORIZATION FOR A STATE RUN OBAMACARE EXCHANGE

State-run Obamacare Exchanges have failed in several states and more states have refused to create one. In 2013, Arkansas authorized the creation of a state-run Obamacare Exchange but it has not been implemented yet. This bill would repeal the authorization and avoid the costly program.

The bill is lengthy but most of the bill merely repeats the text of the law being repealed. Legislative rules require a bill to repeat the text being repealed.

- **SECTION 1 repeals authorization to create an Obamacare Exchange.**
- **SECTION 2 repeals the legislative oversight committee for the exchange which would be obsolete with the repeal of authorization for the Obamacare Exchange.**
- **SECTION 3 repeals authorization to transfer an exchange to a state-run Obamacare Exchange.**
- **SECTION 4 merely repeals an intent statement that was part of Arkansas' Obamacare Exchange law.**
- **SECTION 5 is an Emergency Clause to make the repeal effective immediately. The Emergency Clause makes the repeal effective before some July 1, 2015 timelines occur.**

Stricken language would be deleted from and underlined language would be added to present law.

A Bill

For An Act To Be Entitled

AN ACT TO REPEAL THE ARKANSAS HEALTH INSURANCE MARKETPLACE ACT; TO CONFORM OTHER LAWS TO THE REPEAL OF THE ARKANSAS HEALTH INSURANCE MARKETPLACE ACT; AND FOR OTHER PURPOSES.

Subtitle

TO REPEAL THE ARKANSAS HEALTH INSURANCE MARKETPLACE ACT; AND TO CONFORM OTHER LAWS TO THE REPEAL OF THE ACT.

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

SECTION 1. Arkansas Code Title 23, Chapter 61, Subchapter 8, The Arkansas Health Insurance Marketplace Act is repealed.

~~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) "Federal act" means the federal healthcare laws established by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152, and any amendments to or regulations or guidance issued under those statutes existing on April 23, 2013;~~

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

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

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

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

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

~~(iv) Workers' compensation or similar insurance;~~

~~(v) Automobile medical payment insurance;~~

~~(vi) Credit-only insurance;~~

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

~~(viii) Other similar insurance coverage, specified in federal regulations issued under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and existing on April 23, 2013, under which benefits for healthcare services are secondary or incidental to other insurance benefits.~~

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

~~(i) Limited scope dental or vision benefits;~~

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

(iii) Other similar limited benefits specified in federal regulations issued under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and existing on April 23, 2013.

(D) "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor:

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

(ii) Hospital indemnity or other fixed indemnity insurance.

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

(i) Medicare supplemental health insurance as defined under section 1882(g)(1) of the Social Security Act, Pub. L. No. 74-271, as existing on April 23, 2013;

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

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

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

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

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

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

(D) Workers' compensation or similar insurance;

(E) Automobile medical payment insurance;

~~(F) Credit-only insurance;~~

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

~~(H) Coverage only for limited scope vision benefits;~~

~~(I) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;~~

~~(J) Coverage for specified disease or critical illness;~~

~~(K) Hospital indemnity or other fixed indemnity insurance;~~

~~(L) Medicare supplement policies;~~

~~(M) Medicare, Medicaid, or the Federal Employee Health Benefit Program;~~

~~(N) Coverage only for medical and surgical outpatient benefits;~~

~~(O) Excess or stop-loss insurance; and~~

~~(P) Other similar insurance coverage:~~

~~(i) Under which benefits for health insurance are secondary or incidental to other insurance benefits; or~~

~~(ii) Specified in federal regulations issued under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and existing on April 23, 2013, under which benefits for healthcare services are secondary or incidental to other insurance benefits;~~

~~(4) "Health insurer" means an entity that provides health insurance or a health benefit plan in the State of Arkansas, including without limitation an insurance company, medical services plan, hospital plan, hospital medical service corporation, health maintenance organization, fraternal benefits society, or any other entity providing a plan of health insurance or health benefits subject to state insurance regulation;~~

~~(5) "Qualified employer" means a small employer that elects to make its full-time employees eligible for one (1) or more qualified health plans offered through the small business health options program, and at the option of the employer, some or all of its part-time employees, provided that the employer:~~

~~(A) Has its principal place of business in this state and elects to provide coverage through the small business health options program to all of its eligible employees, wherever employed; or~~

~~(B) Elects to provide coverage through the small business health options program to all of its eligible employees who are principally employed in this state;~~

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

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

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

~~(i) All persons treated as a single employer under subsection (b), subsection (c), subsection (m), or subsection (o) of section 414 of the Internal Revenue Code of 1986 as existing on April 23, 2013, shall be treated as a single employer;~~

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

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

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

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

~~23-61-803. Arkansas Health Insurance Marketplace.~~

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

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

~~(2) Except to the extent provided by this subchapter, the Arkansas Health Insurance Marketplace is exempt from:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(iii) Comply with § 25-15-301 et seq. [repealed].~~

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

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

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

~~(iii) If, after the expiration of the effective period of an emergency rule, the Arkansas Health Insurance Marketplace wishes to adopt a successive emergency rule that is identical or substantially similar to the expired emergency rule, the Arkansas Health Insurance Marketplace shall not adopt the successive emergency rule earlier than thirty (30) days after the expiration of the emergency rule.~~

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

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

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

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

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

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

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

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

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

~~(A) The final rule;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(4) The Insurance Commissioner or his or her designee as an ex officio nonvoting member; and~~

~~(5) The Director of the Department of Human Services or his or her designee as an ex officio nonvoting member.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(1) Health benefits administration;~~

~~(2) Healthcare finance;~~

~~(3) Health plan purchasing;~~

~~(4) Healthcare delivery system administration; or~~

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

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

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

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

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

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

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

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

~~(B) Employ necessary staff.~~

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

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

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

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

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

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

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

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

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

~~(2)(A) Before July 1, 2015, the Insurance Commissioner may apply for any state, federal, or private grant funds available to assist with the implementation and operation of the Arkansas Health Insurance Marketplace.~~

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

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

~~(2) For purposes of this subsection:~~

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

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

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

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

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

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

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

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

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

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

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

~~(2) Assess the performance of the Health Care Independence Program established by the Health Care Independence Act of 2013, § 20-77-2401 et seq., if enacted, including without limitation the program's quality, cost, and consumer access.~~

~~23-61-804. Duties of Arkansas Health Insurance Marketplace.~~

~~The Arkansas Health Insurance Marketplace shall:~~

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

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

~~(i) Federal law;~~

~~(ii) Federal waivers obtained by the state to implement the Health Care Independence Program established by the Health Care Independence Act of 2013, § 20-77-2401 et seq., if enacted; and~~

~~(iii) Rules promulgated by the State Insurance Department and the Department of Human Services under the Health Care Independence Act of 2013, § 20-77-2401 et seq., if enacted;~~

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

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

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

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

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

~~(7) Establish and make available by electronic means a calculator to determine the actual cost of coverage after application of a premium tax credit under section 36B of the Internal Revenue Code of 1986 as existing on April 23, 2013, and any cost-sharing reduction under section 1402 of the federal act;~~

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

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

~~(9) Subject to section 1411 of the federal act, grant a certification attesting that, for purposes of the individual responsibility penalty under section 5000A of the Internal Revenue Code of 1986 as existing on April 23, 2013, an individual is exempt from the individual responsibility requirement or from the penalty imposed by that section of the Internal Revenue Code of 1986 because:~~

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

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

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

~~(A) A list of the individuals who are issued a certification under subdivision (9) of this section, including the name and taxpayer identification number of each individual;~~

~~(B) The name and taxpayer identification number of each individual who was an employee of an employer but who was determined to be eligible for the premium tax credit under section 36B of the Internal Revenue Code of 1986 as existing on April 23, 2013, because:~~

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

~~(ii) The employer provided the minimum essential coverage, but it was determined under section 36B(c)(2)(C) of the Internal Revenue Code of 1986 as existing on April 23, 2013, either to be unaffordable to the employee or not to provide the required minimum actuarial value; and~~

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

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

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

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

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

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

~~(ii) Distribute fair and impartial information concerning enrollment in qualified health plans and the availability of premium tax credits under section 36B of the Internal Revenue Code of 1986 as existing on April 23, 2013, and cost-sharing reductions under section 1402 of the federal act;~~

~~(iii) Facilitate enrollment in qualified health plans;~~

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

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

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

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

~~23-61-805. Funding — Publication of costs.~~

~~(a)(1) The General Assembly shall establish a reasonable initial assessment or user fee and reasonable increases or decreases in the amount of future assessments or user fees and penalties and interest charges for nonpayment of an assessment or user fee charged to participating health insurers for the efficient operation of the Arkansas Health Insurance Marketplace.~~

~~(2) Beginning October 1, 2014, and annually by October 1 thereafter, the Arkansas Health Insurance Marketplace shall report to the Arkansas Health Insurance Marketplace Legislative~~

~~Oversight Committee in the manner and format that the committee requires the Arkansas Health Insurance Marketplace's recommendations for the initial assessment or user fee and increases or decreases in the amount of future assessments or user fees and penalties and interest charges for nonpayment of an assessment or user fee charged to participating health insurers.~~

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

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

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

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

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

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

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

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

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

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

~~23-61-806. Rules.~~

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

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

~~23-61-807. Relation to other laws.~~

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

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

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

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

SECTION 2. Arkansas Code 10-3-2701, concerning a committee to oversee the Arkansas Heath Insurance Marketplace, is repealed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. Uncodified Section 3 of Act 1500 of 2013 is repealed

~~SECTION 3. NOT TO BE CODIFIED.~~

~~(a)(1) The health insurance marketplace developed through a Federally-facilitated Exchange Partnership model shall transfer to the control of the Arkansas Health Insurance Marketplace on July 1, 2015, if the Board of Directors of the Arkansas Health Insurance Marketplace determines that the establishment of a state-based 2 marketplace is approved by the United States Department of Health and Human Services on or before July 1, 2015.~~

~~(2) The board may extend the date of transfer under subdivision (a)(1) of this section.(b) The board shall participate in the Federally-facilitated Exchange Partnership to assist in planning the transition to a state-based health insurance marketplace.~~

SECTION 4. Uncodified Section 4 of Act 1500 of 2013 is repealed.

~~SECTION 4. NOT TO BE CODIFIED. Legislative intent.~~

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

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly that the Arkansas Health Insurance Marketplace Act provides for the establishment of a state-run exchange under the Patient Protection and Affordable Care Act, commonly referred to as an Obamacare Exchange; that state-run exchanges have failed in several states and have been costly; that based on the experience of other, states Arkansas should not create a state-run Obamacare Exchange; and that this act is immediately necessary in order to avoid confusion because of timelines built into the Arkansas Health Insurance Marketplace Act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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