

# HB518 INTRODUCED



1 JA4DYY-1  
2 By Representative Ingram  
3 RFD: Insurance  
4 First Read: 24-May-23  
5 2023 Regular Session



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SYNOPSIS:

The federal Affordable Care Act provides that each state may establish its own health insurance exchange. Health insurance exchanges are intended to educate the public about health insurance options and serve as a marketplace in which employers, families, and individuals may purchase health insurance coverage offered by different insurers. Since the implementation of the Affordable Care Act in 2013, Alabama has not established such an exchange.

This bill would create a health insurance exchange for the State of Alabama.

A BILL  
TO BE ENTITLED  
AN ACT

Regarding health insurance; to provide for a state health care exchange pursuant to the federal Affordable Care Act; to establish a governing board of directors and an executive director and require the board to operate the exchange; and to provide for coordination with and assistance



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29 from the Department of Insurance.

30 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

31 Section 1. The purposes of this act include the  
32 following:

33 (1) To maintain state sovereignty over the regulation  
34 of health insurance to the greatest extent possible under  
35 federal law.

36 (2) To maximize flexibility to craft unique solutions  
37 that meet the needs of the residents of Alabama and that  
38 promote a variety of affordable health coverage options,  
39 consumer empowerment, and competition in the health care  
40 market.

41 (3) To establish the State Health Insurance Exchange to  
42 facilitate the purchase and sale of qualified health plans in  
43 the individual health insurance market.

44 (4) To grant the Commissioner of Insurance the  
45 authority to apply to the federal government for a Section  
46 1332 State Innovation Waiver.

47 Section 2. As used in the act, the following terms have  
48 the following meanings:

49 (1) AFFORDABLE CARE ACT (ACA). The Patient Protection  
50 and Affordable Care Act (Public Law 111-148, 124 Stat. 119),  
51 as amended by the Health Care and Education Reconciliation Act  
52 of 2010 (Public Law 111-152, 124 Stat. 1029).

53 (2) BOARD. The Board of Directors of the Alabama Health  
54 Insurance Exchange.

55 (3) COMMISSIONER. The Alabama Commissioner of  
56 Insurance.



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57 (4) EXECUTIVE DIRECTOR. The Executive Director of the  
58 Alabama Health Insurance Exchange.

59 (5) FEDERAL ACTS. The ACA and any amendments and  
60 related provisions of the Public Health Service Act (58 Stat.  
61 682, 42 U.S.C. § 201 et seq.).

62 (6) HEALTH INSURANCE EXCHANGE or EXCHANGE. The Alabama  
63 health insurance exchange, composed of an exchange for the  
64 individual market and a small business health options program  
65 or SHOP exchange under a single governance and administrative  
66 structure.

67 (7) HEALTH INSURANCE ISSUER or ISSUER. An insurance  
68 company, insurance service, or insurance organization,  
69 including a health maintenance organization, that is licensed  
70 by the Alabama Department of Insurance to engage in the  
71 business of health insurance in the state.

72 (8) INNOVATION WAIVER. A state innovation waiver  
73 applied for pursuant to Section 1332 of the Affordable Care  
74 Act (42 U.S.C. § 18052).

75 (9) QUALIFIED HEALTH PLAN (QHP). A plan as defined in  
76 Section 1301(a) of the ACA that provides health care or dental  
77 care coverage that has been certified by the exchange as  
78 meeting the criteria set forth in this act and any regulations  
79 adopted pursuant to this act.

80 Section 3. (a) There is created a nonprofit legal  
81 entity to be known as the Alabama Health Insurance Exchange.

82 (b) The Alabama Health Insurance Exchange is created to  
83 provide qualified individuals and qualified employers with  
84 increased access to health insurance in the state and shall be



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85 governed by a board of directors.

86 (c) The Alabama Health Insurance Exchange is not a  
87 state agency and is exempt from:

88 (1) The payment of all state, county, and local taxes.

89 (2) All competitive bid laws.

90 (3) The state Merit System.

91 (4) The Alabama Administrative Procedure Act.

92 (d) The exchange shall not duplicate, impair, supplant,  
93 or infringe upon the powers, duties, or authority of the  
94 commissioner.

95 (e) The exchange shall provide for the certification of  
96 qualified health plans for the purpose of offering plans for  
97 purchase through the exchange.

98 Section 4. (a) The Board of Directors of the Alabama  
99 Health Insurance Exchange is created. The Board of Directors  
100 shall consist of the following members:

101 (1) Two appointed by the Governor.

102 (2) Two appointed by the Lieutenant Governor.

103 (3) Two appointed by the Senate President Pro Tempore.

104 (4) Two appointed by the Speaker of the House of

105 Representatives.

106 (5) The commissioner or his or her designee.

107 (6) The State Health Officer or his or her designee.

108 (7) The Commissioner of the Alabama Medicaid Agency or  
109 his or her designee.

110 (b) Members shall be appointed within 30 days of the  
111 effective date of this act.

112 (c) Member terms shall be staggered as follows:



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113 (1) The Governor, the Lieutenant Governor, the Senate  
114 President Pro Tempore, and the Speaker of the House of  
115 Representatives shall each appoint one initial member for a  
116 term of two years.

117 (2) The Governor, the Lieutenant Governor, the Senate  
118 President Pro Tempore, and the Speaker of the House of  
119 Representatives shall each appoint one initial member for a  
120 term of four years.

121 (3) A member subsequently appointed to the board shall  
122 be appointed to a term of four years.

123 (4) A member may be reappointed but shall serve no more  
124 than two consecutive four-year terms.

125 (d) The appointing authorities shall coordinate their  
126 appointments to assure the membership is inclusive and  
127 reflects the racial, gender, geographic, urban, rural, and  
128 economic diversity of the state.

129 (e) Appointing authorities shall ensure that voting  
130 members of the board have relevant experience in at least one  
131 of the following areas:

132 (1) Health benefit administration.

133 (2) Health care finance.

134 (3) Health plan purchasing.

135 (4) Health care delivery system administration.

136 (5) Public health or health policy issues related to  
137 the individual market, or the small group market, or both.

138 (f) A vacancy on the board shall be filled by the  
139 respective appointing authority for the remainder of the  
140 member's unexpired term.



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141 (g) The commissioner shall serve as the chair of the  
142 board.

143 (h) Within 60 days of the effective date of this act,  
144 the commissioner shall convene an organizational meeting of  
145 the board during which the board shall elect a vice-chair from  
146 among the members.

147 (i) The board shall meet at the call of the chair and  
148 no less often than once per calendar quarter.

149 Section 5. (a) Within 90 days of the effective date of  
150 this act, the board shall create a preliminary plan of  
151 operation containing provisions to ensure the fair,  
152 reasonable, and equitable administration of the exchange. The  
153 preliminary plan of operation shall establish all of the  
154 following:

155 (1) Procedures to implement the exchange consistent  
156 with state and federal law.

157 (2) Procedures for handling and accounting for the  
158 exchange's assets and money.

159 (3) Regular times and locations for meetings of the  
160 board.

161 (b) Within six months of the effective date of this  
162 act, the board shall create and implement a final plan of  
163 operation containing provisions to ensure the fair,  
164 reasonable, and equitable administration of the exchange.

165 (c) The board shall operate in compliance with each of  
166 the following laws:

167 (1) Article 3 of Chapter 12 of Title 36, Code of  
168 Alabama, 1975.



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169 (2) The Alabama Open Meetings Act.

170 Section 6. (a) The board shall do all of the following:

171 (1) Hire an executive director of the exchange.

172 (2) Adopt bylaws and charters as necessary and  
173 appropriate.

174 (3) Keep an accurate accounting of all activities,  
175 receipts, and expenditures of the exchange.

176 (4) Beginning December 31, 2024, and each year  
177 thereafter, prepare and submit a written fiscal and  
178 operational report to the Governor and the Legislature which  
179 must include any recommendations concerning the exchange. This  
180 report shall be made public and be accessible electronically.

181 (5) Obtain an annual audit of the exchange from an  
182 independent certified public accountant.

183 (6) Discharge the duties required to implement and  
184 operate the exchange in accordance with this act.

185 (b) The board may do all of the following:

186 (1) Seek and receive funding from federal, state, or  
187 local governments or private philanthropic organizations to  
188 defray the cost of the exchange.

189 (2) Create ad hoc advisory committees.

190 (3) Enter into contracts with persons or other  
191 organizations including state agencies and departments as  
192 necessary and proper to carry out the provisions of this act,  
193 including the authority to contract or employ staff for the  
194 performance of duties associated with this act.

195 (4) Enter into contracts with similar exchanges of  
196 other states for the joint performance of common





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197 administrative duties.

198 (5) Enter into information-sharing agreements with  
199 state and federal agencies and other state exchanges to carry  
200 out its responsibilities.

201 Section 7. (a) The exchange shall perform all of the  
202 following tasks:

203 (1) Educate consumers, including through outreach, a  
204 navigator program, and post-enrollment support.

205 (2) Assist individuals to access income-based  
206 assistance for which they may be eligible, including premium  
207 tax credits, cost-sharing reductions, and government programs.

208 (3) Enable eligible individuals to shop for and enroll  
209 in qualified health plans directly with carriers, web brokers,  
210 or agents and brokers licensed to operate in the state.

211 (4) Discharge all duties required to implement and  
212 operate the exchange in accordance with this act.

213 (b) (1) The exchange shall comply with the federal acts,  
214 rules, and regulations that may be imposed in a manner that  
215 maintains the state's sovereignty over the state's health  
216 insurance market.

217 (2) Any enforcement responsibilities of the exchange  
218 shall be delegated to the appropriate state agency and shall  
219 be sufficient to prevent a determination by the U.S. Secretary  
220 of Health and Human Services that the state has failed to  
221 substantially enforce any provision of the federal acts.

222 Section 8. (a) The commissioner shall adopt rules  
223 necessary to implement the provisions of this act, including  
224 both of the following:



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225 (1) Criteria for certification, recertification, and  
226 decertification of qualified health plans.

227 (2) Carry out other duties and powers of the exchange.

228 (b) The commissioner shall also prepare special reports  
229 concerning the exchange for the Governor, the Legislature, and  
230 the public, and may contract for the services of legal,  
231 professional, technical, and operational personnel and  
232 consultants as the operation of the exchange may require.

233 Section 9. (a) The exchange shall protect personally  
234 identifiable health and financial information in accordance  
235 with all applicable federal and state laws and regulations,  
236 including the Health Insurance Portability and Accountability  
237 Act of 1996 (Public Law 104-191, also known as HIPAA, 110  
238 Stat. 1936), the Health Information Technology for Economic  
239 and Clinical Health Act (Public Law 111-5, 123 Stat. 226 and  
240 123 Stat. 467), and implementing regulations.

241 (b) The Exchange may disclose de-identified aggregated  
242 data as part of the administration of the reinsurance program  
243 authorized pursuant to this act.

244 (c) Nothing in this section shall be construed to  
245 prohibit the exchange or the federal government from accessing  
246 the information necessary to carry out the exchange's  
247 responsibilities in accordance with law.

248 Section 10. (a) The Alabama Medicaid Agency and the  
249 Alabama Department of Public Health shall cooperate with the  
250 exchange to share information and facilitate transitions in  
251 enrollment between the exchange and any public programs.

252 (b) The Alabama Department of Insurance shall cooperate



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253 with the exchange to share information and assist in the  
254 implementation of the functions of the exchange.

255 Section 11. (a) By January 1, 2025, the board and the  
256 commissioner shall review and provide joint recommendations to  
257 the Legislature and the Governor's office regarding the  
258 submission of a state innovation waiver allowable under  
259 Section 1332 of the Affordable Care Act (Public Law 111-148).

260 (b) Based on the approval of the Governor's office, the  
261 commissioner may submit one or more applications to the United  
262 States Secretary of Health and Human Services and the United  
263 States Secretary of the Treasury for waiver of applicable  
264 provisions.

265 (c) Upon approval of a waiver, the commissioner may  
266 implement the waiver as approved.

267 Section 12. This act shall become effective on the  
268 first day of the third month following its passage and  
269 approval by the Governor, or its otherwise becoming law.