

Status of State Health Insurance Exchange Implementation

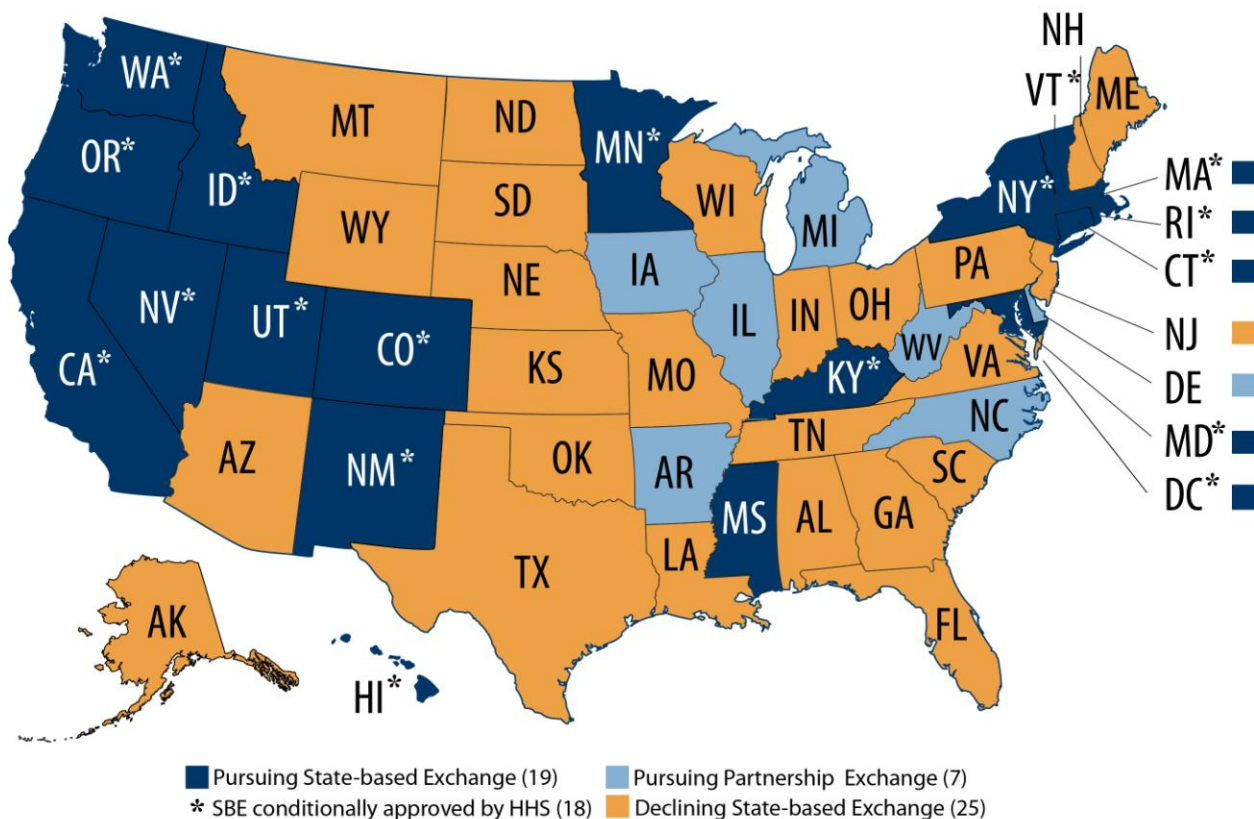


One of the key coverage elements of the Affordable Care Act (ACA) is the creation of state-based health insurance exchanges – new competitive marketplaces in which individuals and small businesses can choose among an array of affordable, comprehensive health insurance plans. The ACA authorizes states to establish an exchange; if states elect not to or are unable to do so, the U.S. Department of Health and Human Services shall establish a Federally-facilitated Exchange (FFE) in the state. States may also elect to pursue a Partnership Exchange in which the state plays a role in the development and operations of the FFE. Below is a summary of progress in exchange implementation, including establishing authority to create an Exchange and state access to federal grant funding to support planning activities.

State Implementation of Health Insurance Exchanges

States choosing to establish a State-based Exchange (SBE) were required to submit their exchange proposals to HHS by December 14, 2012, while those considering a Partnership Exchange have until February 15, 2013. As of December 17, 2012, eighteen states and the District of Columbia have declared their intention to establish a State-based Exchange (SBE), and an additional seven states are pursuing a Partnership Exchange. Twenty-five states have declined the opportunity to operate an SBE; some have indicated that they will default to the Federally facilitated Exchange (FFE) while others are reserving the right to pursue a Partnership Exchange (Figure 1).

Figure 1. Status of State Exchange Implementation



State Legislation Promoting Health Insurance Exchange Implementation

Table 1. State Establishment of a State-based Exchange	
States Establishing a State-based Exchange via Legislation (bill number)	
Legislation Enacted (11 states)	
California (SB900, AB1602) ¹	Massachusetts (Chapter 58) ⁷
Colorado (SB11-200) ²	Nevada (SB440) ⁸
Connecticut (SB921) ³	Oregon (SB99) ⁹
District of Columbia (B19-2) ⁴	Vermont (HB202) ¹⁰
Hawaii (SB1348) ⁵	Washington (SB5445) ¹¹
Maryland (HB166) ⁶	West Virginia (SB408) ¹²
Legislation Pending (1 state)	
Minnesota (HB0005) ¹³	
States Establishing an State-based Exchange via Executive Authority (3 States)	
Kentucky(EO 2012-587) ¹⁴	Rhode Island (E011-09) ¹⁶
New York (EO42) ¹⁵	
States Where Authority Has Not Yet Been Established (4 States)	
Idaho ¹⁷	Mississippi ¹⁹
New Mexico ¹⁸	Utah ²⁰

Ten states and D.C. have enacted legislation creating a State-based Exchange (SBE) since the passage of the Affordable Care Act (ACA) in 2010. An additional state, Massachusetts, created an exchange entity called the MA Connector via legislation in 2006, while one state, Minnesota, has an exchange measure currently pending before its legislature (Table 1). A total of forty five states have had at least one SBE establishment bill under consideration since the start of the 2011 legislative sessions.²¹

Three states have established a State-based Exchange via Executive Order rather than legislation (Table 1). Additionally, four other states have submitted their intent to establish a state-based exchange to

the federal government, but have yet to formally establish legal authority (Table 1). Several states that have previously enacted exchange establishment laws have more recently developed supplementary legislation to further define the authority of their exchange (Table 2).

In 25 states, officials have announced that the state will not pursue a State-based Exchange. Seven of these states have declared their intent to pursue a State Partnership Exchange (Table 4); the remainder has until February 15, 2013 to opt for a Partnership Exchange or default to the Federally facilitated Exchange (FFE) (Table 4).

Table 2. States with Supplementary Exchange Legislation (bill number)	
Passed or Enacted (5 states)	
Connecticut (HB5013) ²²	Vermont (H559) ²⁵
Maryland (SB238/HB443) ²³	Washington (HB2319) ²⁶
Oregon (HB4164) ²⁴	
Failed (2 states)	
Hawaii (HB2114, SB2434, SB2085)	Vermont (S208)

Table 3. States Pursuing a Partnership Exchange (7 states)

Arkansas ²⁷
Delaware ²⁸
Illinois ²⁹
Iowa ³⁰
Michigan ³¹
North Carolina ³²
West Virginia ³³

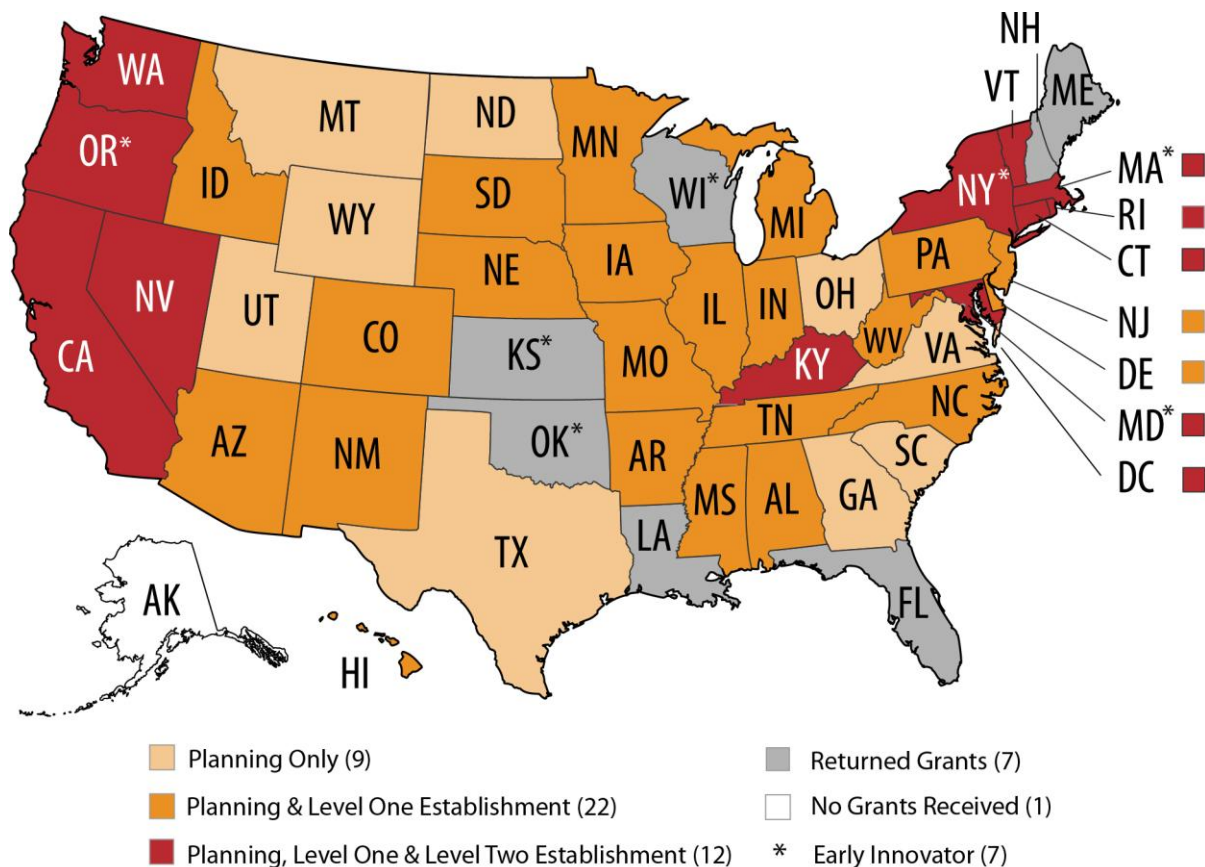
Table 4. States Declining a State-based Exchange (25 states)

Alabama ³⁴	Missouri ⁴²	Pennsylvania ⁵⁰
Alaska ³⁵	Montana ⁴³	South Carolina ⁵¹
Arizona ³⁶	Nebraska ⁴⁴	South Dakota ⁵²
Florida	New Hampshire ⁴⁵	Tennessee ⁵³
Georgia ³⁷	North Dakota ⁴⁶	Texas ⁵⁴
Indiana ³⁸	New Jersey ⁴⁷	Virginia ⁵⁵
Kansas ³⁹	Ohio ⁴⁸	Wisconsin ⁵⁶
Louisiana ⁴⁰	Oklahoma ⁴⁹	Wyoming ⁵⁷
Maine ⁴¹		

Grant Funding to States for Health Insurance Exchange Implementation

The ACA directs HHS to provide states with funding to support planning, implementation and operation of state exchanges from enactment through CY 2014. An initial allotment of up to \$1 million in planning grants was made available to each state in the fall of 2010; every state except Alaska applied for and received a planning grant. Five states have announced their intention of returning some or all exchange planning grant funds.

Figure 2. HHS Exchange Grant Awards to States



On February 16, 2011, larger Early Innovator grants were awarded to seven grantees – six individual states and to Massachusetts on behalf of a consortium of New England states.⁵⁸ These states are to pioneer the development of IT system infrastructure to support exchange operations, the results of which will be available to other states. Oklahoma, Kansas, and Wisconsin have subsequently returned the grants and withdrawn participation in the Early Innovator program. The remaining Early Innovator grantees are currently in various stages of research and development of the novel IT systems for exchange operations.

In 2011, states were eligible to commence from the planning grant phase to the second round of funding: establishment grants. These grants support the development and implementation of exchanges, and are available on a rolling basis with application deadlines beginning March 30, 2011 and occurring quarterly thereafter into 2014. These funds are available at two levels: Level

One, which provides an annual grant award for states still developing the various policy and operational elements needed for an exchange, and Level Two, a larger, multi-year grant award to carry a state from now until the end of calendar year 2014 (awarded to states with significant progress in implementation). Thirty-four states and the District of Columbia have applied for and received Level One establishment grants - including fourteen with multiple grant awards – while twelve states have received Level Two funding (see Table 5).

State	Level One (35 states)	Level Two (12 States)	Total Grants
Alabama	\$8,592,139 ^c		\$8,592,139
Arizona	\$29,877,427 ^c		\$29,877,427
Arkansas	\$7,665,483 ^d , \$18,595,072 ^g		\$26,260,555
California	\$39,421,383 ^b , \$196,479,629 ^f	\$673,705,358 ^h	\$909,606,370
Colorado	\$17,951,000 ^d , \$43,486,747 ^g		\$61,437,747
Connecticut	\$6,687,933 ^b	\$107,358,676 ^f	\$114,046,609
District of Columbia	\$8,200,716 ^b	\$72,985,333 ^g	\$81,186,049
Hawaii	\$14,440,144 ^c , \$61,815,492 ^f		\$76,255,636
Idaho	\$20,376,556 ^c		\$20,376,556
Illinois	\$5,128,454 ^b , \$32,789,377 ^c		\$37,917,831
Indiana	\$6,895,126 ^a		\$6,895,126
Iowa	\$7,753,662 ^c , \$26,623,003 ^f , \$6,844,913 ^h		\$41,221,578
Kentucky	\$7,670,803 ^b , \$57,896,810 ^d , \$4,423,000 ^g	\$182,707,738 ^h	\$252,698,351
Maryland	\$27,186,749 ^b	\$123,048,693 ^f	\$150,235,442
Massachusetts	\$11,644,938 ^d , \$41,679,505 ^g	\$81,256,970 ^h	\$134,581,413

Table 5. States with HHS Exchange Establishment Grants (grant amount) continued

State	Level One (35 states)	Level Two (12 States)	Total Grants
Michigan	\$9,849,305 ^c , \$30,667,994 ^h		\$40,517,299
Minnesota	\$4,168,071 ^b , \$26,148,929 ^d , \$41,679,505 ^g , \$39,326,115 ^h		\$111,322,620
Mississippi	\$20,143,618 ^b		\$20,143,618
Missouri	\$20,865,716 ^b		\$20,865,716
Nebraska	\$5,481,838 ^c		\$5,481,838
Nevada	\$4,045,076 ^b , \$15,295,271 ^d , \$4,397,926 ^e	\$50,016,012 ^f	\$73,754, 285
New Jersey	\$7,674,130 ^d		\$7,674,130
New Mexico	\$34,279,483 ^c		\$34,279,483
New York	\$10,744,898 ^b , \$48,474,819 ^d , \$95,496,490 ^f	\$185,822,357 ^h	\$340,538,564
North Carolina	\$12,396,019 ^b , \$73,961,296 ^h		\$86,357,315
Oregon	\$8,969,600 ^b , \$6,682,701 ^e	\$226,472,074 ^h	\$242,124,375
Pennsylvania	\$33,832,212 ^d		\$33,832,212
Rhode Island	\$5,240,668 ^a	\$58,500,000 ^c	\$63,740,668
South Dakota	\$5,879,569 ^c		\$5,879,569
Tennessee	\$1,560,220 ^c , \$2,249,945 ^d , \$4,300,000 ^e		\$8,110,165
Vermont	\$18,090,369 ^c		\$18,090,369
Washington	\$22,942,671 ^a	\$127,852,056 ^e	\$150,794,727
West Virginia	\$9,667,694 ^b		\$9,667,694
United States	\$1,334,638,209	\$1,889,725,267	\$3,224,363,476

^a March 30, 2011 application deadline

^b June 30, 2011 application deadline

^c September 30, 2011 application deadline

^d December 30, 2011 application deadline

^e March 30, 2012 application deadline

^f June 29, 2012 application deadline

^g August 15, 2012 application deadline

^h November 15, 2012 application deadline (*latest round of awards*)

Appendix. List of State Legislation on Health Insurance Exchanges
(Bill Number is hyperlink to copy of legislation)

State	Bill #	Purpose	Sponsor	Status
Alabama	HB245	Establishment	Wren (R)	Failed
	HB401	Establishment	Wren (R)	Failed
Alaska	SB70A	Establishment	French (D)	Expired
	SB70B	Establishment	French (D)	Failed
	SB70C	Establishment	French (D)	Failed
Arizona	HB2783	Establishment	Meyer (D)	Failed
	SB1524	Establishment	Sinema (D)	Failed
	HB2666	Establishment	McLain (R)	Failed
Arkansas	SB880	Intent	Malone (D)	Failed
	SB904	Intent	Malone (D)	Failed
	HB2104	Intent	Woods (R)	Failed
	HB2130	Establishment	Allen (D)	Withdrawn
California	SB900	Establishment	Alquist (D)	Enacted
	AB1602	Establishment	Perez (D)	Enacted
Colorado	SB11-200	Establishment	Boyd (D)	Enacted
Connecticut	SB921	Establishment	Joint Insurance & Real Estate Com.	Enacted
	SB1204	Establishment	Public Health Committee	Failed
	HB6323	Establishment	Joint Insurance & Real Estate Com.	Failed
	HB5013	Supplementary	Joint Insurance & Real Estate Com.	Enacted
District of Columbia	B19-0002	Establishment	Catania (I)	Enacted
Florida	HB1423	Establishment	Pafford (D)	Failed
	SB1640	Establishment	Rich (D)	Failed
Georgia	HB476	Establishment	Smith (R)	Failed
	HB801	Establishment	Gardner (D)	Failed
Hawaii	SB1348	Establishment	Baker (D)	Enacted
	HB2114	Supplementary	Yamane (D)	Failed
	SB2085	Supplementary	Green	Failed
	SB2434	Supplementary	Baker (D)	Failed
Idaho	HB433	Establishment	Chew (D)	Failed
Illinois	SB1555	Study Panel	Haine (D)	Enacted
	SB1729	Establishment	Koehler (D)	Pending

	HB4574	Establishment	Osmond (R)	Pending
Indiana	SB580	Study Panel	Simpson (D)	Failed
Iowa	SF2042	Establishment	Hatch (D)	Failed
	SF348	Establishment	Hatch (D)	Failed
	SF391	Establishment	Rielly (D)	Failed
Kentucky	EO2012-587	Establishment	Governor Beshear (D)	Enacted
Louisiana	SB744	Establishment	Peterson (D)	Failed
Maine	LD1497	Establishment	McKane (R)	Enacted
	LD1498	Establishment	Treat (D)	Failed
	LD1582	Study Panel	Richardson (R)	Enacted
Maryland	HB166	Establishment	Governor O'Malley (D)	Enacted
	SB238	Supplementary	Miller, Jr. (D)	Enacted
Michigan	SB693	Establishment	Marleau (R)	Pending
Minnesota	HF2290	Establishment	Atkins (DFL)	Failed
	HF2739	Establishment	Murphy (DFL)	Failed
	HF497	Establishment	Gottwalt (R)	Failed
	HF1204	Establishment	Murphy (DFL)	Failed
Mississippi	HB377	Study Panel	Warren (D)	Enacted
	HB1220	Establishment	Robinson (D)	Failed
Missouri	SB608	Establishment	Wasson (R)	Failed
	HB609	Establishment	Molendorp (R)	Failed
Montana	HB124	Establishment	Hunter (D)	Failed
	HB620	Establishment	Berry (D)	Failed
	HJ33	Study Panel	MacLaren (R)	Passed
Nebraska	LR85	Study Panel	Pahls (NP)	Referred
	LR293	Study Panel	Campbell (R)	Referred
	LB240	Study Panel	Nordquist (NP)	Failed
	LB835	Establishment	Nordquist (NP)	Failed
	LB838	Establishment	Pahls (NP)	Failed
Nevada	SB440	Establishment	Senate Committee on Finance	Enacted
New Hampshire	SB163	Establishment	White (R)	Failed
New Jersey	S2553	Establishment	Vitale (D)	Expired
	S2597	Establishment	Vitale (D)	Expired

	S1288	Establishment	Van Drew (D)	Expired
	S1319	Establishment	Gill (D)	Failed
	S847	Establishment	Vitale (D)	Pending
	S551	Establishment	Gill (D) and Vitale (D)	Pending
	S2135/A3186	Establishment	Gill (D) and Vitale (D)	Vetoed
New York	S5849	Establishment	Seward (R)	Failed
	S5652	Establishment	Seward (R)	Failed
	S6699	Study Panel	Seward (R)	Pending
	EO No.42	Establishment	Governor Cuomo (D)	Enacted
New Mexico	SB38/370	Establishment	Feldman (D)	Vetoed
	SB6	Establishment	Feldman (D)	Failed
North Carolina	HB115	Establishment	Dockham (R)	Failed
	HB126	Establishment	Insko (D)	Failed
	SB418	Establishment	McKissick (D)	Failed
North Dakota	HB1126	Intent	Keiser (R)	Enacted
	HB1474	Establishment	Legislative Management (Health Care Reform Review Committee)	Failed
Ohio	SB277	Establishment	Skindell (D)	Pending
Oklahoma	SB960	Intent	Brown (R)	Failed
	SB1629	Establishment	Bingman (R)	Failed
	HB2130	Establishment	Steele (R)	Failed
Oregon	SB99	Establishment	Courtney (D)	Enacted
	HB4164	Supplementary	Governor Kitzhaber (D)	Enacted
Pennsylvania	HB627	Establishment	DeLuca (D)	Pending
Rhode Island	SB87	Establishment	Pativia-Weed (D)	Failed
	EO 11-09	Establishment	Governor Chafee (I)	Enacted
South Carolina	HB3738	Establishment	Mitchell (D)	Failed
Texas	SB1782	Establishment	Ellis (D)	Failed
	HB636	Establishment	Zerwas (D)	Failed
	SB1510	Establishment	West (D)	Failed
	SB1586	Establishment	Ogden (R)	Failed
Utah	HB128	Study Panel	Dunnigan (R)	Enacted
Vermont	H202	Establishment	Larsen (D)	Enacted
	H559	Supplementary	Fisher (D)	Enacted

	S208	Supplementary	Illuzzi (R)	Failed
Virginia	HB2434	Intent	Kilgore (R)	Enacted
	HB357	Establishment	McClellan (D)	Failed
	HB402	Establishment	Hope (D)	Failed
	HB464	Establishment	Byron (R)	Failed
Washington	SB5445	Establishment	Keiser (D)	Enacted
	HB2319	Supplementary	Cody (D)	Enacted
West Virginia	SB408	Establishment	Minard (D)	Enacted
Wisconsin	SB273	Establishment	Vinehout (D)	Failed
Wyoming	HB50	Study Panel	Committee on Labor	Enacted

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- ¹ California exchange establishment legislation included two complementary bills signed by the Governor September 30, 2010.
 - ² Colorado SB11-200 was signed into law by the Governor on June 1, 2011.
 - ³ Connecticut SB921- was amended to reflect agreement between the authors of SB921, SB1204, and HB6323- passed the Senate on May 31, 2011, the House on June 4, 2011 and was signed by Governor on July, 1 2011.
 - ⁴ District of Columbia B19-2 was passed by the City Council on December 20, 2011 and signed by the Mayor January 17, 2012.
 - ⁵ Hawaii SB1348 was signed into law by the Governor on July 8, 2011.
 - ⁶ Maryland HB166 was signed into law by the Governor on April 12, 2011.
 - ⁷ Massachusetts Chapter 58 was signed into law by the Governor on April 12, 2006.
 - ⁸ Nevada SB440 was signed by the Governor on June 16, 2011.
 - ⁹ Oregon SB99 was signed by the Governor on June 17, 2011.
 - ¹⁰ Vermont HB202 was signed by the Governor on May 26, 2011.
 - ¹¹ Washington SB5445 passed the legislature on April 18, 2011 was signed by the Governor on May 11, 2011.
 - ¹² West Virginia SB408 was signed by the Governor on April 5, 2001.
 - ¹³ Minnesota HB0005 was introduced on January 10, 2013, and proposes an amendment to Minnesota Statutes 2012, subsection 13.7191 by adding a subdivision; proposes coding for new law as Minnesota Statute, chapter 62V or the “Minnesota Insurance Marketplace.”
 - ¹⁴ Governor Beshear established the Kentucky Health Benefit Exchange and Advisory Board via EO on July 17, 2012.
 - ¹⁵ Governor Cuomo created the New York Health Benefit Exchange via EO on April 12, 2012.
 - ¹⁶ Governor Chafee issued established the Rhode Island Health Benefits Exchange via EO on September 29, 2011,.
 - ¹⁷ Governor Otter’s administration announced its intent to establish a State-based Exchange on December 14, 2012.
 - ¹⁸ Governor Martinez’s administration announced its intent to establish a State-based Exchange on November 15, 2012.
 - ¹⁹ Insurance Commissioner Mike Cheney established an SBE within the state’s high risk pool in April, 2011; submitted a letter of intent to HHS on November 14, 2012.
 - ²⁰ Governor Herbert’s administration announced its intent to establish a State-based Exchange on December 14, 2012.
 - ²¹ A complete list of all state legislation regarding exchanges implementation is included in the Appendix.
 - ²² Connecticut HB5013, a supplementary bill defining the state’s Exchange Board was passed during a special session after the close of 2012 session.
 - ²³ Maryland SB238/HB443 passed the House and Senate on March 30, 2012 and was signed by the Governor on May 2, 2012.
 - ²⁴ Oregon HB4164 was passed by the House and the Senate in March 2012, and was signed by the Governor on March 8, 2012.
 - ²⁵ Vermont H559 was signed into law by the Governor on May 16, 2012.
 - ²⁶ Washington HB2319 was passed by the Senate on and was signed by the Governor on March 23, 2012.
 - ²⁷ Insurance Commissioner Bradford announced that the Arkansas will seek a partnership exchange on December 2, 2011.
 - ²⁸ Delaware Exchange planning officials reportedly expressed interest in a Partnership Exchange in June of 2012.
 - ²⁹ Illinois Governor Quinn announced his intent to establish a Partnership Exchange in a letter to HHS on October 16, 2012.
 - ³⁰ Governor Barnstad declared Iowa’s intent to participate in a Partnership Exchange in a December 14, 2012 letter to HHS.
 - ⁴⁶ Michigan’s Governor Snyder reasserted his interest in a Partnership Exchange on November 15, 2012.
 - ³² Governor Purdue announced on November 15, 2012 that North Carolina will participate in a Partnership Exchange.
 - ³³ Governor Tomblin’s administration announced on November 21, 2012 that West Virginia will pursue a Partnership Exchange.
 - ³⁴ On November 13, 2012, Governor Bentley announced that Alabama would defer to an FFE.
 - ³⁵ Alaska Governor Parnell announced on July 17, 2012 that the state would be declining a State-based Exchange.
 - ³⁶ Governor Brewer announced Arizona’s intent to decline a State-based Exchange on November 28, 2012.
 - ³⁷ Governor Deal announced on November 9, 2012 that Georgia would decline a State-based Exchange.
 - ³⁸ Governor-elect Pence announced on November 15, 2012 that Indiana will decline a State-based Exchange.
 - ³⁹ Governor Brownback issued a statement on November 9, 2012 that Kansas will not establish a State-based Exchange.
 - ⁴⁰ Governor Jindal’s administration announced on March 23, 2011 that Louisiana will not pursue a state exchange.
 - ⁴¹ Governor LePage informed HHS on April 18, 2012 that Maine will not be pursuing a state-based exchange.
 - ⁴² Governor Nixon announced on November 8, 2012 that Missouri will not create a State-based Exchange.
 - ⁴³ Insurance Commissioner Linden confirmed on November 15, 2012 that Montana will defer to an FFE.
 - ⁴⁴ Governor Heineman submitted Nebraska’s intention to decline a State-based Exchange on November 15, 2012.
 - ⁴⁵ New Hampshire passed HB1297, prohibiting the establishment of an SBE on June 18, 2012.
 - ⁴⁶ Governor Darlymple stated on November 15, 2012 that North Dakota will defer to an FFE for 2014.
 - ⁴⁷ On December 6, 2012, Governor Christie vetoed a bill that would have set up an SBE in New Jersey.
 - ⁴⁸ Lt. Governor Taylor announced that Ohio will default to a FFE on November 13, 2012.
 - ⁴⁹ Governor Fallin announced on November 19, 2012 that Oklahoma will defer to an FFE.
 - ⁵⁰ Governor Corbett announced Pennsylvania’s decision not to pursue an SBE and instead default to an FFE on December 12, 2012.

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- ⁵¹ In a July 2, 2012 letter to Senator DeMint, Governor Haley wrote that South Carolina will decline a state exchange.
- ⁵² Governor Haslam declined a State-based Exchange for Tennessee on December 10, 2010.
- ⁵³ Governor Haslam declined a State-based Exchange for Tennessee on December 10, 2010.
- ⁵⁴ Governor Perry stated that Texas will not pursue a state-based exchange in a letter to HHS, dated July 9, 2012.
- ⁵⁵ Governor McDonnell announced on November 7, 2012 that Virginia will not create a State-based Exchange in 2014.
- ⁵⁶ Governor Walker submitted a letter to HHS on November 16, 2012, declaring his intent to decline a State-based Exchange.
- ⁵⁷ State officials stated on November 14, 2012 that Wyoming will default to an FFE.
- ⁵⁸ Kansas (\$31,537,465), Maryland (\$6,227,454), Massachusetts (\$35,591,333), New York (\$27,431,432), Oklahoma (\$54,608,456), Oregon (\$48,096,307), and Wisconsin (\$38,058,074).