



## 2015 State Legislation on Health Exchanges / Marketplaces Structure

Updated July 30, 2015

WEB EDITION online at: [www.ncsl.org/Documents/Health/Changes\\_in\\_Health\\_Exchange\\_Structure-2015-Final2.pdf](http://www.ncsl.org/Documents/Health/Changes_in_Health_Exchange_Structure-2015-Final2.pdf)

The pending U.S. Supreme Court case, *King v. Burwell*, has renewed interest in states' health insurance exchange structures. The court case centers on whether people enrolled in federally facilitated exchanges (or "marketplaces") qualify for federal subsidies.

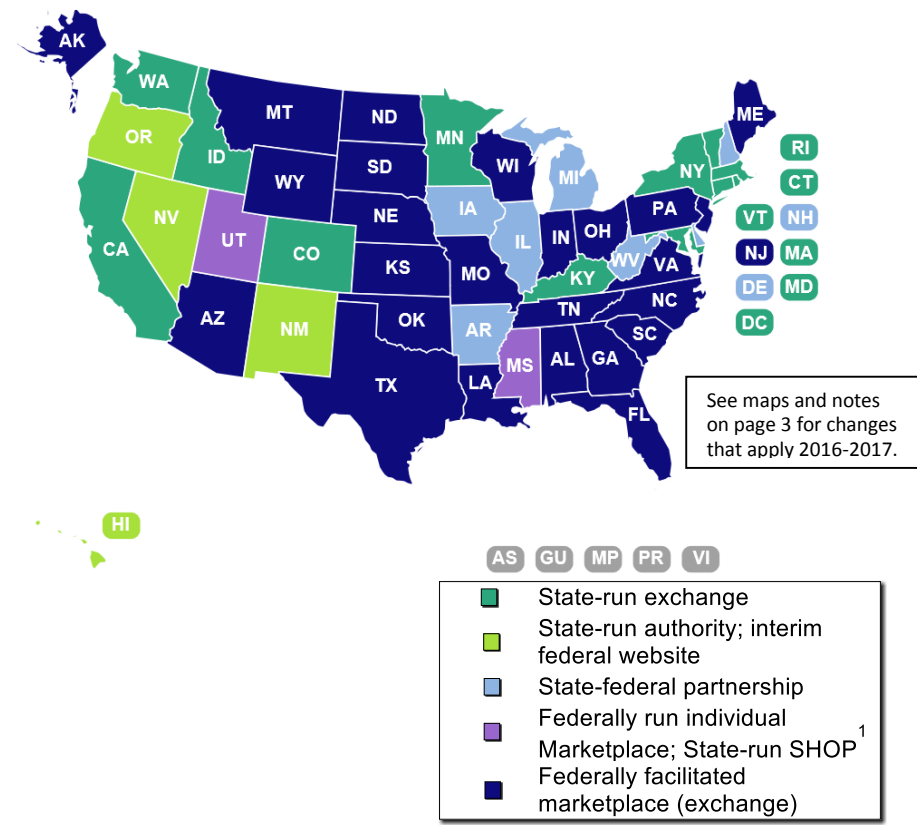
The Affordable Care Act (ACA) defines three structural exchange categories:

1. State-run exchanges
2. "Federally facilitated" exchanges
3. "Federal-state partnership" exchanges

For the 2015 plan year, 16 states and the District of Columbia have state-run exchanges. The other 34 states are classified as federally facilitated exchanges; among these, several states are operating a partnership or a hybrid version. See the map and NCSL's online [50-state report](#).

States may change the administrative responsibilities for their exchanges—by legislative or executive action—depending on each state's process and subject to federal approval for state-run exchanges. Regardless of the court's ruling in June, almost all the state bills listed in this report remain valid options for legislatures.

**Status of Health Insurance Exchanges/Marketplaces, 2015**

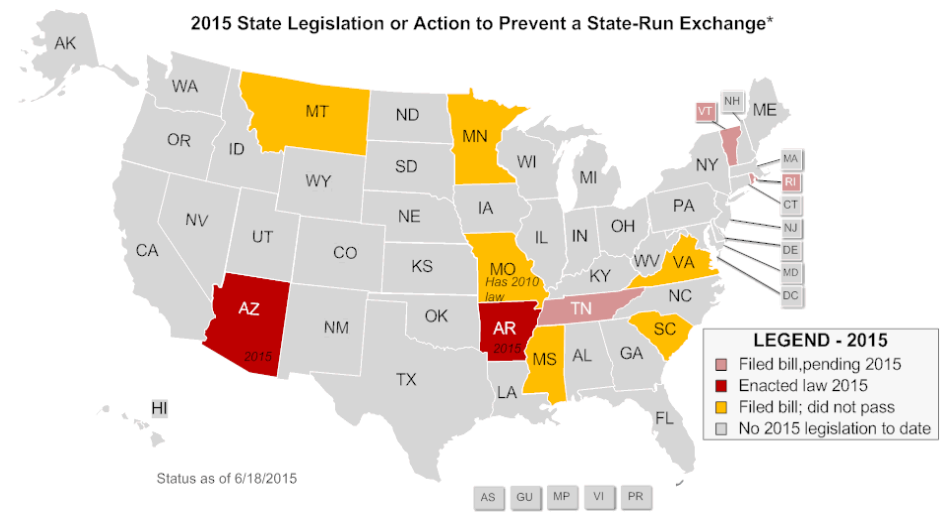
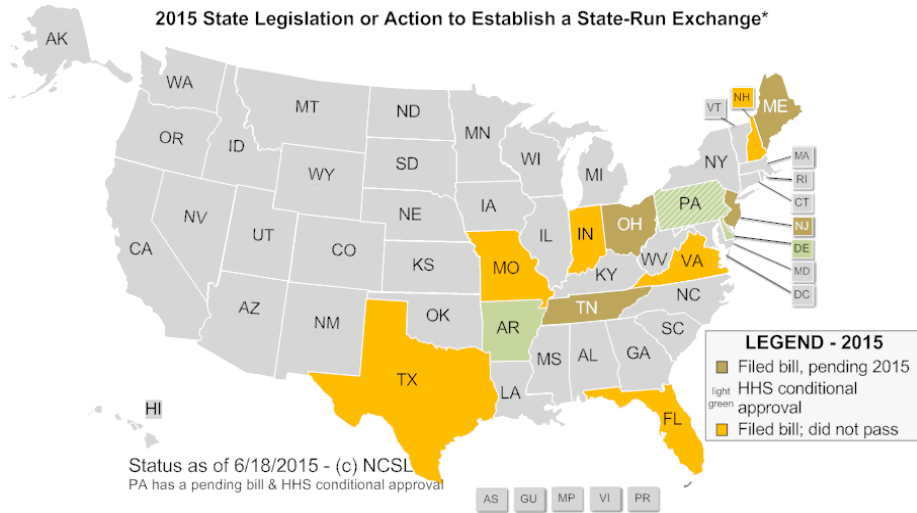


In **2015**, at least 11 states have bills that propose converting their current federally facilitated marketplaces into state-run or state-federal partnership exchanges. Separately, at least 11 states have bills proposing to eliminate their state-run exchange or prohibit forming one. Two of these measures, in Arizona and Arkansas have been signed into law. As usual, proposed legislation is not an indicator of the likelihood of consideration, passage or failure.

*2015 bills to change federally facilitated to state-run exchanges	*2015 bills to prevent or eliminate state-run exchanges
<p><b>Florida</b> (Federally facilitated (FFM) to state-run): <a href="#">S 1498</a> by Senator Soto (D)   Did not pass by end of session.</p> <p><b>Indiana</b> (FFM to state-run): <a href="#">S 417</a> by Senator Tallian (D)   Did not pass by end of session.</p> <p><b>Maine</b> (FFM to partnership or state-run): <a href="#">S 152</a>, resolve by Senator Gratwick (D)   Passed Senate; pending House 6/10/2015. <a href="#">HP 865</a> (FFM to state oversight) Did not pass 5/6/2015.</p> <p><b>Missouri</b> (FFM to state-run): <a href="#">H 870</a> by Representative McNeil (D)   Did not pass by end of 2015 session 5/15/2015.</p> <p><b>New Hampshire</b> (Partnership to state-run): <a href="#">H 548</a> by Representative Butler (D)   Did not pass by end of 2015 session.</p> <p><b>New Jersey</b> (FFM to state-run): <a href="#">S 540</a> and <a href="#">A 3953</a> by Senator Gill (D) and Assemblyman Conaway (D)   Pending.</p> <p><b>Ohio</b> (FFM to state-run): <a href="#">H 109</a> and <a href="#">S 132</a> by Representative Stinziano and Senator Skindell (D)   Filed 3/10/2015; Pending.</p> <p><b>Pennsylvania</b> (FFM to state-run): <a href="#">H 330</a> by Representative DeLuca (D)   Pending.</p> <p><b>Tennessee</b> (FFM to state-run, if the court eliminates FFM subsidies): <a href="#">HB 1209</a> and <a href="#">SB 1124</a> by Representative Love (D) and Senator Yarbrow (D)   Pending/carryover; held in committees 4/8/2015.</p> <p><b>Texas</b> (FFM to state-run): <a href="#">HB 817</a> and <a href="#">HB 818</a> by Representative Turner (D)   Held in committees; did not pass by end of session, 6/1/2015.</p> <p><b>Virginia</b> (FFM to state-run): <a href="#">SB 1328</a> and <a href="#">SB 1363</a> by Senator Watkins (R) and Senator Alexander (D)   Did not pass.</p>	<p><b>Arizona</b> (keep FFM) <a href="#">H 2643</a> by Representative Olson (R)   <b>Enacted; signed into law 4/10/2015</b></p> <p><b>Arkansas</b> (prohibit state-run unless voted by legislature; move from Partnership to FFM): <a href="#">SB 343</a> by Senator Hendren (R)   <b>Enacted; became law 3/12/2015</b> <a href="#">HB 1492</a> by Representative Bentley (R)   Filed; withdrawn 3/6/2015</p> <p><b>Minnesota</b> (repeal state-run to FFM) <a href="#">S 1232</a> by Senator Gazelka (R). Did not pass by end of session/carryover possible 5/27/2015.</p> <p><b>Missouri</b> (keep FFM): <a href="#">S 51</a> and <a href="#">H 601</a> by Senator Onder (R) and Representative Frederick (R)   Did not pass by end of 2015 session 5/15/2015. <i>A 2010 enacted law already provides that it is against Missouri public policy to implement or operate a health insurance exchange in Missouri.</i></p> <p><b>Mississippi</b> (keep FFM): <a href="#">S 2768</a> by Senator McDaniel (R)   Did not pass committee 2/3/2015.</p> <p><b>Montana</b> (Keep FFM): <a href="#">HB 256</a> by Representative Monforton (R)   Indefinitely postponed; did not pass – 3/28/2015.</p> <p><b>Rhode Island</b> (state-run to FFM): <a href="#">H 5329</a> by Representative Morgan (R)   held for further study 3/10/2015; did not pass by end of session 7/2015.</p> <p><b>South Carolina</b> (keep FFM): <a href="#">H 3020</a> and <a href="#">S 103</a> by Representative Chumley (R) and Senator Bright (R)   Pending/carryover; 2015 session ended 6/2015.</p> <p><b>Tennessee</b> (keep FFM): <a href="#">HB 61</a> and <a href="#">SB 72</a> by Representative Durham (R) and Senator Kelsey (R)   Pending/carryover; held in committees 1/17/2015 &amp; 2/10/2015.</p> <p><b>Vermont</b> (state-run to FFM): <a href="#">H 177</a> by Representative Gage (R)   Pending; held in committee</p>

**Virginia** (repeal 2011 Partnership authorization; keep FFM): [HB 1530](#) by Delegate Berg (R) | Did not pass committee, 2/10/2015

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## State Variations

Three states—**Missouri**, **Tennessee** and **Virginia**—have bills with opposing goals, one proposing to have only a federally facilitated exchange and another proposing to move to a state-run exchange.

A bill in **West Virginia** would authorize only the legislature to create a state-based exchange | [HB 2216](#) by Delegate Ellington (R) | Did not pass by the end of session.

Governors in **three states** applied for and received approval from HHS on June 15, 2015 for contingency proposals to move to a state-run exchange, while continuing to use the federal healthcare.gov website.

- **Arkansas** Governor Asa Hutchinson (R) updated an existing plan and received [conditional approval](#)<sup>2</sup> to run the small business marketplace in 2016 and the individual marketplace in 2017. Also see [SB 343](#) prohibiting a state-run exchange, by Senator Hendren (R), enacted; became law 3/12/2015
- **Delaware** already has an operational partnership exchange; Gov. Jack Markell (D) received [conditional approval](#) for a state-run exchange in 2016.
- **Pennsylvania** Governor Tom Wolf (D) submitted an [application](#) on June 2 and received [conditional approval](#) for a state-run exchange in 2016; on 6/25/2015 the state withdrew the application, which leaves the federally facilitated marketplace intact.

## Related Resources

- [State Actions to Address Health Insurance Exchanges](#). This NCSL online report contains detailed information on state actions and responses to implementing exchanges as outlined in the Affordable Care Act, between 2010 and the present. This material includes links to activities, with 2015 deadlines and early enrollment figures by state. It also includes current state information about insurers and premiums
- In **2014** legislative sessions, at least 14 states considered 24 bills to convert their current federally facilitated marketplaces into a state run or state-federal partnership. Measures were passed in **Maine** and **New Jersey** but none of the 14 states legally moved to a state-run exchange. [NCSL's 2014 report is online](#).
- **Blueprint for Approval of Affordable Health Insurance Marketplaces** (Updated for 2014), CMS/HHS – [online](#) [link verified 6/10/2015]
- **Health Insurance Exchanges Under the Patient Protection and Affordable Care Act (ACA)**. This 2012 Congressional Research Service (CRS) report outlines the required minimum functions of the marketplace, and explains how marketplaces are expected to be established and administered under the ACA. Aug. 15, 2012. <http://www.ncsl.org/documents/health/CRS-ExchgRpt81512.pdf>

NCSL has additional resources describing earlier (2010-2014) state actions and decisions, to expand or implement, and to restrict or prohibit, involvement with the provisions of the Affordable Care Act, including insurance reforms, exchanges, Medicaid and other topics. Visit [www.ncsl.org/healthreform](http://www.ncsl.org/healthreform) for more information.

1 – SHOP refers to the Small Business Health Options Program

2 – “Conditional Approval” is the standard terminology used for all state-run marketplaces or exchanges.

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This summary is a work in progress and is subject to future updates – request latest edition via [dick.cauchi@ncsl.org](mailto:dick.cauchi@ncsl.org)



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