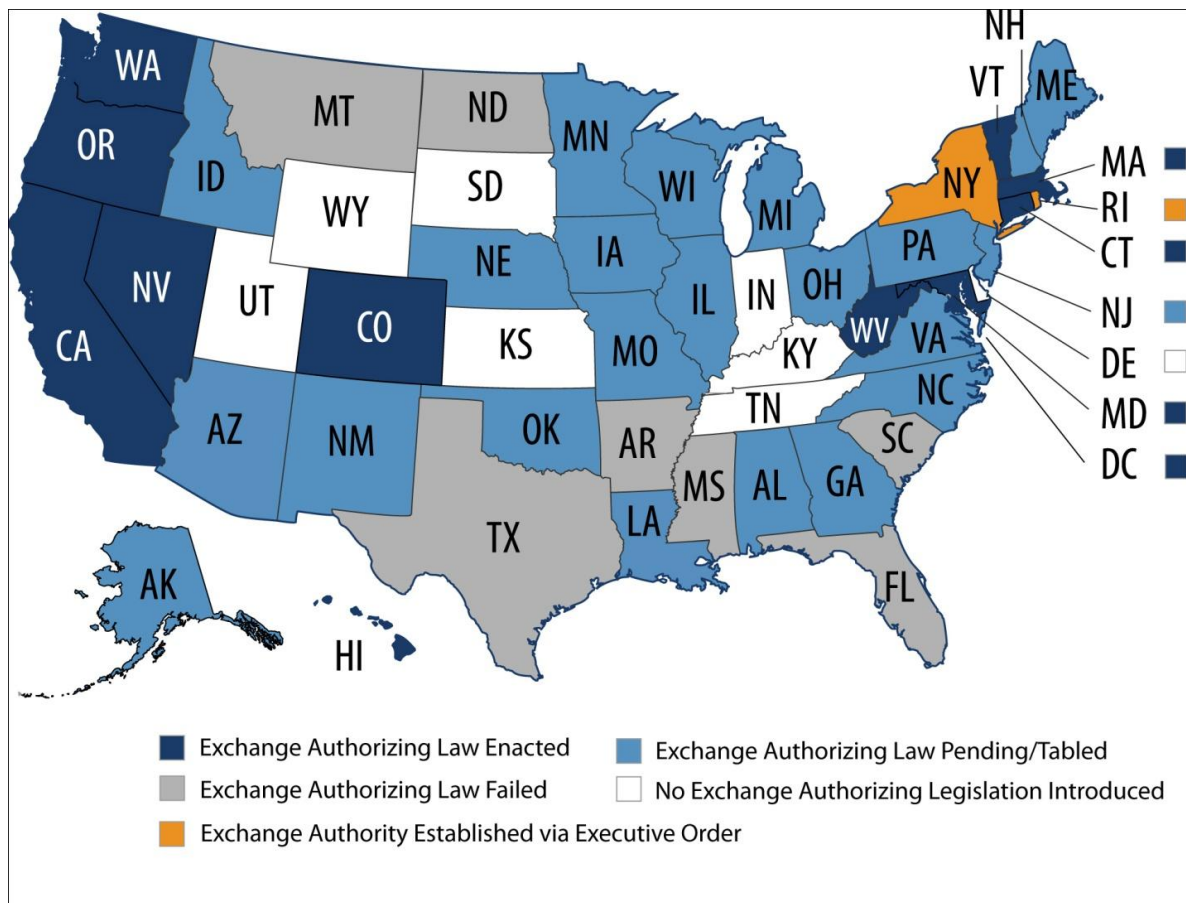


Status of State Health Insurance Exchange Implementation

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 in the state. Below is a summary of progress in Exchange implementation, including establishing authority to create an Exchange and obtaining federal grant funding to support planning activities.

Figure 1. State Authority to Establish an Exchange



State Legislation Promoting Health Insurance Exchanges Implementation

As of May 16, 2012, 41 states and the District of Columbia have introduced legislation that would establish a state exchange program.¹ Among them, ten states and D.C. have enacted such bills into law, while another three states also have authority to create a state exchange (Massachusetts launched the MA Connector in 2006, and Rhode Island and New York established exchanges via Executive Orders issued on September 19, 2011 and April 12, 2012, respectively). Exchange establishment legislation failed to move forward in 15 states. A measure is currently pending in 22 states, including several in which new bills have been introduced in 2012 after previous bills failed in 2011 (Table 1).

¹ A complete list of all state legislation regarding exchanges implementation is included in the Appendix.

Table 1. States with Legislation Introduced to Establish an ACA-Compliant Health Insurance Exchange (bill number)

Legislation Enacted (11 states)		
California (SB900 & AB1602) ²	Hawaii (SB1348) ⁶	Vermont (HB202) ¹⁰
Colorado (SB11-200) ³	Maryland (HB166) ⁷	Washington (SB5445) ¹¹
Connecticut (SB921) ⁴	Nevada (SB440) ⁸	West Virginia (SB408) ¹²
District of Columbia (B19-2) ⁵	Oregon (SB99) ⁹	
Legislation Pending or Tabled (23 states)		
Alabama (HB245) ¹³	Maine (LD1497, LD1498) ²¹	New Mexico (SB6) ³³
Alaska (SB70) ¹⁴	Michigan (SB693) ²²	North Carolina (HB126, HB115, SB418) ³⁴
Arizona (HB2783) ¹⁵	Minnesota (HF2290 ²³ , HF2739 ²⁴)	Ohio (SB277) ³⁵
Georgia (HB801) ¹⁶	Missouri (SB608) ²⁵	Oklahoma (SB1629) ³⁶
Illinois (SB1729, SB1313, HB4574) ¹⁷	Nebraska (LB835, LB838) ²⁶	Pennsylvania (HB627) ³⁷
Idaho (HB433) ¹⁸	New Hampshire (SB163) ²⁷	Wisconsin (SB273) ³⁸
Iowa (SF2042) ¹⁹	New York (S5849 ²⁸ , S5652 ²⁹)	Virginia (HB357, HB402, HB464) ³⁹
Louisiana (SB744) ²⁰	New Jersey (S551 ³⁰ , S847 ³¹ , S1319) ³²	
Legislation Failed, Withdrawn, Expired or Vetoed (15 states)		
Arizona (SB1524, HB2666) ⁴⁰	Mississippi (HB1220) ⁴⁶	Oklahoma (HB2130) ⁵¹
Arkansas (HB2138) ⁴¹	Missouri (SB609) ⁴⁷	Rhode Island (SB87) ⁵²
Florida (HB1423) ⁴²	Montana (HB124, HB620) ⁴⁸	South Carolina (HB3738) ⁵³
Georgia (HB476) ⁴³	New Mexico (SB38 ⁴⁹ /370)	Texas (SB1782, SB1510, SB1586, HB636) ⁵⁴
Iowa (SF348, SF391) ⁴⁴	North Dakota (HB1474) ⁵⁰	
Minnesota (HF497, HF1204) ⁴⁵		

² California exchange establishment legislation included two complementary bills that were signed by the Governor on September 30, 2010.

³ Colorado SB11-200 was signed into law by the Governor on June 1, 2011.

⁴ Connecticut SB921, which was amended to reflect agreement between the authors of SB921, SB1204, and HB6323, passed the Senate on May 31, 2011, passed the House on June 4, 2011 and was signed by Governor on July, 1 2011.

⁵ District of Columbia B19-2 was passed by the City Council on December 20, 2011 and signed into law by the Mayor on January 17, 2012.

⁶ Hawaii SB1348 was signed by the Governor on July 8, 2011.

⁷ Maryland HB166 was signed into law by the Governor on April 12, 2011.

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 Alabama HB245, introduced on February 9, 2012, as an updated version of the 2011 HB401 was passed by the House on April 26, 2012.

¹⁴ Alaska SB70 was introduced on January 26, 2011 but was not passed before the legislative special session ended on May 14, 2011. An updated version of the bill is currently pending in the State Senate.

¹⁵ Arizona HB2783 was introduced on February 8, 2012.

¹⁶ Georgia HB801 was introduced on January 25, 2012.

¹⁷ Illinois HB4574 was introduced on February 1, 2012.

¹⁸ Idaho HB433 was introduced on January 27, 2012.

¹⁹ Iowa SF2042 was introduced on January 23, 2012.

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- ²⁰ Louisiana SB744 was introduced on April 3, 2012, although the Governor has previously announcement that the state will not create a state exchange (see Table 5).
- ²¹ Maine LD1497 and LD1498, introduced on April 20, 2011, were carried over from the 2011 session. On March 15, 2012, Committee on Insurance and Financial Services voted down LD1498 and passed LD1497.
- ²² Michigan SB693 was introduced on September 22, 2011 and passed the Senate on November 10, 2011.
- ²³ Minnesota HF2290 was introduced on February 15, 2012.
- ²⁴ Minnesota HF2739 was introduced on March 7, 2012.
- ²⁵ Missouri SB608 was introduced on January 5, 2012.
- ²⁶ Nebraska LB835 and LB838 were introduced on January 5, 2012 and January 8, 2012, respectively.
- ²⁷ New Hampshire SB163, introduced on January 19, 2011, was passed by the Senate Commerce Committee on January 10, 2012.
- ²⁸ New York S5849 was passed by the Assembly on June 23, 2011 but not the Senate prior to the close of the 2011 session on June 24, 2011. The bill was referred to the Senate Corporations, Authorities and Commissions committee on January 4, 2012.
- ²⁹ New York S5652 was introduced on June 8, 2011 but no action was taken in 2011. The bill was subsequently referred to committee on January 4, 2012.
- ³⁰ New Jersey S551 was introduced on January 10, 2012, and is a reintroduced version of S2597 which expired after 2011.
- ³¹ New Jersey S847, an updated version of S2553 that passed the Assembly but not the Senate in 2011, was introduced on January 10, 2012.
- ³² New Jersey S1319 was introduced on January 30, 2012, and was passed by both houses of the Legislature on March 15, 2012 and currently awaits the governor's signature.
- ³³ New Mexico SB6, updated version of SB38 that was vetoed in April of 2011, was introduced on December 15, 2011.
- ³⁴ North Carolina HB126, HB115, and SB418 were introduced in 2011. The bills were carried over in 2012 and remain pending in the legislature.
- ³⁵ Ohio SB277 was introduced on January 3, 2012.
- ³⁶ Oklahoma SB1629, which was introduced on January 19, 2012, was then replaced by an amendment in the nature of a substitute on February 21, 2012, and passed by the Senate Health and Human Services Committee on February 27, 2012.
- ³⁷ Pennsylvania HB627 was introduced on April 25, 2011. No action was taken on the bill during 2011 and remains pending in 2012.
- ³⁸ Wisconsin SB273 was introduced on November 1, 2011.
- ³⁹ Virginia HB357, HB402, and HB464 were introduced on January 10, 2012. A subcommittee of the House Committee on Commerce and Labor voted to table the three bills on January 31, 2012.
- ⁴⁰ Arizona SB1524 and HB2666 were not passed by the close of the 2011 legislative session.
- ⁴¹ Arkansas HB2138 was withdrawn by the author March 31, 2011, but recommended for interim study by the legislature.
- ⁴² Florida HB1423 was introduced on January 10, 2012 but was not voted out of committee before the legislative session ended on March 9, 2012.
- ⁴³ Georgia HB476 was withdrawn in the House just prior to the close of the 2011 legislative session on March 16, 2011.
- ⁴⁴ Iowa's legislature adjourned on June 30, 2011 without passing either piece of exchange legislation.
- ⁴⁵ The Minnesota legislature failed to take action on either bill before the session ended on May 23, 2011.
- ⁴⁶ Mississippi HB1220 passed the House and Senate but not Conference Committee before the end of the legislative session.
- ⁴⁷ Missouri HB609 passed the House on April 14, 2011, but was not taken up by the Senate before the end of the session. On June 23rd, the Senate President created the Senate Interim Committee on Health Insurance Exchanges.
- ⁴⁸ Montana HB124 and HB620 were voted down by the House Business and Labor Committee on March 23, 2011.
- ⁴⁹ New Mexico SB38 passed both chambers of the legislature but was vetoed by Governor Martinez on April 8, 2011.
- ⁵⁰ North Dakota HB1474 was introduced during a five-day fall special session but was voted down on November 10, 2011.
- ⁵¹ Oklahoma HB2130 was not passed by the Senate before the legislature adjourned on May 20, 2011. However, the legislature established an Interim Study Committee to explore exchange implementation in Oklahoma.
- ⁵² Rhode Island SB87 passed the Senate on April 5, 2011 but not the House by the June 30, 2011 close of the session.
- ⁵³ South Carolina HB3738 was not passed by the legislature when the session ended June 2, 2011.
- ⁵⁴ Texas's legislative session ended on May 30, 2011 without passing any of the introduced exchange bills.

Several states in which establishment legislation either failed or was not introduced pursued bills that formed a study panel or commission to evaluate exchange implementation in the state. Seven states have passed such legislation, one state is considering the measure, and in another, it was rejected (Table 2).

In at least seven states, there is reported interest in pursuing non-legislative means for establishing a state exchange via executive authority. Two states have a signed Executive Order regarding the establishment of an exchange, although only one confers specific exchange authority. Several others have explored executive authority to set up an exchange within an existing state program (Table 3).

Table 2. States with Legislation Creating an Exchange Study Panel or Commission (bill number)	
Passed or Enacted (7 states)	
Illinois (SB1555 ⁵⁵)	Nebraska (LR85, LR294 ⁵⁹)
Maine (LD1582 ⁵⁶)	Utah (HB128 ⁶⁰)
Mississippi (HB377 ⁵⁷)	Wyoming (HB50 ⁶¹)
Montana (HJ33 ⁵⁸)	
Pending (1 state)	
New York (S6699 ⁶²)	
Failed (2 states)	
Indiana (SB580 ⁶³)	
Florida (SB1640 ⁶⁴)	

Table 3. States Considering Non-legislative Mechanisms for Exchange Implementation (9 states)	
Alabama	Minnesota
Arizona ⁶⁵	Mississippi ⁶⁷
Delaware	New York ⁶⁸
Illinois	Rhode Island ⁶⁹
Indiana ⁶⁶	

Several states that have previously enacted Exchange establishment laws have more recently developed supplementary legislation to further define the authority of their Exchange. Currently,

⁵⁵ Illinois SB1555 passed both chambers on May 29, 2011 and was approved by the Governor on July 14, 2011.

⁵⁶ Maine LD1582 was passed on June 8, 2011 and was signed by the Governor July 6, 2011.

⁵⁷ Mississippi HB377 was approved by the Governor on April 26, 2011

⁵⁸ Montana HJ33 was passed by the legislature on April 29, 2011 and established an interim study committee.

⁵⁹ Nebraska LR85 and LR294 were referred on May 23, 2011.

⁶⁰ Utah HB128, which was signed into law on March 30, 2011, includes a number of insurance market changes along with a Health System Reform Task Force to evaluate options for bringing the state's existing exchange into ACA compliance.

⁶¹ Wyoming HB50 was passed by the legislature and signed by the governor on March 10, 2011 creating an Exchange Study Panel, which was extended for an additional year by when the legislature passed SF0058

⁶²New York S6699 was introduced on March 11, 2012.

⁶³ Indiana SB580 was not passed prior to the end of the 2011 legislative session.

⁶⁴ Florida SB1640 was introduced on January 17, 2012 and died in committee on March 9, 2012.

⁶⁵ Arizona's January 5, 2012 Exchange planning grant report to HHS reported that the state is investigating its legal authority to establish an Exchange via Executive Order.

⁶⁶ Indiana Governor Mitch Daniels signed an Executive Order on January 3, 2011 instructing the development of the non-profit Indiana Insurance Market, Inc to serve as the state's insurance exchange.

⁶⁷ In April, 2011, Mississippi Insurance Commissioner Mike Cheney announced his intention to establish a Mississippi exchange within the state's non-profit high risk pool, the Comprehensive Health Insurance Risk Pool Association, using authority granted to him under current statute. The Association's board approved the action on May 16, 2011.

⁶⁸ On April 12, 2012, New York Governor Cuomo issued an Executive Order creating the New York Health Benefit Exchange inside the NY Department of Health.

⁶⁹ On September 29, 2011, Governor Chafee issued Executive Order 11-09 establishing the Rhode Island Health Benefits Exchange.

three states have passed or enacted such legislation while three others have measures pending before their legislatures (Table 4).

Table 4. States with Supplementary Exchange Legislation (bill number)
Passed or Enacted (3 state)
Maryland (SB238 ⁷⁰) Oregon (HB4164 ⁷¹) Washington (HB2319 ⁷²)
Pending (3 states)
Connecticut (HB5013) Hawaii (HB2114, SB2434, SB2085) Vermont (S208 ⁷³ , H559 ⁷⁴)

In two states, officials have announced that the state will not be pursuing a state-run Exchange but rather will have a federally facilitated Exchange (FFE) operate in the state (Table 5). Several states have recently reported their intention to refrain from enacting Exchange legislation or from continuing with planning activities until the pending constitutional challenge to elements of the ACA is decided by the Supreme Court (Table 6).

Table 5. States Declining a State-run Exchange (2 states)	
Arkansas ⁷⁵	Louisiana ⁷⁶

Table 6. States Reportedly Waiting until Supreme Court Decision (17 states)	
Alabama	Missouri
Alaska	Nebraska
Florida	New Jersey
Georgia	Oklahoma
Illinois	South Dakota
Indiana	Texas
Kansas	Virginia
Kentucky	Wisconsin
Maine	Wyoming
Michigan	

⁷⁰ Maryland SB238 passed the House and Senate on March 26, 2012 and was signed by the Governor on May 2, 2012.

⁷¹ Oregon HB4164 was passed by the House on March 2, 2012 and the Senate on March 5, 2012, and was signed by the Governor on March 8, 2012.

⁷² Washington HB2319 was passed by the Senate on March 1, 2012 and the House on March 3, 2012, and was signed by the Governor on March 23, 2012.

⁷³ Vermont S208 was introduced on January 3, 2012.

⁷⁴ Vermont H559, introduced on January 19, 2012 and passed by the House and Senate after a conference committee, was sent to the Governor on May 5, 2012 for signature.

⁷⁵ Arkansas Insurance Commissioner Jay Bradford announced on December 2, 2011 that the state has ceased planning efforts to establish an Exchange.

⁷⁶ Louisiana Governor Jindal's Administration announced on March 23, 2011 that Louisiana will not be pursuing the establishment of a state Exchange.

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 seven with multiple grant awards – while two states have received larger Level Two funding (see Table 5).

Table 5. States with HHS Exchange Establishment Grants (grant amount)	
Received Level One Grants (35 states)	
Alabama (\$8,592,139) ^c	Mississippi (\$20,143,618) ^b
Arizona (\$29,877,427) ^c	Missouri (\$20,865,716) ^b
Arkansas (\$7,665,483) ^d	Nebraska (\$5,481,838) ^c
California (\$39,421,383) ^b	Nevada (\$4,045,076 ^b , \$15,295,271 ^d , \$4,397,926 ^c)
Colorado (\$17,951,000) ^d	New Jersey (\$7,674,130) ^d
Connecticut (\$6,687,933) ^b	New Mexico (\$34,279,483) ^c
Delaware (\$3,400,096) ^c	New York (\$10,744,898 ^b , \$48,474,819 ^d)
District of Columbia (\$8,200,716) ^b	North Carolina (\$12,396,019) ^b
Hawaii (\$14,440,144) ^c	Oregon (\$8,969,600 ^b , \$6,682,701 ^c)
Idaho (\$20,376,556) ^c	Pennsylvania (\$33,832,212) ^d
Illinois (\$5,128,454 ^b , \$32,789,377 ^c)	Rhode Island (\$5,240,668) ^a
Indiana (\$6,895,126) ^a	South Dakota (\$5,879,569)^c
Iowa (\$7,753,662) ^c	Tennessee (\$1,560,220 ^c , \$2,249,945 ^d , \$4,300,000 ^c)
Kentucky (\$7,670,803 ^b , \$57,896,810 ^d)	Vermont (\$18,090,369) ^c
Maine (\$5,877,676) ^c	Washington (\$22,942,671) ^a
Maryland (\$27,186,749) ^b	West Virginia (\$9,667,694) ^b
Massachusetts (\$11,644,938) ^d	
Michigan (\$9,849,305) ^c	
Minnesota (\$4,168,071 ^b , \$26,148,929 ^d)	
Received Level Two Grants (2 states)	
Rhode Island (\$58,500,000) ^c	Washington (\$127,852,056)^c

^a March 30, 2011 application deadline

^b June 30, 2011 application deadline

^c September 30, 2011 application deadline

^d December 30, 2011 application deadline

^c **March 30, 2012 application deadline**

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)	Pending
	HB401	Establishment	Wren (R)	Failed
Alaska	SB70A	Establishment	French (D)	Expired
	SB70B	Establishment	French (D)	Pending
	SB70C	Establishment	French (D)	Pending
Arizona	HB2783	Establishment	Meyer (D)	Pending
	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.	Pending
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)	Pending
Hawaii	SB1348	Establishment	Baker (D)	Enacted
	HB2114	Supplementary	Yamane (D)	Pending
	SB2085	Supplementary	Green	Pending
	SB2434	Supplementary	Baker (D)	Pending
Idaho	HB433	Establishment	Chew (D)	Pending
Illinois	SB1555	Study Panel	Haine (D)	Enacted
	SB1729	Establishment	Koehler (D)	Pending
	SB1313	Establishment	Schoenberg (D)	Pending
	HB1577	Intent	Mautino (D)	Pending
	HB4574	Establishment	Osmond (R)	Pending
Indiana	SB580	Study Panel	Simpson (D)	Failed

State	Bill #	Purpose	Sponsor	Status
Iowa	SF2042	Establishment	Hatch (D)	Pending
	SF348	Establishment	Hatch (D)	Failed
	SF391	Establishment	Rielly (D)	Failed
Louisiana	SB744	Establishment	Peterson (D)	Pending
Maine	LD1497	Establishment	McKane (R)	Pending
	LD1498	Establishment	Treat (D)	Pending
	LD1582	Study Panel	Richardson (R)	Enacted
Maryland	HB166	Establishment	Governor O'Malley (D)	Enacted
	SB238	Supplementary	Miller, Jr. (D)	Passed
Michigan	SB693	Establishment	Marleau (R)	Pending
Minnesota	HF2290	Establishment	Atkins (DFL)	Pending
	HF2739	Establishment	Murphy (DFL)	Pending
	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)	Pending
	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)	Pending
	LB838	Establishment	Pahls (NP)	Pending
Nevada	SB440	Establishment	Senate Committee on Finance	Enacted
New Hampshire	SB163	Establishment	White (R)	Tabled
New Jersey	S1319	Establishment	Gill (D)	Pending
	S847	Establishment	Vitale (D)	Pending
	S551	Establishment	Gill (D) and Vitale (D)	Pending
	S2553	Establishment	Vitale (D)	Expired
	S2597	Establishment	Vitale (D)	Expired
	S1288	Establishment	Van Drew (D)	Expired
New York	S5849	Establishment	Seward (R)	Pending
	S5652	Establishment	Seward (R)	Pending
	S6699	Study Panel	Seward (R)	Pending
New Mexico	SB38/370	Establishment	Feldman (D)	Vetoed
	SB6	Establishment	Feldman (D)	Pending

State	Bill #	Purpose	Sponsor	Status
North Carolina	HB115	Establishment	Dockham (R)	Pending
	HB126	Establishment	Insko (D)	Pending
	SB418	Establishment	McKissick (D)	Pending
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)	Pending
	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
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)	Pending
	S208	Supplementary	Illuzzi (R)	Pending
Virginia	HB2434	Intent	Kilgore (R)	Enacted
	HB357	Establishment	McClellan (D)	Tabled
	HB402	Establishment	Hope (D)	Tabled
	HB464	Establishment	Byron (R)	Tabled
Washington	SB5445	Establishment	Keiser (D)	Enacted
	HB2319	Supplementary	Cody (D)	Enacted
West Virginia	SB408	Establishment	Minard (D)	Enacted
Wisconsin	SB273	Establishment	Vinehout (D)	Pending
Wyoming	HB50	Study Panel	Committee on Labor	Enacted