

**Minimum requirements for 2011 Exchange Legislation
to conform with Federal law:**

Relating clause:

Relating to health insurance exchange

Establish an exchange:

- Develop an exchange in Oregon in order to bring the state into compliance with federal requirements in the Patient Protection and Affordable Care Act of 2010 (ACA).
- Establish the exchange consistent with the purpose and mission as identified by the ACA: to make quality and affordable health care coverage available to eligible Oregonians and fulfill the requirements of the ACA.

Exchange operations:

- Give the state authority to establish an exchange as either a state agency, private non-profit or public corporation.
- Give the exchange authority to spend federal grants and other federal funds for exchange development, implementation and administration.
- Structure of exchange board or other organization that will oversee development, implementation and operations, including:
 - Membership
 - Appointment and confirmation
 - Role

Scope

- Small employer groups: if allowing entry to 51-100 employee groups, this will merge the 1-50 and 51-100 markets. Will need language to ensure insurance law and regulation conforms with this change.
- Sub-state exchanges: if establishing regional exchanges within Oregon, authorize establishment of sub-exchanges and identify relationship, if any, with statewide exchange.

Functions of an exchange:

- The exchange makes available qualified health plans to qualified individuals and qualified employers and meets certain other requirements.

- Provide a choice of health plan products in each region of the state, including a choice in each region of the state between the five levels of coverage contained in subdivisions (d) and (e) of Section 1302 of the ACA.
- Authorize and require the exchange to implement specified functions imposed by the ACA:
 - Certify plans for participation in the exchange, including implementing procedures for plan certification, recertification and de-certification based on federal guidelines.
 - Make qualified health plans available to eligible individuals and employers.
 - Provide customer assistance via telephone and website. Have a toll-free telephone hotline to respond to requests for assistance and maintain a website through which enrollees, prospective enrollees can get standardized comparative plan information.
 - Grade health plans in accordance with criteria to be developed by the federal Department of Health and Human Services. This includes using a standardized format for presenting health benefit plan options in the exchange, including the use of the uniform outline of coverage, and maintaining a website through which enrollees and prospective enrollees of qualified health plans may get standardized comparative plan information.
 - Provide information to individuals and employers, including providing information regarding eligibility requirements for Medicaid, CHIP and any applicable State/local public program. The exchange will provide an electronic calculator that allows users to determine the actual cost of coverage after accounting for any premium tax credit and cost sharing reduction. The exchange will publish: the average costs of licensing, regulatory fees, other payments required by exchange; exchange administrative costs; waste, fraud, abuse. In addition, the exchange will provide employers with the names of any of their employees who stop coverage under a qualified health plan during a plan year.
 - Administer exemptions to the individual responsibility penalty when: no affordable qualified health plan is available through the exchange; or the individual meets the requirements for another exemption from the requirement or penalty.
 - Provide information to federal government regarding: Oregonians issued an exemption certificate; employees determined to be eligible for premium tax credits; and people who tell the exchange they changed employers and stopped coverage during a plan year.
 - Facilitate community based assistance by establishing a Navigator program. ("navigators" are entities contracted to help individuals enroll in coverage through the exchange) Select and set performance standards and compensation for navigators selected pursuant to subdivision (i) of Section 1311 of the ACA.
 - Have an annual open enrollment period, special enrollment periods, and monthly enrollment periods for Native Americans.

Exchange needs statutory authority to:

- Contract for functions and services (including negotiating as needed and entering into contracts with carriers seeking to offer coverage in the exchange and enter into contracts with entities seeking to become "navigators").
- Authorize the exchange to set and charge user fees for the support of the exchange.
- Determine the participation requirements, standards, and selection criteria for carriers and products offered through the exchange, within the guidance/regulations to be created by the HHS Secretary. These may include, but are not limited to, standards that encourage the use of delivery systems that deliver cost-effective, high-quality care.
- Apply for and receive federal funds for purposes of establishing the exchange and would make those funds available to the exchange and its board for those purposes. Until the exchange is established, give the OHA this authority.