



## **Proposition E Summary: Health Insurance Exchange in Missouri November 6, 2012 Missouri Ballot Measure**

### **The Question**

Should Missouri law prohibit the Governor or any state agency from implementing health insurance exchanges without legislative authorization or voter approval?

### **The Issue**

The Patient Protection and Affordable Care Act establishes Health Insurance Exchanges to improve access to private health insurance for individuals and small businesses. The health reform law intends for exchanges to be marketplaces that offer consumers affordable, comprehensive, private health insurance options similar to those available to members of Congress. Exchanges aim to bring more transparency and accountability to the insurance market so that buying quality, low-cost coverage is easier for individuals and small businesses.

### **The Proposal**

Proposition E seeks voter input on whether state officials and agencies should be allowed to conduct activities to establish and operate a health insurance exchange in Missouri without approval from the legislature. Proposition E bans Missouri's Governor from issuing an executive order to establish a health insurance exchange.

### **Fiscal Effect**

Estimates released by the Missouri State Auditor's office concluded there would be no direct financial effects of Proposition E and that indirect costs or savings from enforcement actions, missed federal funding, avoided implementation costs, and other issues are unknown.

#### **Yes Vote / Supporters**

Missouri law will prohibit the Governor from issuing an executive order to establish a health insurance exchange. Missouri law will block state officials, agencies, and other stakeholders from working to implement a health insurance exchange without legislative authorization or voter approval.

Proposition E would delay the creation of state-based health insurance exchanges in Missouri. The Governor should have specific authority from voters or the legislature before an exchange is implemented.

#### **No Vote / Opponents**

Missouri law will allow state officials, agencies, and other stakeholders to move forward in working on plans to implement a health insurance exchange in Missouri. No additional legislation will be required for a federal exchange, however, a state-based exchange may require specific state legislation.

Proposition E would slow exchange implementation by limiting the ability of state officials, agencies, and other stakeholders to evaluate key decisions and accomplish major tasks before an exchange is operational.

### **Bottom Line**

Federal law requires that Missouri have an operating exchange by January 1, 2014. Proposition E influences who in Missouri will be involved in the design of the exchange and the timing of that involvement.

## **Background**

The Patient Protection and Affordable Care Act (ACA) establishes Health Insurance Exchanges to improve access to private health insurance for individuals and small businesses. The ACA intends for health insurance exchanges to be structured marketplaces that offer consumers affordable, comprehensive, private health insurance options similar to those available to members of Congress. Through exchanges, consumers will be able to directly compare and purchase private health insurance plans that compete on the basis of price, quality, and other factors. By providing a “one-stop shop” for health insurance, exchanges aim to bring more transparency and accountability to the insurance market so that buying quality, low-cost coverage is easier for individuals and small businesses.<sup>1</sup>

While the ACA and other federal provisions create the overall exchange framework and set the standards for exchange design and function, the federal government gives states a great deal of flexibility over many exchange details and provides tools and resources for a state to best meet the unique needs and interests of its residents and marketplaces. A state may decide to operate an exchange itself and create a State-Based Exchange; establish an exchange in partnership with the federal government through a Partnership Exchange; or, defer exchange implementation and operation work to the federal government in a Federally-Facilitated Exchange.<sup>2</sup> Whether state-run or federally-run, the ACA requires an exchange must be functioning in every state by January 1, 2014.

Senate Bill 464 (SB 464) was introduced in the 2012 Missouri General Assembly to prohibit state officials and state agencies from conducting activities to establish and operate a health insurance exchange in Missouri without legislative authorization or voter approval.<sup>3</sup> In May 2012, the General Assembly approved a ballot measure for SB 464—Proposition E—to seek voter input on whether state officials and agencies should be allowed to conduct activities to establish and operate a health insurance exchange in Missouri without approval from the legislature. Missouri voters will decide the Proposition E ballot measure on November 6, 2012.

## **Key Provisions**

Proposition E prohibits establishing, creating, or operating a health insurance exchange in Missouri, without a legislative act, an initiative petition, or referendum authorizing the establishment and operation of the exchange. The measure expressly bars Missouri’s Governor from establishing an exchange through an executive order. Proposition E outlaws all state agency activities to implement an exchange unless authorized by statute, and prohibits agencies from establishing exchange programs or issuing exchange rules or policies. State agencies are barred from performing exchange functions without statutory authority.

Additionally, Proposition E restricts federally-run exchanges in Missouri by preventing state agencies from entering into agreements to establish or operate a federally-facilitated exchange and from providing assistance or resources related to the creation of a federal exchange, unless the agency receives statutory authority or the assistance is mandated by federal law. The bill gives Missouri taxpayers and members of the General Assembly the ability to sue the state for engaging in exchange-related activities or otherwise violating Proposition E provisions.

## **Fiscal Effect**

Estimates released in June by the Missouri State Auditor’s office concluded there would be no direct financial effects of Proposition E and that indirect costs or savings from enforcement actions, missed federal funding, avoided implementation costs, and other issues are unknown.<sup>4</sup>

## Implications

Because launching a Missouri-run exchange by the 2014 deadline is unlikely, Missouri is expected to have a Federally-Facilitated Exchange. Although the federal government will be responsible for many aspects of the exchange, federal officials still encourage a strong level of communication and coordination with states. Missouri will continue to play a primary role in areas traditionally within the scope of state authority, such as insurance market regulation. The federal government has also offered federal funding to support necessary state activities to establish the federal exchange. A number of factors, including budget and staffing issues, make working toward a federal exchange that best meets the needs of Missourians a challenging task for state officials, agencies, and other stakeholders. Proposition E influences who in Missouri will be involved in the design of the exchange and the timing of that involvement.

## References

1. Kaiser Family Foundation, Explaining Health Care Reform: What Are Health Insurance Exchanges, 2009. Retrieved from <http://www.kff.org/healthreform/upload/7908.pdf>.
2. Deborah Bachrach and Patricia Boozang, Federally-Facilitated Exchanges and the Continuum of State Options, Robert Wood Johnson Foundation, 2011. Retrieved from <http://www.rwjf.org/content/dam/web-assets/2011/12/federally-facilitated-exchanges-and-the-continuum-of-state-optio>.
3. Senate Bill 464, 2012. Retrieved from [http://www.senate.mo.gov/12info/BTS\\_Web/Bill.aspx?SessionType=R&BillID=43](http://www.senate.mo.gov/12info/BTS_Web/Bill.aspx?SessionType=R&BillID=43).
4. Missouri State Auditor's Office, Fiscal Note 12-16, 2012. Retrieved from <http://www.auditor.mo.gov/Notes/12-16.pdf>.