To amend chapter 376, RSMo, by adding thereto one new section relating to the authority for creating and operating health insurance exchanges in Missouri, with a referendum clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.1186, to read as follows:

376.1186. 1. No state-based health benefit exchange may be established, created, or operated within this state in order to implement Section 1311 of the federal health care act, 42 U.S.C. Section 18031, or any other provision of the federal health care act that relates to the creation and operation of a state-based health benefit exchange, unless the authority to create or operate such an exchange is enacted into law through:

    (1) A bill as prescribed by Article III of the Missouri Constitution;
    (2) An initiative petition as prescribed by Article III, Section 50 of the Missouri Constitution; or
    (3) A referendum as prescribed by Article III, Section 52(a) of the Missouri Constitution.

2. In no case shall the authority for establishing, administering, or operating a state-based health benefit exchange in Missouri be based upon an executive order issued by the governor of Missouri.

3. No department, agency, instrumentality or political subdivision of the state of Missouri shall establish any program,
promulgate any rule, policy, guideline or plan or change any program, rule, policy or guideline to implement, establish, create, administer or otherwise operate a state-based health benefit exchange described in the federal health care act unless such department, agency, instrumentality or political subdivision has received statutory authority to do so in a manner consistent with subsection 1 of this section. No department, agency, instrumentality or political subdivision of the state of Missouri shall act as an eligible entity as described in Section 1311(f)(3)(B) of the federal health care act to perform one or more of the responsibilities of a state-based health benefit exchange unless authorized by statute or a regulation validly promulgated pursuant to such statute.

4. No department, agency, instrumentality, or political subdivision of this state shall apply for, accept or expend federal moneys related to the creation, implementation or operation of a state-based health benefit exchange or a federally-facilitated health benefit exchange unless such acceptance or expenditure is authorized by statute or an appropriations bill.

5. No department, agency, instrumentality, political subdivision, public officer or employee of this state shall enter into any agreement or any obligation to establish, administer, or operate a federally-facilitated health benefit exchange described in Section 1321(c)(1) of the federal health care act unless such department, agency, instrumentality, political subdivision, public officer or employee of this state has received statutory authority to enter into such agreements or obligations. No department, agency, instrumentality, political subdivision, public officer or employee of this state shall provide assistance or resources of any kind to any department, agency, public official, employee or agent of the federal government related to the creation or operation of a federally-facilitated health benefit exchange unless such assistance or resources are authorized by state statute or a regulation promulgated thereto or such assistance or resources are specifically required by federal law.

6. Any taxpayer of this state or any member of the general assembly shall have standing to bring suit against the state of Missouri or any official, department, division, agency, or political subdivision of
this state which is in violation of this section in any court with
jurisdiction to enforce the provisions of this section. The court shall
award attorney's fees, court costs, and all reasonable expenses incurred
by the taxpayer or member of the general assembly if the court finds
that the provisions of this section have been violated. Such attorney's
fees, court costs, and reasonable expenses shall be paid from funds
appropriated to the department, division, agency, or any political
subdivision of this state determined to have violated, in whole or in
part, the provisions of this section. In no case shall the award of
attorney's fees, court costs, or reasonable expenses be paid from the
legal defense fund, nor shall any department, division, agency, or
political subdivision of this state request, or be granted, additional
appropriations in order to satisfy an award made under this section.

7. As used in this section, the term "federal health care act" shall
mean the federal Patient Protection and Affordable Care Act, Public
Law 111-148, as amended by the federal Health Care and Education
Reconciliation Act of 2010, Public Law 111-152, and any amendments
thereto, or regulations or guidance issued under such federal acts.

8. As used in this section, the term "state-based health benefit
exchange" means a governmental agency or non-profit entity
established by the state of Missouri and not the federal government
that meets the applicable requirements of Section 1311 of the federal
health care act and regulations promulgated thereto and makes
qualified health care plans available to qualified individuals and
qualified employers. The term "state-based health benefit exchange"
includes regional or other interstate exchanges and subsidiary
exchanges as described in Section 1311(f)(1) and (2) of the federal
health care act. The term "federally-facilitated health benefit exchange"
means a health benefit exchange established and operated by the
Secretary of Health and Human Services under Section 1321(c)(1) of the
federal health care act, either directly or through agreement with a
not-for-profit entity.

Section B. This act is hereby submitted to the qualified voters of this state
for approval or rejection at an election which is hereby ordered and which shall
be held and conducted on Tuesday next following the first Monday in November,
2012, pursuant to the laws and constitutional provisions of this state for the
submission of referendum measures by the general assembly, and this act shall
become effective when approved by a majority of the votes cast thereon at such
election and not otherwise.