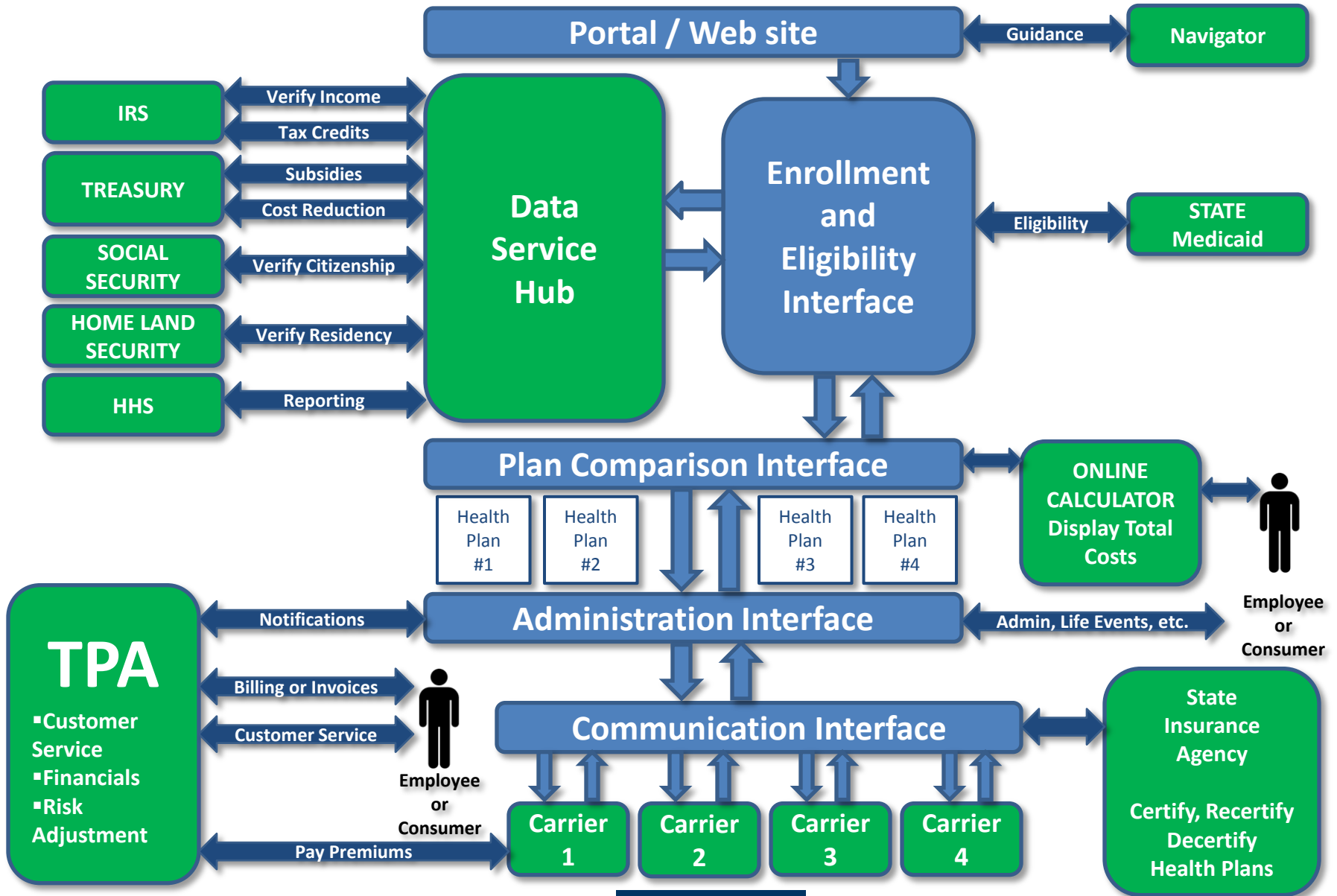


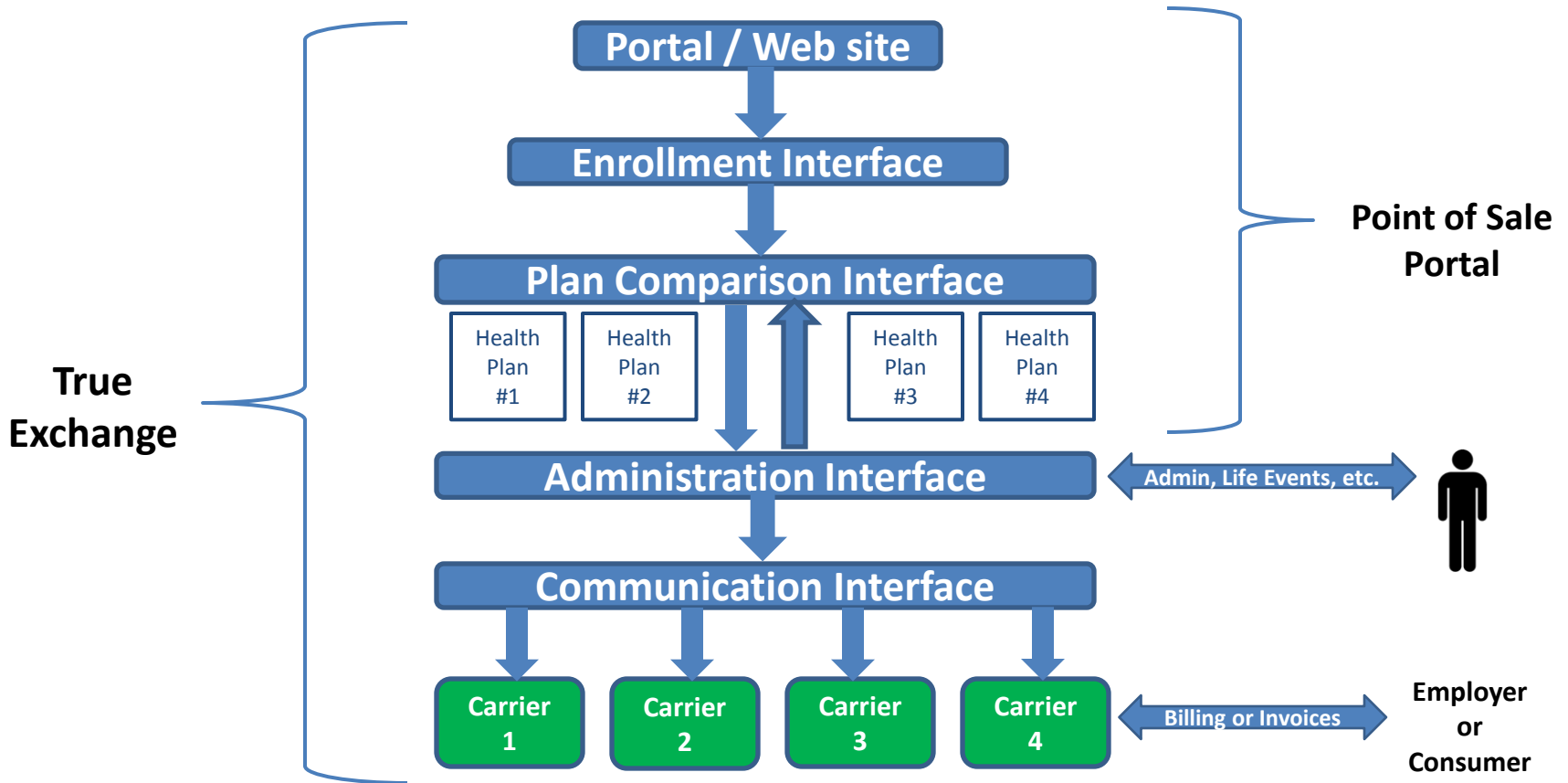
**STATE HEALTH INSURANCE EXCHANGES:  
Identifying Issues, Barriers, and  
Opportunities**

**Presented to the  
Mississippi Insurance Exchange Advisory Board  
January 31, 2012  
Jackson, MS**

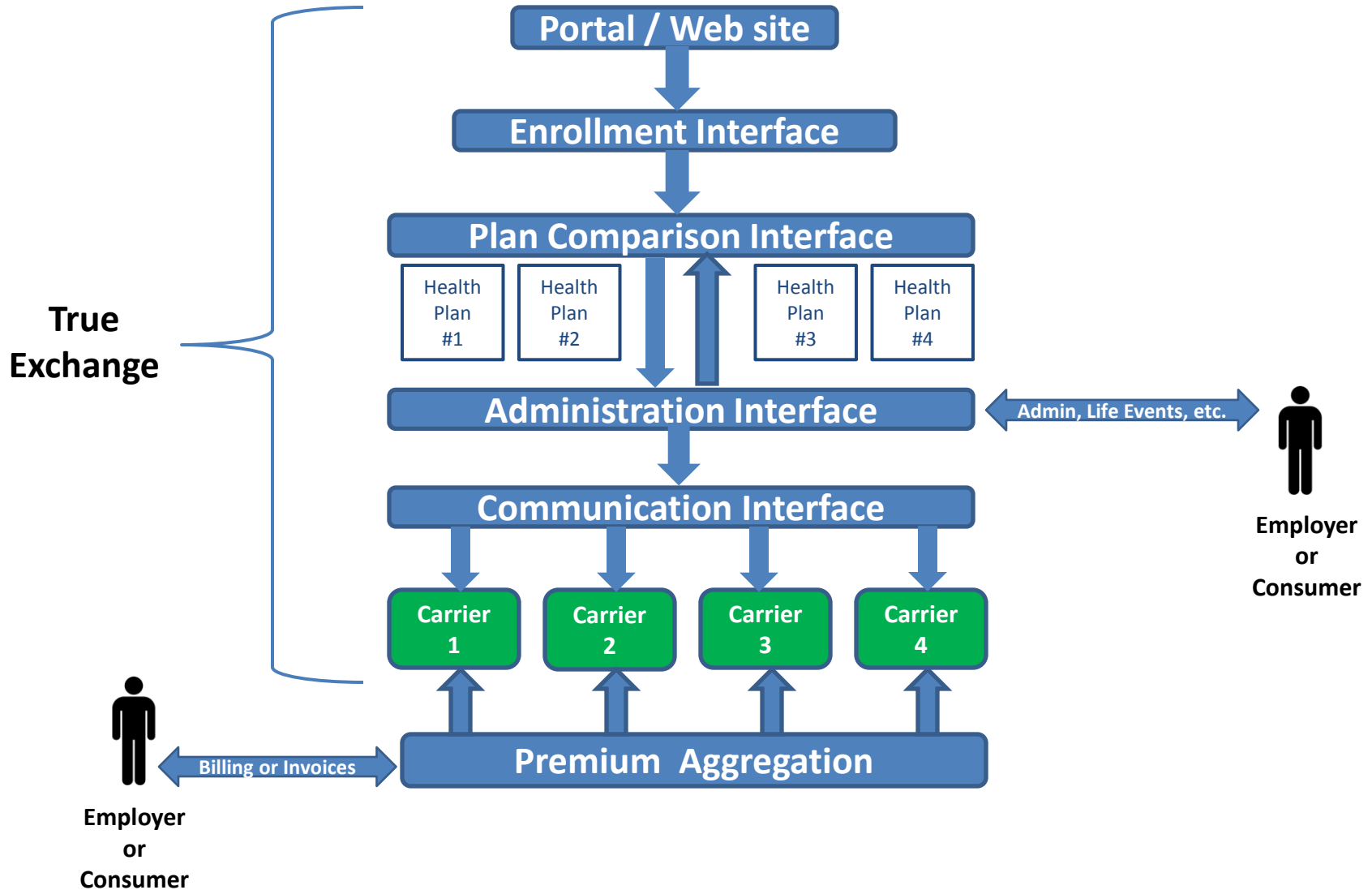
# Mandated State Exchange Functions



# Core Exchange Functions



# The Utah Model



# Barriers to Implementation

- Overall lack of certainty
  - 2012 Elections
  - Constitutional challenges
- Lack of timely guidance from HHS
  - 1968 new or expanded powers given to the Secretary of HHS
- Heavy Technology Lift
  - Systems development
  - Strained public/private sector resources
- Tough statutory timelines
  - Agreement among state officials
  - Stakeholder buy-in

# The Future of the Law: Budget

- Exchange administrative costs
  - Federal funding opportunities for exchange establishment through 2014
  - On-going operational costs are the responsibility of the state
- Exchange premium subsidies
- Medicaid expansion

# The Future of the Law: SCOTUS

## Four Questions, Five Primary Issues

### 1) Commerce Clause

- *Does Congress have the authority to require individuals to purchase health insurance?*

### 2) 10<sup>th</sup> Amendment

- *Is it unconstitutional for Congress to require states to expand (and pay for) Medicaid*

### 3) Taxation

- *Is the “penalty” really a “tax”?*

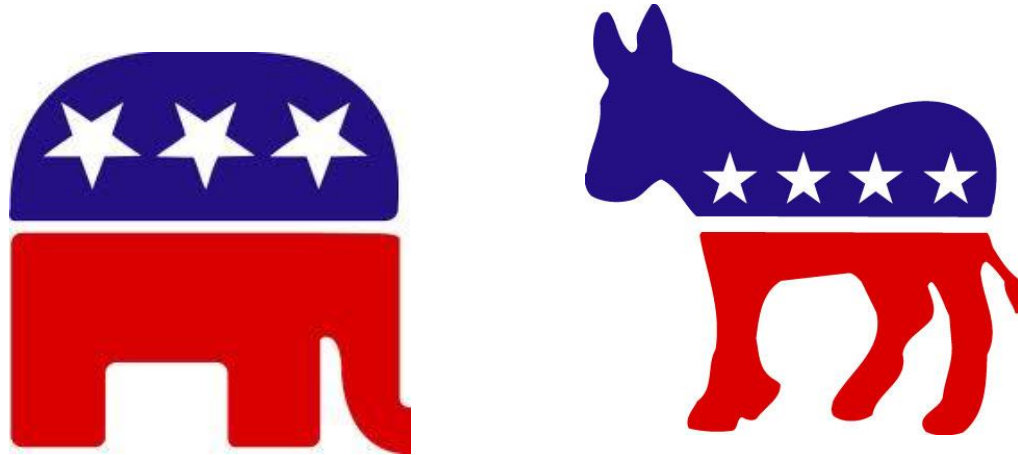
### 4) Anti-Injunction Act

- *If the “penalty” really is a “tax”, is it premature to even address the first three questions?*

### 5) Severability

- *If the Supreme Court decides that the individual mandate is unconstitutional, can the rest of the law stand?*

# The Future of the Law: 2012 Elections



- Who will occupy the White House?
  - Is “effective” repeal by Executive Order possible?
- Who controls the House and Senate and to what degree?
  - Is actual repeal possible?
  - Will statutory timelines remain?



# What's Trending?

- Lack of federal guidance means many state reform efforts will largely be focused on the small group market
- Exchanges will be used as tools to reform Medicaid
- Fully functioning, PPACA compliant state exchanges by 2014 is questionable
  - Majority of states indicate insufficient lead time on PPACA implementation
  - Political and practical barriers abound
- Federally Facilitated Exchange will be ready

# Likely State Scenarios in 2014

## 3 Primary Buckets

- States making significant progress (5-10)
  - Will be certified as “approved”
  - Will likely still rely on federal processes for some functionality
- States making some progress (30-35)
  - Will be certified as “conditionally approved”
  - Will be considered state-federal “hybrid”
- States making little or no progress (5-10)
  - Will have a federally-facilitated exchange
  - May continue to work toward a state-facilitated exchange

# Strategic Imperatives for States

- Define the state's vision; identify long- and short-term strategies
- Perform environmental assessment
- Develop a blueprint
- Proactively engage all stakeholders
- Act NOW
  - Be thoughtful, deliberative, and decisive in planning and implementation efforts
  - Understand the implications of actions or lack thereof
  - Be creative in finding unique solutions that work for the state's unique circumstance

# Leavitt Partners, LLC

## **Salt Lake City Office**

299 South Main Street  
Suite #2300  
Salt Lake City, UT 84111

## **Washington DC Office**

1776 I Street, NW  
9<sup>th</sup> Floor  
Washington, DC 20006

Phone: (801) 656-9716  
[www.leavittpartners.com](http://www.leavittpartners.com)

