

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

SENATE BILL 96

5 By: Senator J. Hendren  
6

## For An Act To Be Entitled

8 AN ACT TO ADDRESS THE HEALTHCARE NEEDS OF INDIVIDUALS  
9 SERVED BY THE HEALTH CARE INDEPENDENCE PROGRAM TO BE  
10 KNOWN AS THE ARKANSAS HEALTH REFORM ACT OF 2015; TO  
11 CREATE THE ARKANSAS HEALTH REFORM LEGISLATIVE TASK  
12 FORCE; TO TRANSFORM THE ARKANSAS MEDICAID PROGRAM  
13 WITH INNOVATIVE AND COST-EFFECTIVE SOLUTIONS FOR THE  
14 PROVISION OF HEALTHCARE SERVICES; TO DECLARE AN  
15 EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

18 TO CREATE THE ARKANSAS HEALTH REFORM ACT  
19 OF 2015; AND TO DECLARE AN EMERGENCY.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 WHEREAS, the federal Patient Protection and Affordable Care Act of  
26 2010, Pub. L. No. 111-148, requires that Arkansas citizens obtain credible  
27 health insurance coverage either through employer mandates or individual  
28 action, or face threat of tax penalties; and  
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30 WHEREAS, the federal Patient Protection and Affordable Care Act of  
31 2010, Pub. L. No. 111-148, further jeopardized the Arkansas healthcare system  
32 and its clinical providers' ability to meet healthcare needs of citizens by  
33 excising new taxes, cutting existing Medicare payments, and imposing new  
34 penalties on clinical providers; and  
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36 WHEREAS, the federal Emergency Medical Treatment & Labor Act requires



1 Arkansas hospitals to provide direct health care for Arkansas citizens,  
 2 including those citizens eligible for the Arkansas Health Care Independence  
 3 Program, regardless of ability to pay; and  
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5 WHEREAS, the Arkansas Health Care Independence Program was the State of  
 6 Arkansas’s initial response to the disruptive challenges of the federal  
 7 healthcare legislation and regulation in an effort to safeguard Arkansas  
 8 employers and citizens and healthcare systems; and  
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10 WHEREAS, the Arkansas Health Care Independence Program and the federal  
 11 waiver under which the state operates the Arkansas Health Care Independence  
 12 Program will terminate on December 31, 2016; and  
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14 WHEREAS, the State of Arkansas has historically sought state-specific  
 15 strategies to provide health care for low-income and other vulnerable  
 16 populations while reducing state and federal obligations to entitlement  
 17 spending; and  
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19 WHEREAS, the State of Arkansas continues to seek out strategies to  
 20 provide health care for low-income and other vulnerable populations in a  
 21 manner that will promote accountability, personal responsibility, and  
 22 transparency; remove disincentives for work and social mobility; encourage  
 23 and reward healthy outcomes and responsible choices; and promote efficiencies  
 24 that will deliver value to the taxpayers; and  
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26 WHEREAS, the State of Arkansas is recognized as a leader in healthcare  
 27 finance and delivery system innovation; and  
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29 WHEREAS, the State of Arkansas seeks to assert its responsibility for  
 30 local control and to protect Arkansas consumers and businesses from federal  
 31 mandates,  
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33 NOW THEREFORE,

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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 36 SECTION 1. DO NOT CODIFY. Title.

1       This act shall be known and may be cited as the "Arkansas Health Reform  
2 Act of 2015".

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4       SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Arkansas Health Reform  
5 Legislative Task Force – Creation – Membership – Duties.

6       (a) There is created the Arkansas Health Reform Legislative Task  
7 Force.

8       (b)(1) The task force shall consist of the following sixteen (16)  
9 members of the General Assembly:

10               (A) The President Pro Tempore of the Senate, or his or her  
11 designee who is a member of the Senate;

12               (B) Five (5) members of the Senate appointed by the  
13 President Pro Tempore of the Senate;

14               (C) The Senate Majority Leader, or his or her designee who  
15 is a member of the Senate;

16               (D) The Senate Minority Leader, or his or her designee who  
17 is a member of the Senate;

18               (E) The Speaker of the House of Representatives, or his or  
19 her designee who is a member of the House of Representatives;

20               (F) Five (5) members of House of Representatives appointed  
21 by the Speaker of the House of Representatives;

22               (G) The House Majority Leader, or his or her designee who  
23 is a member of the House of Representatives; and

24               (H) The House Minority Leader, or his or her designee who  
25 is a member of the House of Representatives.

26       (2) The Surgeon General shall serve as a nonvoting member of the  
27 task force.

28       (3) If a vacancy occurs on the task force, the vacancy shall be  
29 filled by the same process as the original appointment.

30       (4) Legislative members of the task force shall be paid per diem  
31 and mileage as authorized by law for attendance at meetings of interim  
32 committees of the General Assembly.

33       (c)(1) The President Pro Tempore of the Senate shall designate one (1)  
34 member of the task force to call the first meeting of the task force within  
35 thirty (30) days of the effective date of this act and serve as chair of the  
36 task force at the first meeting.

1           (2) At the first meeting of the task force, the members of the  
2 task force shall elect from its membership a chair and other officers as  
3 needed for the transaction of its business.

4           (3)(A) The task force shall conduct its meetings in Pulaski  
5 County at the State Capitol or another site with teleconferencing  
6 capabilities.

7           (B) Meetings of the task force shall be held at least one  
8 (1) time every two (2) months but may occur more often at the call of the  
9 chair.

10          (4) The task force shall establish rules and procedures for  
11 conducting its business.

12          (5)(A) A majority of the voting members of the task force shall  
13 constitute a quorum for transacting business of the task force.

14          (B) An affirmative vote of a majority of a quorum present  
15 shall be required for the passage of a motion or other task force action.

16          (6) The Bureau of Legislative Research shall provide staff for  
17 the task force.

18          (d)(1) The purpose of the task force is to:

19                (A) Recommend an alternative healthcare coverage model and  
20 legislative framework to ensure the continued availability of healthcare  
21 services for vulnerable populations covered by the Health Care Independence  
22 Program established by the Health Care Independence Act of 2013, §§ 20-77-  
23 2401 et seq., upon program termination; and

24                (B) Explore and recommend options to modernize Medicaid  
25 programs serving the indigent, aged, and disabled.

26          (2) To achieve this purpose, the task force shall:

27                (A) Identify resources and funding necessary to ensure an  
28 effective and efficient transition from the Health Care Independence Program,  
29 while minimizing or eliminating any need for the General Assembly to raise  
30 additional state general revenue;

31                (B) Identify the populations eligible for and  
32 participating in the Health Care Independence Program, including both:

33                        (i) Individuals newly eligible for health coverage  
34 under the program; and

35                        (ii) Individuals previously eligible for Medicaid  
36 before the effective date of the program, whether under a Medicaid waiver or

1 some other eligibility criteria;

2 (C) Study the healthcare needs and other relevant  
3 characteristics of those populations served by the Health Care Independence  
4 Program;

5 (D) Recommend measures and options to preserve access to  
6 quality health care for those populations served by the Health Care  
7 Independence Program;

8 (E) Structure any recommended measures and options in a  
9 manner that achieves the following:

10 (i) Protection of Arkansas workers and employers  
11 from federal mandates and regulations by limiting the role of the federal  
12 government in defining the healthcare choices and coverage available in the  
13 Arkansas health insurance market;

14 (ii) Maximum flexibility for the state and  
15 limitations on federal restrictions on the state's ability to efficiently and  
16 effectively manage the Arkansas Medicaid Program;

17 (iii) Opportunities to limit the size of the  
18 traditional Medicaid program by serving healthier beneficiaries in the  
19 private market;

20 (iv) Strengthening of the employer-sponsored health  
21 insurance market;

22 (v) Increased employment of able-bodied recipients  
23 of taxpayer-funded healthcare services;

24 (vi) Healthier behaviors, increased accountability,  
25 and personal responsibility for beneficiaries;

26 (vii) Enlistment of enough providers so that care  
27 and services are available at least to the extent that such care and services  
28 are available under the Health Care Independence Program;

29 (viii) Access to health services in rural areas of  
30 the state;

31 (ix) Continuity of coverage for eligible individuals  
32 as their income or life circumstances change; and

33 (x) Continued payment innovation, delivery system  
34 reform, and market-driven improvements, including without limitation the  
35 Arkansas Health Care Payment Improvement Initiative;

36 (F) Estimate the impact of the Health Care Independence

1 Program and of its termination on the state's economy as a whole and on the  
 2 state's general revenue budget; and

3 (G) Recommend procedures to optimize and streamline the  
 4 legislative review and approval process for state plan amendments and other  
 5 Medicaid rules, so as to promote efficiency, ensure agency responsiveness to  
 6 changing market conditions, encourage transparency, and protect against undue  
 7 influence by special interests.

8 (3)(A) On or before December 31, 2015, the task force shall file  
 9 with the Governor, the Speaker of the House of Representatives, and the  
 10 President Pro Tempore of the Senate a written report of the task force's  
 11 activities, findings, and recommendations.

12 (B) The task force may file with the Governor, the Speaker  
 13 of the House of Representatives, and the President Pro Tempore of the Senate  
 14 a final written report on or before December 30, 2016.

15 (e) The task force expires December 31, 2016.

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 17 SECTION 3. TEMPORARY LANGUAGE. DO NOT CODIFY. Efforts to transform  
 18 the Arkansas Medicaid Program – Federal waivers or authorities.

19 (a)(1) Notwithstanding any other rule, regulation, or law to the  
 20 contrary, the Department of Human Services may submit and apply for any  
 21 federal waivers or authority necessary to transform the Arkansas Medicaid  
 22 Program into a program with maximum state flexibility in the use of the funds  
 23 for innovative and cost-effective solutions for the provision of healthcare  
 24 services.

25 (2) The options pursued as part of this effort may include  
 26 without limitation:

27 (A) A block grant or global budget cap program in which  
 28 the federal government provides the state with a defined annual lump sum,  
 29 calculated on the basis of past and existing Medicaid funding levels,  
 30 adjusted annually for healthcare inflation; and

31 (B) Innovative measures and options such as capitated  
 32 payment models, including without limitation managed care programs for  
 33 specific high-need populations such as people with serious mental illness or  
 34 elders with frailty.

35 (b) The solutions pursued through this effort shall aim to sustain and  
 36 improve the following:

1           (1) Appropriate care and improved outcomes through early  
 2 intervention, prevention, and wellness programs, including the reduction of  
 3 rates of obesity and tobacco use;

4           (2) Services in the most cost-effective settings;

5           (3) Enhanced injury prevention;

6           (4) Optimized use of telemedicine;

7           (5) Transparency in healthcare price, quality, and utilization  
 8 for consumers, taxpayers, and policymakers;

9           (6) Discouraged over-utilization and reduced waste, fraud, and  
 10 abuse; and

11           (7) Other efficiencies that will deliver value to the taxpayers.

12           (c) The programs and populations in this effort may include without  
 13 limitation:

14           (1) The traditional Medicaid program;

15           (2) Existing Medicaid waiver programs, including without  
 16 limitation those waivers authorized or required by this act; and

17           (3) Individuals eligible for the Health Care Independence  
 18 Program authorized under § 20-77-2401 et seq.

19           (d) The department, in consultation with the Arkansas Health Reform  
 20 Legislative Task Force, shall submit the necessary waiver requests to the  
 21 Centers for Medicare and Medicaid Services no later than July 1, 2016, for a  
 22 waiver term of up to five (5) years.

23           (e) The department may promulgate rules to administer and implement  
 24 this section.

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 26           SECTION 4. TEMPORARY LANGUAGE. DO NOT CODIFY. Suspension of certain  
 27 changes to the Health Care Independence Program.

28           (a) The Department of Human Services shall suspend, as of the  
 29 effective date of this act and notwithstanding any other rules, regulations,  
 30 or provisions of law to the contrary, any further inclusion or transition of  
 31 Medicaid-eligible recipient populations to the Arkansas Health Insurance  
 32 Marketplace, including without limitation:

33           (1) Children eligible for the ARKids First Program Act, § 20-77-  
 34 1101 et seq., commonly known as the “ARKids B program”; and

35           (2) Populations under Medicaid from zero percent (0%) of the  
 36 federal poverty level to seventeen percent (17%) of the federal poverty

1 level.

2 (b) Notwithstanding any other rule, regulation, or law to the  
 3 contrary, the department shall suspend, as of the effective date of this act,  
 4 the application of any additional cost sharing requirements in effect on  
 5 January 31, 2015, under the Health Care Independence Program to Medicaid  
 6 beneficiaries with incomes below one hundred percent (100%) of the federal  
 7 poverty level.

8 (c) The purpose of this section is to:

9 (1) Ensure a focus on future improvements; and

10 (2) Limit the state's exposure to additional costs.

11 (d) This section shall expire at the earliest of:

12 (1) The effective date of the termination of the Health Care  
 13 Independence Program; or

14 (2) December 31, 2016.

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 16 SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY. Modification of  
 17 Medicaid State Plan.

18 (a) Upon the expiration or termination of the Health Care Independence  
 19 Program under the Health Care Independence Act of 2013, § 20-77-2401 et seq.,  
 20 the Department of Human Services shall submit all Medicaid State Plan  
 21 amendments necessary to ensure that expiration or termination of the federal  
 22 waivers required by § 20-77-2405 does not render eligible individuals, as  
 23 defined in § 20-77-2404(3), to be covered by the Title XIX Medicaid Program  
 24 for the State of Arkansas solely on the basis of income.

25 (b) The department shall submit and make effective the Medicaid State  
 26 Plan amendments required by this section prior to the date on which the  
 27 federal waivers actually terminate.

28 (c) This section does not require modification of any Medicaid  
 29 eligibility categories that were in effect on or before December 31, 2013.

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 31 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
 32 General Assembly of the State of Arkansas that without legislative action,  
 33 the Health Care Independence Program will terminate before reductions in  
 34 federal medical assistance percentages require the expenditure of additional  
 35 state general revenues; that an urgent need exists to develop contingency  
 36 plans for the termination of the Health Care Independence Program and to



1 ensure continued healthcare access for eligible individuals; that to ensure  
2 efficient use of taxpayer dollars and continued healthcare coverage for the  
3 state's most vulnerable citizens, it is immediately necessary to transform  
4 the Arkansas Medicaid Program; and that this act is immediately necessary to  
5 initiate reforms of the state's healthcare system. Therefore, an emergency is  
6 declared to exist, and this act is immediately necessary for the preservation  
7 of the public peace, health, and safety, and shall become effective on:

8 (1) The date of this act's approval by the Governor;

9 (2) If the bill is neither approved nor vetoed by the Governor,  
10 the expiration of the period of time during which the Governor may veto the  
11 bill; or

12 (3) If the bill is vetoed by the Governor and the veto is  
13 overridden, the date the last house overrides the veto.

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