

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

As Engrossed: S1/26/15 S1/27/15

# 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

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



1 including those citizens eligible for the Arkansas Health Care Independence  
2 Program, regardless of ability to pay; and

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4 WHEREAS, the Arkansas Health Care Independence Program was the State of  
5 Arkansas's initial response to the disruptive challenges of the federal  
6 healthcare legislation and regulation in an effort to safeguard Arkansas  
7 employers and citizens and healthcare systems; and

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9 WHEREAS, the Arkansas Health Care Independence Program and the federal  
10 waiver under which the state operates the Arkansas Health Care Independence  
11 Program will terminate on December 31, 2016, which will have the effect of  
12 ending eligibility for Medicaid expansion populations in the absence of  
13 legislative action by the General Assembly; and

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15 WHEREAS, the State of Arkansas has historically sought state-specific  
16 strategies to provide health care for low-income and other vulnerable  
17 populations while reducing state and federal obligations to entitlement  
18 spending; and

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20 WHEREAS, the State of Arkansas continues to seek out strategies to  
21 provide health care for low-income and other vulnerable populations in a  
22 manner that will promote accountability, personal responsibility, and  
23 transparency; remove disincentives for work and social mobility; encourage  
24 and reward healthy outcomes and responsible choices; and promote efficiencies  
25 that will deliver value to the taxpayers; and

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27 WHEREAS, the State of Arkansas is recognized as a leader in healthcare  
28 finance and delivery system innovation; and

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30 WHEREAS, the State of Arkansas seeks to assert its responsibility for  
31 local control and to protect Arkansas consumers and businesses from federal  
32 mandates,

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34 NOW THEREFORE,

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

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1 SECTION 1. DO NOT CODIFY. Title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 task force at the first meeting.

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

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

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

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

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

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

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

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

20 (A) Recommend an alternative healthcare coverage model and  
21 legislative framework to ensure the continued availability of healthcare  
22 services for vulnerable populations covered by the Health Care Independence  
23 Program established by the Health Care Independence Act of 2013, §§ 20-77-  
24 2401 et seq., upon program termination; and

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

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

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

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

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

36 (ii) Individuals previously eligible for Medicaid

1 before the effective date of the program, whether under a Medicaid waiver or  
2 some other eligibility criteria;

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

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

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

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

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

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

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

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

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

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

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

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

34 (x)(a) Continued payment innovation, delivery system  
35 reform, and market driven improvement, including without limitation the  
36 Arkansas Health Care Payment Improvement Initiative, for which current

1 federal grant support will expire on or before December 31, 2016.

2 (b) The task force shall review the Arkansas  
3 Health Care Payment Improvement Initiative and recommend continuation,  
4 suspension, termination, or other actions the task force deems appropriate to  
5 the Governor.

6 (F) Estimate the impact of the Health Care Independence  
7 Program and of its termination on the state's economy as a whole and on the  
8 state's general revenue budget;

9 (G) Recommend procedures to optimize and streamline  
10 the legislative review and approval process for state plan amendments  
11 and other Medicaid rules, so as to promote efficiency, ensure agency  
12 responsiveness to changing market conditions, encourage transparency,  
13 and protect against undue influence by special interests; and

14 (H) If the task force determines necessary, contract with  
15 the consultants to assist the task force with the study.

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

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

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

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

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

33 (2) Under no circumstances may Medicaid eligibility be extended  
34 past December 31, 2016, for the current Medicaid expansion population under  
35 the Health Care Independence Program, commonly referred to as the "Private  
36 Option," including the current Medicaid expansion population in the

1 eligibility category created by Section 1902(a)(10)(A)(i)(VIII) of the Social  
2 Security Act, 42 U.S.C. § 1396a, without express legislative approval through  
3 a proper enactment of law by the General Assembly.

4 (3) The options pursued as part of this effort may include  
5 without limitation:

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

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

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

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

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

20 (3) Enhanced injury prevention;

21 (4) Optimized use of telemedicine;

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

24 (6) Discouraged over-utilization and reduced waste, fraud, and  
25 abuse; and

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

27 (c) The programs and populations in this effort may include without  
28 limitation:

29 (1) The traditional Medicaid program;

30 (2) Existing Medicaid waiver programs, including without  
31 limitation those waivers authorized or required by Arkansas law; and

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

34 (d) The department, in consultation with the Arkansas Health Reform  
35 Legislative Task Force, shall submit the necessary waiver requests to the  
36 Centers for Medicare and Medicaid Services no later than July 1, 2016, for a

1 waiver term of up to five (5) years.

2 (e) The department may promulgate rules to administer and implement  
3 this section.

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

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

12 (1) Children eligible for the ARKids First Program Act, § 20-77-  
13 1101 et seq., commonly known as the “ARKids B program”; and

14 (2) Populations under Medicaid from zero percent (0%) of the  
15 federal poverty level to seventeen percent (17%) of the federal poverty  
16 level.

17 (b) Notwithstanding any other rule, regulation, or law to the  
18 contrary, the department shall suspend, as of the effective date of this act,  
19 the application of any additional cost sharing requirements to go into effect  
20 on or after January 31, 2015, under the Health Care Independence Program to  
21 Medicaid beneficiaries with incomes below one hundred percent (100%) of the  
22 federal poverty level.

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

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

25 (2) Limit the state’s exposure to additional costs.

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

27 (1) The effective date of the termination of the Health Care  
28 Independence Program; or

29 (2) December 31, 2016.

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31 SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY. Modification of  
32 Medicaid State Plan.

33 (a) The Department of Human Services shall amend the Medicaid State  
34 Plan to eliminate all eligibility categories authorized by Section  
35 1902(a)(10)(i)(VIII) of the Social Security Act, 42 U.S.C. § 1396a,  
36 by December 31, 2016.



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

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

6       (d) The purpose of this section is to ensure that Medicaid eligibility  
7 does not continue past December 31, 2016, for the current Medicaid expansion  
8 population under the Health Care Independence Program, commonly referred to  
9 as the "Private Option," including the current Medicaid expansion population  
10 in the eligibility category created by Section 1902(a)(10)(A)(i)(VIII) of the  
11 Social Security Act, 42 U.S.C. § 1396a, without express approval through a  
12 proper enactment of law by the General Assembly.

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14       SECTION 6. DO NOT CODIFY. Expiration of Health Care Independence  
15 Program.

16       Eligibility, enrollment and participation in Medicaid for the current  
17 Medicaid expansion population under the Health Care Independence Program  
18 authorized under § 20-77-2401 et seq., including the current Medicaid  
19 expansion population in the eligibility category created by Section  
20 1902(a)(10)(A)(i)(VIII) of the Social Security Act, 42 U.S.C. § 1396a, shall  
21 cease and terminate effective January 1, 2017, in the absence of legislative  
22 action by the General Assembly.

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24       SECTION 7. EMERGENCY CLAUSE. It is found and determined by the  
25 General Assembly of the State of Arkansas that without legislative action,  
26 the Health Care Independence Program will terminate before reductions in  
27 federal medical assistance percentages require the expenditure of additional  
28 state general revenues; that an urgent need exists to develop contingency  
29 plans for the termination of the Health Care Independence Program and to  
30 ensure continued healthcare access for eligible individuals; that to ensure  
31 efficient use of taxpayer dollars and continued healthcare coverage for the  
32 state's most vulnerable citizens, it is immediately necessary to transform  
33 the Arkansas Medicaid Program; and that this act is immediately necessary to  
34 initiate reforms of the state's healthcare system. Therefore, an emergency is  
35 declared to exist, and this act is immediately necessary for the preservation  
36 of the public peace, health, and safety, and shall become effective on:

- 1                   (1) The date of this act's approval by the Governor;
- 2                   (2) If the bill is neither approved nor vetoed by the Governor,
- 3 the expiration of the period of time during which the Governor may veto the
- 4 bill; or
- 5                   (3) If the bill is vetoed by the Governor and the veto is
- 6 overridden, the date the last house overrides the veto.

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*/s/J. Hendren*