

INTERIM STUDY PROPOSAL 2015-091

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

As Engrossed: S3/17/15
A Bill

SENATE BILL 828

5
6 By: Senators D. Sanders, *J. Hendren, Rapert*
7 By: Representative *Collins*

8 Filed with: Senate Committee on Insurance and Commerce
9 pursuant to A.C.A. §10-3-217.

10 **For An Act To Be Entitled**

11 AN ACT TO AUTHORIZE THE INSURANCE COMMISSIONER, THE
12 DEPARTMENT OF FINANCE AND ADMINISTRATION, THE
13 DEPARTMENT OF HUMAN SERVICES, AND THE ARKANSAS
14 HEALTH INSURANCE MARKETPLACE TO SEEK FEDERAL WAIVERS
15 TO FACILITATE INNOVATIVE APPROACHES TO HEALTH
16 INSURANCE COVERAGE AND HEALTH CARE; TO DECLARE AN
17 EMERGENCY; AND FOR OTHER PURPOSES.

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19
20 **Subtitle**

21 TO CREATE THE ARKANSAS HEALTH INSURANCE
22 INNOVATION ACT OF 2015; AND TO DECLARE AN
23 EMERGENCY.

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

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28 WHEREAS, the General Assembly is obligated to pursue appropriate means to protect Arkansas
29 citizens, employers, and healthcare providers from the challenges and obstacles created by federal
30 healthcare legislation; and

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32 WHEREAS, state-based solutions to health insurance coverage and healthcare needs are
33 inherently more efficient, more effective, and less costly than federal mandates; and

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35 WHEREAS, under 31 C.F.R. Subtitle A, Part 33, federal Waivers for State *Innovation, commonly*
36 *referred to as "Section 1332 Waivers"*, are authorized to permit a state to waive provisions of federal laws

1 relating to the provision of healthcare items or services; and

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3 WHEREAS, under 31 C.F.R. § 33.108, applications for Waivers for State Innovation are to be
4 submitted to and reviewed by the United States Secretary of the Treasury and the United States
5 Secretary of Health and Human Services; and

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7 WHEREAS, under 31 C.F.R. § 33.108, as an initial criterion for an application for Waivers for
8 State Innovation, evidence of state legislation that provides the state with authority to implement the
9 proposed waiver is required; and

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11 WHEREAS, existing state legislation may be insufficient in providing the authority to permit an
12 application under 31 C.F.R. § 33.108,

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14 NOW THEREFORE,

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

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17 SECTION 1. Arkansas Code Title 23, Chapter 61, is amended to add a additional subchapter to
18 read as follows:

19 Subchapter 9 — Arkansas Health Insurance Innovation Act of 2015

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21 23-61-901. Title.

22 This subchapter shall be known and may be cited as the "Arkansas Health Insurance Innovation
23 Act of 2015".

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25 23-61-902. Purpose.

26 The purpose of this subchapter is to encourage the executive and legislative branches to explore,
27 develop, and facilitate innovative approaches to improving access to, affordability, and quality of
28 comprehensive health insurance coverage and health care.

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30 23-61-903. Waiver authority.

31 The Governor is authorized to:

32 (1) Submit and apply for federal waivers under:

33 (A) 42 U.S.C. § 1315, § 1396n, and § 18052;

34 (B) 31 C.F.R. Subtitle A, Part 33; and

35 (C) 45 C.F.R. Subtitle A, Part 155, Subpart N; and

36 (2) Submit and apply for federal waivers necessary to effectuate the purposes of this

1 subchapter.

2 ((b) Any waiver submitted under this section shall have legislative approval under this
3 section.

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5 23-61-904. Rules.

6 (a) The Insurance Commissioner may promulgate rules to implement this subchapter and any
7 federal waivers sought in furtherance of this subchapter.

8 (b) The Department of Finance and Administration may promulgate rules to implement this
9 subchapter and any federal waivers sought in furtherance of this subchapter, including without limitation
10 rules pertaining to the calculation, assessment, or collection of state taxes.

11 (c) The Department of Human Services may promulgate rules to implement this subchapter and
12 any federal waivers sought in furtherance of this subchapter, including without limitation any required
13 state plan amendments to the Medicaid program, any waivers or other approvals required from the
14 Centers for Medicare and Medicaid Services, and any other rules pertaining to the Medicaid program.

15 (d)(1) The Arkansas Health Insurance Marketplace may promulgate rules to implement this
16 subchapter and any federal waivers sought in furtherance of this subchapter, including without limitation
17 rules pertaining to the Arkansas Health Insurance Marketplace.

18 (2) Rules adopted by the Arkansas Health Insurance Marketplace under subdivision
19 (d)(1) of this section:

20 (A) Are exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et
21 seq.; and

22 (B) Shall be adopted in compliance with the procedures of § 23-61-803.

23 (e)(1) Joint waiver applications shall have rules submitted as authorized by the entities listed in §
24 23-61-904(a)-(d) that have been selected for the joint waiver application.

25 (2) The Governor shall determine rule distribution and priority in the case of a joint
26 waiver application.

27 (f) In the event of a conflict between the rules promulgated under this subchapter by different
28 entities, priority shall be given to any rule that has been approved or formally reviewed by the Centers for
29 Medicare and Medicaid Services or other federal agency.

30 (g) Rules promulgated under this section shall not conflict with or prevent the application of
31 regulations promulgated by the Secretary of Health and Human Services, the Secretary of the Treasury,
32 or the Commissioner of the Internal Revenue under federal law.

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34 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the
35 State of Arkansas that federal law sets specific timeframes and deadlines for the submission of federal
36 waiver requests under 31 C.F.R. Subtitle A, Part 33; that prompt and immediate action is necessary to

1 take full advantage of opportunities for innovation under federal law; that ensuring an efficient and
2 effective process for development of a waiver will promote innovation and optimize the use of taxpayer
3 dollars; and that this act is immediately necessary to initiate reforms of the state's health insurance
4 market and healthcare system. Therefore, an emergency is declared to exist, and this act being
5 immediately necessary for the preservation of the public peace, health, and safety shall become effective
6 on:

- 7 (1) The date of its approval by the Governor;
8 (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period
9 of time during which the Governor may veto the bill; or
10 (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last
11 house overrides the veto.

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/s/D. Sanders

Referred by the Arkansas Senate

Prepared by: VJF