

Regular Session, 2014

SENATE BILL NO. 682 (Substitute of Senate Bill No. 107 by Senator Nevers)

BY SENATOR NEVERS

HEALTH CARE. Provides for the Louisiana First America Next Freedom and Empowerment Plan. (gov sig)

1 AN ACT

2 To enact Chapter 8-B of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 46:979.1 through 979.6, relative to the Louisiana First America Next

4 Freedom and Empowerment Act; to provide for the creation, implementation and

5 administration of the Louisiana First America Next Freedom and Empowerment

6 Plan; to provide for access to basic health insurance coverage for Louisiana citizens;

7 to provide for legislative findings and intent; to provide for application for certain

8 federal funds; to provide relative to funding and legislative oversight; to provide for

9 certain eligibility factors and reports; to provide relative to termination of the plan;

10 to provide certain terms, definitions, conditions and procedures; and to provide for

11 related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Chapter 8-B of Title 46 of the Louisiana Revised Statutes of 1950,
14 comprised of R.S. 46:979.1 through 979.6, is hereby enacted to read as follows:

15 **CHAPTER 8-B. LOUISIANA FIRST AMERICA NEXT**

16 **FREEDOM AND EMPOWERMENT PLAN**

17 **§979.1. Title**

1 **This Chapter shall be known and may be cited as the "Louisiana First**
2 **America Next Freedom and Empowerment Act"**.

3 **§979.2. Definitions**

4 **As used in this Chapter, the following terms shall have the following**
5 **definitions, unless the context clearly indicates otherwise:**

6 **(1) "Cost-sharing" means the portion of the cost of a covered medical**
7 **service that must be paid by or on behalf of eligible individuals, consisting of**
8 **copayments or coinsurance, but not deductibles.**

9 **(2) "Department" means the Department of Health and Hospitals.**

10 **(3) "Medicaid" means the medical assistance program provided for in**
11 **Title XIX of the Social Security Act.**

12 **(4) "Plan" means the Louisiana First America Next Freedom and**
13 **Empowerment Plan established by this Chapter.**

14 **(5) "Secretary" means the secretary of the Department of Health and**
15 **Hospitals.**

16 **§979.3. Legislative findings; purpose**

17 **A. The Legislature of Louisiana does hereby find and declare that, due**
18 **to compelling moral and economic reasons, Louisiana must enact positive**
19 **reforms to move the state's health care system in the right direction.**

20 **B. The Legislature of Louisiana does hereby find and declare that**
21 **Louisiana should expand access to affordable high quality health care. Our**
22 **state must create a solid safety net for the poorest of the poor and the sickest of**
23 **the sick. Louisiana must seek to offer to its citizens a health care system that**
24 **allows the patient to be in control, working with his own doctor and other health**
25 **care providers. Louisiana must work on reducing health care costs, since many**
26 **of Louisiana's citizens struggle to afford health care. Louisiana must work to**
27 **preserve and strengthen the safety net for the most vulnerable in our state,**
28 **including those with pre-existing conditions. Louisiana must focus on**
29 **enhancing patient choice, removing obstacles to portability, and promoting**

1 consumer selection.

2 C. The Legislature of Louisiana does hereby find and declare that true
3 health reform puts doctors and patients, not government bureaucrats, at the
4 heart of all health policy decisions.

5 D. The purposes of this state in implementing the Louisiana First
6 America Next Freedom and Empowerment Plan are as follows:

7 (1) To lower health care costs by providing incentives for Louisiana
8 consumers to serve as smart health care shoppers, to save money by engaging
9 in healthy behaviors, and to take control of their health care choices.

10 (2) To protect the most vulnerable Louisiana citizens by targeting
11 government resources to those most at risk in our state and by enacting reforms
12 that would guarantee health care access to individuals with pre-existing
13 conditions, senior citizens, individuals with disabilities, and the unborn.

14 (3) To provide portability and choice to Louisiana consumers by offering
15 personalized choices so that consumers can buy the health care coverage plan
16 they want, not the plan a government bureaucrat tells them to purchase.

17 §979.4. Administration of the Louisiana First America Next Freedom and
18 Empowerment Plan

19 A. The Department of Health and Hospitals shall create and administer
20 the plan within the department. The department shall promulgate rules to
21 implement this Chapter in accordance with the Administrative Procedure Act.

22 B. In keeping with the plan's purposes set forth in R.S. 46:979.3, the
23 department shall on or before September 1, 2014, submit to the House and
24 Senate committees on health and welfare and to the governor an outline
25 specifying how it will seek to implement the following health care access reforms
26 in Louisiana beginning January 1, 2015:

27 (1) Lowering the cost of health care in Louisiana, including but not
28 limited to actions furthering the following goals:

29 (a) Tax equity: Giving all Louisiana consumers the same standard

1 deduction for health insurance, regardless of whether they obtain that health
2 insurance from an employer or on their own, and without raising taxes.

3 **(b) A Louisiana health insurance program: Seeking any available**
4 **federal funds, including but not limited to the use of federal waivers or**
5 **Medicaid state plan amendments, so as to create an innovative and cost-effective**
6 **state health insurance program that would reduce health insurance premiums**
7 **to make coverage more affordable, guarantee access for individuals with pre-**
8 **existing conditions, and allow the state the option of using such funds to**
9 **subsidize health insurance coverage for individuals with pre-existing conditions**
10 **and low-income individuals who may not receive tax savings from a health**
11 **insurance deduction.**

12 **(c) Health savings accounts: Further increasing participation in the**
13 **plan's innovative insurance model and enhancing the ability to contain the**
14 **growth of health costs by allowing individuals to create personal health savings**
15 **accounts and use those funds to pay health insurance premiums, allowing for**
16 **additional flexibility in benefit design.**

17 **(d) Greater incentives for wellness: Providing insurers and employers**
18 **with additional flexibility to offer incentives for healthy behaviors, and the**
19 **ability to provide those incentives on a tax-free basis, in order to accelerate**
20 **efforts at changing behaviors in a way that can slow health cost growth.**

21 **(e) Focus on eliminating fraud: Moving away from the existing "pay**
22 **and chase" model of eliminating fraud, and seeking to target those who profit**
23 **from trafficking in personal health information.**

24 **(f) Price and quality transparency: Increasing online posting of health**
25 **care services price and quality data in order to empower Louisiana patients**
26 **with trusted information and provide Louisiana health care providers with a**
27 **greater incentive to improve their quality practices.**

28 **(2) Protecting the most vulnerable Louisiana citizens, including but not**
29 **limited to actions furthering the following goals:**

1 (a) Guaranteed access for pre-existing conditions: Demonstrating in
2 requests to federal funding sources that, as a condition of participation in the
3 plan, Louisiana will guarantee access for individuals with pre-existing
4 conditions through a high-risk pool, reinsurance, or some other method
5 ensuring those with chronic conditions can obtain needed care.

6 (b) Premium support: Providing cost subsidies or premium assistance
7 so that Louisiana's senior citizens are offered more health insurance choices,
8 while seeking to make Medicare more financially solvent and sustainable for
9 future generations.

10 (c) Medicaid reforms: Seeking to work with the federal government
11 through existing or new grant programs to demonstrate that, in exchange for
12 a fixed funding allotment from the federal government and accountability
13 standards, Louisiana will demonstrate flexibility in designing solutions to meet
14 the health care needs of Louisiana citizens.

15 (d) Life protections: Seeking to strengthen conscience protections for
16 businesses and medical providers.

17 (3) Portability and choice, including but not limited to actions furthering
18 the following goals:

19 (a) Louisiana-based reforms to expand access: Reforming laws that
20 govern medical licensure and construction of new medical facilities, in order to
21 increase the supply of medical providers, including new options that may lower
22 health care costs.

23 (b) Better access for individuals changing employers: Ending the
24 requirement that individuals leaving their employer must exhaust COBRA
25 continuation coverage before gaining access to the individual health insurance
26 market, in order to alleviate a costly mandate on businesses and ease the
27 transition into individual health coverage for those changing jobs.

28 (c) Pooling mechanisms: Allowing small businesses, fraternal
29 organizations, civic groups, alumni associations, and other similar organizations

1 to band together and offer health insurance to their members in order to
2 provide new options for individuals to purchase coverage that travels with them
3 from job to job.

4 (d) Cross-state insurance purchasing: Seeking to work with the federal
5 government and other state governments to allow purchasing of health
6 insurance across state lines, so as to allow Louisianians to buy the customized
7 health insurance plan that best meets their needs.

8 (e) Lawsuit reform: Enacting common sense reforms to crack down on
9 frivolous lawsuits in seeking to expand patient access and lower costs.

10 (f) Freedom for senior citizens to choose: Enhancing choice and
11 competition by eliminating the arbitrary restrictions on senior citizens' choice
12 of medical providers imposed by bureaucratic mandates, and seeking to restore
13 the doctor-patient relationship by working with the federal government to see
14 those onerous requirements repealed.

15 C. The department may work with any other state department in order
16 to seek to effect the plan's purposes, and shall do so with all deliberate speed so
17 as to effect these health care reforms in a timely manner.

18 D.(1) The department may utilize any federal or state funding, or any
19 other source of revenue, available to implement this plan.

20 (2) Prior to implementation, the department shall develop the plan,
21 including a determination of the cost, and submit the plan with the cost estimate
22 to the Joint Legislative Committee on the Budget for approval.

23 E. The plan may include premium support or insurance premium
24 subsidies for eligible individuals to enable their enrollment in a health insurance
25 plan.

26 F. The department shall be specifically authorized to pay supplemental
27 cost-sharing subsidies directly to health insurance plans or health savings
28 accounts for participants in the plan.

29 G. An eligible individual offered health insurance access, enrolled in

1 health insurance coverage or allowed to create a health savings account, shall
2 affirmatively acknowledge the existence of all of the following facts:

3 (1) The plan shall not be a perpetual federal or state right or guaranteed
4 entitlement.

5 (2) The plan shall be subject to cancellation upon appropriate notice.

6 (3) The plan shall not be an entitlement program.

7 H. The state may implement cost-sharing and copays, as a condition of
8 participation in the plan, for plan participants whose earning shall exceed fifty
9 percent of the applicable federal poverty level.

10 I. The department shall recommend appropriate adjustments in funding
11 to the legislature. Adjustments shall be made by the legislature as appropriate.

12 J. On a quarterly basis, the department shall report to the Joint
13 Legislative Committee on the Budget, within two weeks of the end of each
14 quarter, information regarding the following aspects of the plan:

15 (1) Plan enrollment.

16 (2) Patient experience.

17 (3) Economic impact.

18 (4) Carrier competition.

19 (5) Success in avoiding uncompensated care.

20 §979.5. Plan outcomes; reporting requirements

21 A. On or before July 1, 2015, and annually thereafter, the secretary of
22 the department shall provide to the House and Senate committees on health and
23 welfare and to the governor a written report covering the most recent one-year
24 period which includes at a minimum all of the items required hereafter in this
25 Section.

26 B. The secretary shall make the report provided for in this Section
27 publicly available on its Internet website.

28 C. The report shall include but shall not be limited to the following
29 items:

1 **(1) Evaluation of major barriers to access to health care by participants**
 2 **in the Louisiana First America Next Freedom and Empowerment Plan, and**
 3 **recommendations for policy changes to eliminate such barriers.**

4 **(2) Summary of successful initiatives in this state for disease prevention**
 5 **and early diagnosis and management of chronic conditions among participants**
 6 **in the plan.**

7 **(3) Such other information as the secretary deems appropriate to convey**
 8 **a clear and sufficiently complete assessment of the impact of the plan.**

9 **§979.6. Termination**

10 **Annually during each regular session of the legislature, the legislature**
 11 **shall have the authority to decide whether to continue the program.**

12 Section 2. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

The original instrument was prepared by Julie J. Baxter. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jay Lueckel.

DIGEST

Nevers (SB 682)

Proposed law provides that proposed law shall be known and may be cited as the "Louisiana First America Next Freedom and Empowerment Act".

Proposed law provides for certain definitions, including that the plan provided for in proposed law shall be known as the "Louisiana First America Next Freedom and Empowerment Plan".

Proposed law provides for certain legislative findings including to enact positive reforms to move the state's health care system in the right direction and expand access to affordable health care.

Proposed law provides that the purposes of proposed law are as follows:

- (1) To lower health care costs by providing incentives for Louisiana consumers to serve as smart health care shoppers, to save money by engaging in health behaviors and to take control of their health care choices.
- (2) To protect the most vulnerable Louisiana citizens by targeting government resources

to those most at risk in our state and by enacting reforms that would guarantee health care access to individuals with pre-existing conditions, senior citizens, individuals with disabilities and the unborn.

- (3) To provide portability and choice to Louisiana consumers by offering personalized choices so that consumers can buy the health care coverage plan they want, not the plan a government bureaucrat tells them to purchase.

Proposed law provides that the Department of Health and Hospitals shall create and administer the plan within the department. Further provides that the department shall promulgate rules to implement proposed law in accordance with the Administrative Procedure Act.

Proposed law provides that, in keeping with the purposes set forth in R.S. 46:979.3, the department shall on or before September 1, 2014, submit to the House and Senate committees on health and welfare and to the governor an outline specifying how it will seek to implement the following health care access reforms in Louisiana beginning January 1, 2015:

- (1) Lowering the cost of health care in Louisiana, including but not limited to actions furthering goals including tax equity without raising taxes, a Louisiana health insurance program, health savings accounts, greater incentives for wellness, focus on eliminating fraud, and price and quality transparency.
- (2) Protecting the most vulnerable Louisiana citizens, including but not limited to actions furthering goals including guaranteed access for pre-existing conditions, premium support, Medicaid reform, and life protections.
- (3) Portability and choice, including but not limited to actions furthering goals including Louisiana-based reforms to expand access, better access for individuals changing employers, pooling mechanisms, cross-state insurance purchasing, lawsuit reform, and freedom for senior citizens to choose.

Proposed law provides that the department may work with any other state departments to effect the plan's purposes and shall do so with all deliberate speed as to effect health care reforms in a timely manner.

Proposed law provides that the department may utilize any federal or state funding, or any other source of revenue, available to implement this plan. Requires, prior to implementation, that the department develop the plan, including a determination of the cost, and submit the plan with the cost estimate to the Joint Legislative Committee on the Budget for approval.

Proposed law provides that the plan may include premium support or insurance premium subsidies for eligible individuals to enable their enrollment in a health insurance plan.

Proposed law provides that the department shall be specifically authorized to pay supplemental cost-sharing subsidies directly to health insurance plans or health savings accounts for participants in the plan.

Proposed law provides that an eligible individual offered health insurance access, enrolled in health insurance coverage or allowed to create a health savings account, shall affirmatively acknowledge the existence of certain facts, including that the plan shall not be a perpetual federal or state right or guaranteed entitlement; the plan shall be subject to cancellation upon appropriate notice; and the plan shall not be an entitlement program.

Proposed law provides that the state may implement cost-sharing and copays, as a condition of participation in the plan, for plan participants whose earning shall exceed 50% of the

applicable federal poverty level.

Proposed law provides that the department shall recommend appropriate adjustments in funding to the legislature, and the adjustments shall be made by the legislature as appropriate.

Proposed law provides for certain quarterly reports to the Joint Legislative Committee on the Budget.

Proposed law provides for certain annual reports by the secretary of the department to the House and Senate committees on health and welfare and to the governor, which shall include certain information, and that such reports shall be made publicly available on the department's Internet website.

Proposed law provides that annually during each regular session of the legislature, the legislature shall have the authority to decide whether to continue the program.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 46:979.1 - 979.6)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Clarifies legislative and administrative intent language.
2. Requires, prior to implementation, that the department develop the plan, including a determination of the cost, and submit the plan with the cost estimate to the Joint Legislative Committee on the Budget for approval.