



## Health Innovation Section 1332 Waivers: State Legislation as of 2015

### States must enact a law to begin the use of a 1332 Waiver

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Advance edition, subject to updates

For state legislatures, Section 1332 of the Affordable Care Act provides an important, first time opportunity to define and set broad ACA-related policy. The requirements, options and limitations are described in separate material from [NCSL online](#) or on request.

The federal statute requires the filing and passage of state legislation that includes:

*(a)(1)(B)(i) "a comprehensive description of the State legislation and program to implement a plan..."*

A separate subsection specifies a new state law, or an existing law that is inclusive of all major provisions in a new state waiver application.

*(2)(D)(b) GRANTING OF WAIVERS // (2) REQUIREMENT TO ENACT A LAW ---*

*(a) IN GENERAL --- A law described in this paragraph is a State law that provides for State actions under a Waiver under this section, including the implementation of the State plan under subsection (a)(1)(B).*

**Filed Bills:** For 2015 sessions, bills affecting, examining or authorizing the use of ACA section 1332 waivers were filed in 11 states: **Arkansas, California, Hawaii, Maine, Minnesota, New Mexico, Ohio, Rhode Island, South Carolina, Texas** and **Vermont**.

**Signed Laws:** Five states enacted measures related to 1332 waivers: **Hawaii, Minnesota, Ohio, Rhode Island and Texas**.

The intent and binding nature of these first-round state bills vary considerably.

The status and text of these and future measures are available in NCSL's Health Systems Innovations [database](#).

STATE	Bill/STATUS	Summary
<b>Arkansas</b>	<b>2015: S 828</b> Engrossed; did not pass	Encourages the executive and legislative branches to explore, develop, and facilitate innovative approaches to improving access to, affordability, and quality of comprehensive health insurance coverage and health care.
<b>California</b>	<b>2015: S 10</b>	Requires application for a waiver for coverage under the Health Benefit Exchange for individual with a certain immigration status. Extends eligibility for full-scope Medi-Cal benefits to individuals of a minimum age who are otherwise eligible but for their immigration status if sufficient funding is available, or for limited scope benefits if funding for full-scope is not available. Requires individuals to enroll in a Medi-Cal managed care plan, and to pay copayments and premium contributions.
<b>Hawaii</b>	<b>2015: H 576</b> Passed <b>signed</b> <b>7/1/2015 as</b> <b>Act No. 2015-</b> <b>184</b>	Provides resources to develop a 1332 waiver from certain provisions of the ACA. Act 158 of 2014, established a state innovation waiver task force to develop a health care reform plan that meets the requirements for obtaining a state innovation waiver that complies with the ACA. The plan to be developed by the task force for the waiver is expected to build on the success of chapter 393, Hawaii's Prepaid Health Care Act.
<b>Maine</b>	<b>2015: S 289</b> did not pass H or S comm.	Unified Payor Universal Health Care System. Establishes the Maine Health Benefit Marketplace as the State's health benefit exchange as authorized by the federal ACA to facilitate the purchase of health care coverage by individuals and small businesses. The Maine Health Benefit Marketplace is established within the Department of Professional and Financial Regulation. The bill requires coverage to be available through the state-based marketplace no later than January 1, 2017

<b>Minnesota</b>	2015: S 1458; passed <b>signed 5/22/2015 as Ch. 71</b>	Requires the governor to convene a task force on health care financing to advise the governor and legislature on strategies that will increase access to and improve the quality of health care for Minnesotans. "These strategies shall include options for sustainable health care financing, coverage, purchasing, and delivery for all insurance affordability programs, including MNsure, medical assistance, MinnesotaCare, and individuals eligible to purchase coverage with federal advanced premium tax credits and cost-sharing subsidies. The task force shall consider opportunities, including alternatives to MNsure, options under section 1332" of the ACA, and options under a section 1115 waiver.
	S 2060 & H 2209 & S 2163 pending	Establishes the Minnesota Health Plan; guarantees that all necessary health care is available and affordable for every Minnesotan; establishes Minnesota Health Board, Minnesota Health Fund, Office of Health Quality and Planning, ombudsman for patient advocacy, and auditor general for the Minnesota Health Plan; requests a 1332 waiver.
<b>New Mexico</b>	2015: SJM 2 <b>Passed Senate 3/20/2015;</b> did not pass	Establishes the Innovation Waiver Working Group. composed of experts in health care delivery, policy and finance as well as related areas; and resolved "that the innovation waiver working group be requested to analyze the potential, under the auspices of a federal innovation waiver, for designing a comprehensive, sustainable health care system that: A. addresses the effects of the lack of health insurance, unaffordable health coverage, disparities in access to health care and uncompensated care on New Mexicans; B. provides for the collection of data and the examination of variations in health care utilization; and C. bends the health care cost curve in the state."
<b>Ohio</b>	2015: H 64 passed; <b>signed 6/30/2015, PL 2015-141</b>	Budget section, provides that the superintendent of insurance shall apply to the United States secretary of health and human services and the United States secretary of the treasury for an innovative waiver regarding health insurance coverage in this state as authorized by section 1332 of the ACA. The superintendent shall include in the application a request for waivers of the employer and individual mandates in sections 4980H and 5000A of the "Internal Revenue Code of 1986," 26 U.S.C. 4980H and 5000A. The application shall provide for the establishment of a system that provides access to affordable health insurance coverage for the residents of this state.
<b>Rhode Island</b>	2105: H 5900 Passed; <b>signed 6/30/2015</b>	Provides that to "take advantage of economies of scale and to lower costs, the exchange is hereby authorized to pursue opportunities to jointly negotiate, procure or otherwise purchase exchange services with or partner with another state or multiple states and to pursue a Federal Affordable Care Act 1332 Waiver."
<b>South Carolina</b>	2105: <a href="#">H 3020</a> ; did not pass	Makes certain findings regarding the principle of anti-commandeering and the right of the States to refuse to use state resources to enforce federal Laws; provides that a public official, officer, or employee of a public body must not participate in the establishment of a health insurance exchange or enforce or aid in the enforcement of the individual and employer health insurance mandates. Provides an exception to allow "the South Carolina Department of Health and Human Services' ability to apply for, request, or develop innovation waivers as set forth in Section 1332 of the ACA."
<b>Texas</b>	2105: H 2304; passed House and Senate; <b>signed 6/17/2015 as Ch. 837</b>	The Health and Human Services Commission "shall develop and implement a comprehensive, coordinated operational plan to ensure a consistent approach across the major quality initiatives of the health and human services system for improving the quality of health care. (b) The operational plan developed under this section must include broad goals for the improvement of the quality of health care in this state, including health care services provided through Medicaid. (c) The operational plan under this section may evaluate: the Delivery System Reform Incentive Payment (DSRIP) program under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), enhancing funding to disproportionate share hospitals in the state, Section 1332 of 42 U.S.C. Section 18052, enhancing uncompensated care pool payments to hospitals in the state under the Texas Health Care Transformation program...
<b>Vermont</b>	2015: H 88; Did not pass; subject to carryover	This bill proposes to create a public health care coverage option, called Vermont Care, to be offered through the Vermont Health Benefit Exchange. State premium assistance would be available only for individuals enrolled in Vermont Care. The bill would remove health care from the list of topics on which public employees may bargain collectively and provide health coverage for those individuals through Vermont Care. The bill would enact an individual responsibility requirement to have health care coverage and establish a payroll tax.
	2015: H447; S 103; did not pass	Provides for a universal (single payer) health plan for Vermont. Includes authorization for a Section 1332 waiver