

Senator Daniel R. Liljenquist proposes the following substitute bill:

MEDICAID REFORM

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Medical Assistance Act and the Budgetary Procedures Act.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to develop a proposal to modify the Medicaid program in a way that maximizes replacement of the fee-for-service delivery model

with one or more risk-based delivery models;

- ▶ specifies criteria for the proposal;

- ▶ requires the department, to the extent possible, to develop the proposal with the input of stakeholder groups representing those who will be affected by the proposal.

- ▶ requires the department to report to the Legislature on the development of the proposal;

- ▶ requires the department to submit a request to the Centers for Medicare and Medicaid Services for waivers from federal law to implement the proposal;

- ▶ directs the department to implement the proposal in the fiscal year following the fiscal year in which the waivers are approved;

- ▶ provides definitions;

- ▶ creates the Medicaid Growth Reduction and Budget Stabilization Account restricted



- 26 account;
- 27 ▶ specifies conditions under which Medicaid growth savings shall be transferred or
- 28 appropriated to the account;
- 29 ▶ provides that Medicaid growth savings not transferred into the account shall be
- 30 included in the base budget for the second following fiscal year;
- 31 ▶ specifies the priority of the account's claim on General Fund revenue surplus;
- 32 ▶ specifies how money in the account may be used;
- 33 ▶ makes conforming amendments; and
- 34 ▶ makes technical corrections.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **63J-1-312**, as renumbered and amended by Laws of Utah 2009, Chapter 183
- 42 **63J-1-314**, as last amended by Laws of Utah 2009, Chapter 389 and renumbered and
- 43 amended by Laws of Utah 2009, Chapter 183
- 44 **63M-1-905**, as last amended by Laws of Utah 2010, Chapters 245 and 278

45 ENACTS:

- 46 **26-18-405**, Utah Code Annotated 1953
- 47 **63J-1-315**, Utah Code Annotated 1953



49 *Be it enacted by the Legislature of the state of Utah:*

50 Section 1. Section **26-18-405** is enacted to read:

51 **26-18-405. Waivers to maximize replacement of fee-for-service delivery model.**

52 (1) The department shall develop a proposal to amend the state plan for the Medicaid
53 program in a way that maximizes replacement of the fee-for-service delivery model with one or
54 more risk-based delivery models. The proposal shall:

55 (a) restructure the program's provider payment provisions to reward health care
56 providers for delivering the most appropriate services at the lowest cost and in ways that,

57 compared to services delivered before implementation of the proposal, maintain or improve
58 recipient health status;

59 (b) restructure the program's cost sharing provisions and other incentives to reward
60 recipients for personal efforts to:

61 (i) maintain or improve their health status; and

62 (ii) use providers that deliver the most appropriate services at the lowest cost;

63 (c) identify the evidence-based practices and measures, risk adjustment methodologies,
64 payment systems, funding sources, and other mechanisms necessary to reward providers for
65 delivering the most appropriate services at the lowest cost, including mechanisms that:

66 (i) pay providers for packages of services delivered over entire episodes of illness
67 rather than for individual services delivered during each patient encounter; and

68 (ii) reward providers for delivering services that make the most positive contribution to
69 a recipient's health status;

70 (d) limit total annual per-patient-per-month expenditures for services delivered through
71 fee-for-service arrangements to total annual per-patient-per-month expenditures for services
72 delivered through risk-based arrangements covering similar recipient populations and services;
73 and

74 (e) limit the rate of growth in per-patient-per-month General Fund expenditures for the
75 program to the rate of growth in General Fund expenditures for all other programs, when the
76 rate of growth in the General Fund expenditures for all other programs is greater than zero.

77 (2) To the extent possible, the department shall develop the proposal with the input of
78 stakeholder groups representing those who will be affected by the proposal.

79 (3) No later than June 1, 2011, the department shall submit a written report on the
80 development of the proposal to the Legislature's Executive Appropriations Committee, Social
81 Services Appropriations Subcommittee, and Health and Human Services Interim Committee.

82 (4) No later than July 1, 2011, the department shall submit to the Centers for Medicare
83 and Medicaid Services within the United States Department of Health and Human Services a
84 request for waivers from federal statutory and regulatory law necessary to implement the
85 proposal.

86 (5) After the request for waivers has been made, and prior to its implementation, the
87 department shall report to the Legislature in accordance with Section 26-18-3 on any

88 modifications to the request proposed by the department or made by the Centers for Medicare
89 and Medicaid Services.

90 (6) The department shall implement the proposal in the fiscal year that follows the
91 fiscal year in which the United States Secretary of Health and Human Services approves the
92 request for waivers.

93 Section 2. Section **63J-1-312** is amended to read:

94 **63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for**
95 **deposits and expenditures from the account -- Providing for interest generated by the**
96 **account.**

97 (1) As used in this section:

98 (a) "Education Fund budget deficit" means a situation where appropriations made by
99 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues
100 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund
101 in that fiscal year.

102 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal
103 year that is:

104 (i) granted by the Legislature in all appropriation acts and bills; and

105 (ii) identified as coming from the General Fund.

106 (c) "General Fund budget deficit" means a situation where General Fund appropriations
107 made by the Legislature for a fiscal year exceed the estimated revenues adopted by the
108 Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

109 (d) "General Fund revenue surplus" means a situation where actual General Fund
110 revenues collected in a completed fiscal year exceed the estimated revenues for the General
111 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
112 Legislature.

113 (e) "Operating deficit" means that, at the end of the fiscal year, the [~~unreserved and~~
114 ~~undesignated~~] unassigned fund balance in the General Fund is less than zero.

115 (2) There is created within the General Fund a restricted account to be known as the
116 General Fund Budget Reserve Account, which is designated to receive the legislative
117 appropriations, investment earnings, and the surplus revenue required to be deposited into the
118 account by this section.

119 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in
120 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in
121 conjunction with the completion of the annual audit by the state auditor, determines that there
122 is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General
123 Fund revenue surplus to the General Fund Budget Reserve Account.

124 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund
125 Budget Reserve Account would cause the balance in the account to exceed 6% of General Fund
126 appropriations for the fiscal year in which the revenue surplus occurred, the Division of
127 Finance shall transfer only those funds necessary to ensure that the balance in the account
128 equals 6% of General Fund appropriations for the fiscal year in which the General Fund
129 revenue surplus occurred.

130 (iii) The Division of Finance shall calculate the amount to be transferred under this
131 Subsection (3)(a):

132 (A) after making the transfer of General Fund revenue surplus to the Medicaid Budget
133 Stabilization Restricted Account, as provided in Section 63J-1-315;

134 [~~(A)~~] (B) before transferring from the General Fund revenue surplus any other year-end
135 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
136 and

137 [~~(B)~~] (C) excluding the investment earnings for the fiscal year and excluding any direct
138 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

139 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if
140 a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has
141 appropriated any money from the General Fund Budget Reserve Account that has not been
142 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall
143 transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget
144 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if
145 any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have
146 replaced the appropriations from the account.

147 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to
148 exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus
149 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the

150 balance in the account equals 6% of General Fund appropriations for the fiscal year in which
151 the revenue surplus occurred.

152 (iii) The Division of Finance shall calculate the amount to be transferred under this
153 Subsection (3)(b):

154 (A) after making the transfer of General Fund revenue surplus to the Medicaid Budget
155 Stabilization Restricted Account, as provided in Section 63J-1-315;

156 ~~[(A)]~~ (B) before transferring from the General Fund revenue surplus any other year-end
157 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
158 and

159 ~~[(B)]~~ (C) excluding the investment earnings for the fiscal year and excluding any direct
160 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

161 (c) For appropriations made by the Legislature to the General Fund Budget Reserve
162 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in
163 the appropriation, as replacement funds for appropriations made from the account if funds were
164 appropriated from the General Fund Budget Reserve Account within the past 10 years and have
165 not yet been replaced.

166 ~~[(4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay~~
167 ~~additional debt service for any bonded debt authorized by the Legislature, the Division of~~
168 ~~Finance may hold back from any General Fund revenue surplus monies sufficient to pay the~~
169 ~~additional debt service requirements resulting from issuance of bonded debt that was~~
170 ~~authorized by the Legislature.]~~

171 ~~[(b) The Division of Finance may not spend the hold back amount for debt service~~
172 ~~under Subsection (4)(a) unless and until it is appropriated by the Legislature.]~~

173 ~~[(c) If, after calculating the amount for transfers to the General Fund Budget Reserve~~
174 ~~Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for~~
175 ~~debt service required by Subsection (4)(a), the Division of Finance shall reduce the transfer to~~
176 ~~the General Fund Budget Reserve Account by the amount necessary to cover the debt service~~
177 ~~hold back.]~~

178 ~~[(d) Notwithstanding Subsection (3), the Division of Finance shall hold back the~~
179 ~~General Fund balance for debt service authorized by this Subsection (4) before making any~~
180 ~~transfers to the General Fund Budget Reserve Account or any other designation or allocation of~~

181 General Fund revenue surplus.]

182 [~~(5) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of~~
 183 Finance determines that an operating deficit exists and that holding back the transfers to the
 184 State Disaster Recovery Restricted Account under Section 63J-1-314 does not eliminate the
 185 operating deficit, the Division of Finance may reduce the transfer to the General Fund Budget
 186 Reserve Account by the amount necessary to eliminate the operating deficit.]

187 [~~(6)~~ (4) The Legislature may appropriate [~~monies~~] money from the General Fund
 188 Budget Reserve Account only to:

189 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund
 190 budget deficit occurs;

191 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter
 192 10, State Settlement Agreements Act;

193 (c) pay retroactive tax refunds; or

194 (d) resolve an Education Fund budget deficit.

195 [~~(7)~~ (5) Interest generated from investments of money in the General Fund Budget
 196 Reserve Account shall be deposited into the General Fund.

197 Section 3. Section **63J-1-314** is amended to read:

198 **63J-1-314. Deposits related to the Disaster Recovery Funding Act.**

199 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,
 200 the [~~unreserved and undesignated~~] unassigned fund balance in the General Fund is less than
 201 zero.

202 (2) Except as provided under Subsection (3), [~~beginning with the fiscal year ending~~
 203 ~~June 30, 2007,~~] at the end of each fiscal year and after the transfer of surplus General Fund
 204 revenues has been made to the Medicaid Budget Stabilization Restricted Account, as provided
 205 in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section
 206 63J-1-312, the Division of Finance shall deposit an amount into the State Disaster Recovery
 207 Restricted Account, created in Section 53-2-403, calculated by:

208 (a) determining the amount of surplus General Fund revenues after the transfer to the
 209 Medicaid Budget Stabilization Restricted Account under Section 63J-1-315 and the General
 210 Fund Budget Reserve Account under Section 63J-1-312 [~~that is unrestricted and undesignated~~];

211 (b) calculating an amount equal to the lesser of:

- 212 (i) 25% of the amount determined under Subsection (2)(a); or
213 (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in
214 which the surplus occurs; and
215 (c) adding to the amount calculated under Subsection (2)(b) an amount equal to the
216 lesser of:
217 (i) 25% more of the amount described in Subsection (2)(a); or
218 (ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any
219 amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal
220 years before the fiscal year in which the surplus occurs if:
221 (A) a surplus exists; and
222 (B) the Legislature appropriates money from the State Disaster Recovery Restricted
223 Account that is not replaced by appropriation or as provided in this Subsection (2)(c).
224 (3) Notwithstanding Subsection (2)[:(a) if], if at the end of a fiscal year, the Division
225 of Finance determines that an operating deficit exists, the [~~Division of Finance~~] division shall
226 reduce the transfer to the State Disaster Recovery Restricted Account by the amount necessary
227 to eliminate the operating deficit[; and].
228 [~~(b) for FY 2008-09 and FY 2009-10 only, the Division of Finance shall suspend the~~
229 ~~deposit provided under Subsection (2) to the State Disaster Recovery Restricted Account~~
230 ~~created under Section 53-2-403.~~
231 Section 4. Section **63J-1-315** is enacted to read:
232 **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Restricted**
233 **Account --Transfers of Medicaid growth savings -- Base budget adjustments.**
234 (1) As used in this section:
235 (a) "Department" means the Department of Health created in Section 26-1-4.
236 (b) "Division" means the Division of Health Care Financing created within the
237 department under Section 26-18-2.1.
238 (c) "General Fund appropriations" means the sum of the spending authority for a fiscal
239 year that is:
240 (i) granted by the Legislature in all appropriation acts and bills; and
241 (ii) identified as coming from the General Fund.
242 (d) "General Fund revenue surplus" means a situation where actual General Fund

243 revenues collected in a completed fiscal year exceed the estimated revenues for the General
244 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
245 Legislature.

246 (e) "Medicaid growth savings" means the Medicaid growth target minus Medicaid
247 program expenditures, if Medicaid program expenditures are less than the Medicaid growth
248 target.

249 (f) "Medicaid growth target" means Medicaid program expenditures for the previous
250 year multiplied by 1.08.

251 (g) "Medicaid program" is as defined in Section 26-18-2.

252 (h) "Medicaid program expenditures" means total state revenue expended for the
253 Medicaid program from the General Fund during a fiscal year.

254 (i) "Medicaid program expenditures for the previous year" means total state revenue
255 expended for the Medicaid program from the General Fund during the fiscal year immediately
256 preceding a fiscal year for which Medicaid program expenditures are calculated.

257 (j) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
258 balance in the General Fund is less than zero.

259 (k) "State revenue" means revenue other than federal revenue.

260 (l) "State revenue expended for the Medicaid program" includes money transferred or
261 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the
262 extent the money is transferred to and appropriated from the General Fund for the Medicaid
263 program by the Legislature.

264 (2) There is created within the General Fund a restricted account to be known as the
265 Medicaid Growth Reduction and Budget Stabilization Account.

266 (3) (a) (i) Except as provided in Subsection (6), if at the end of a fiscal year there is a
267 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to
268 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and
269 Budget Stabilization Account.

270 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
271 Subsection (6), the Legislature shall include, to the extent revenue is available, an amount
272 equal to the reduction as an appropriation from the General Fund to the account in the base
273 budget for the second fiscal year following the fiscal year for which the reduction was made.

274 (b) If at the end of a fiscal year there is not a General Fund revenue surplus, the
275 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid
276 growth savings as an appropriation from the General Fund to the account in the base budget for
277 the second fiscal year following the fiscal year for which the reduction was made.

278 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department
279 implements the proposal developed under Section 26-18-405 to reduce the long-term growth in
280 state expenditures for the Medicaid program, and to each fiscal year thereafter.

281 (4) The Division of Finance shall calculate the amount to be transferred under
282 Subsection (3):

283 (a) before transferring revenue from the General Fund revenue surplus to:

284 (i) the General Fund Budget Reserve Account under Section 63J-1-312 and;

285 (ii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

286 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial
287 Assistance Account under Section 63M-1-905; and

288 (c) before making any other year-end contingency appropriations, year-end set-asides,
289 or other year-end transfers required by law.

290 (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay
291 additional debt service for any bonded debt authorized by the Legislature, the Division of
292 Finance may hold back from any General Fund revenue surplus money sufficient to pay the
293 additional debt service requirements resulting from issuance of bonded debt that was
294 authorized by the Legislature.

295 (b) The Division of Finance may not spend the hold back amount for debt service
296 under Subsection (5)(a) unless and until it is appropriated by the Legislature.

297 (c) If, after calculating the amount for transfer under Subsection (3), the remaining
298 General Fund revenue surplus is insufficient to cover the hold back for debt service required by
299 Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth
300 Reduction and Budget Stabilization Account by the amount necessary to cover the debt service
301 hold back.

302 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
303 the General Fund balance for debt service authorized by this Subsection (5) before making any
304 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other

305 designation or allocation of General Fund revenue surplus.

306 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division
307 of Finance determines that an operating deficit exists and that holding back earmarks to the
308 Industrial Assistance Account under Section 63J-1-314, transfers to the State Disaster
309 Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget
310 Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those
311 accounts, in that order, does not eliminate the operating deficit, the Division of Finance may
312 reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the
313 amount necessary to eliminate the operating deficit.

314 (7) The Legislature may appropriate money from the Medicaid Growth Reduction and
315 Budget Stabilization Account only:

316 (a) if estimated Medicaid program expenditures for the fiscal year for which the
317 appropriation is made are at least 108% of Medicaid program expenditures for the previous
318 year; and

319 (b) to the General Fund for appropriation for the Medicaid program.

320 (8) The Division of Finance shall deposit interest or other earnings derived from
321 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the
322 General Fund.

323 Section 5. Section **63M-1-905** is amended to read:

324 **63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

325 (1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants,
326 or other financial assistance from the Industrial Assistance Account for expenses related to
327 establishment, relocation, or development of industry in Utah.

328 (b) A company creating an economic impediment that qualifies under Section
329 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance
330 from the restricted account for the expenses of the company creating an economic impediment
331 related to:

332 (i) relocation to a rural area in Utah of the company creating an economic impediment;
333 and

334 (ii) the siting of a replacement company.

335 (c) An entity offering an economic opportunity that qualifies under Section 63M-1-909

336 may:

337 (i) receive loans, grants, or other financial assistance from the restricted account for
338 expenses related to the establishment, relocation, retention, or development of industry in the
339 state; and

340 (ii) include infrastructure or other economic development precursor activities that act
341 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
342 enlargement of the state's tax base.

343 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
344 structure, amount, and nature of any loan, grant, or other financial assistance from the restricted
345 account.

346 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
347 or return to the state, including cash or credit, equals at least the amount of the assistance
348 together with an annual interest charge as negotiated by the administrator.

349 (c) Payments resulting from grants awarded from the restricted account shall be made
350 only after the administrator has determined that the company has satisfied the conditions upon
351 which the payment or earned credit was based.

352 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
353 system of earned credits that may be used to support grant payments or in lieu of cash
354 repayment of a restricted account loan obligation.

355 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
356 determined by the administrator, including:

357 (A) the number of Utah jobs created;

358 (B) the increased economic activity in Utah; or

359 (C) other events and activities that occur as a result of the restricted account assistance.

360 (b) (i) The administrator shall provide for a system of credits to be used to support
361 grant payments or in lieu of cash repayment of a restricted account loan when loans are made to
362 a company creating an economic impediment.

363 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
364 determined by the administrator, including:

365 (A) the number of Utah jobs created;

366 (B) the increased economic activity in Utah; or

367 (C) other events and activities that occur as a result of the restricted account assistance.

368 (4) (a) A cash loan repayment or other cash recovery from a company receiving
369 assistance under this section, including interest, shall be deposited into the restricted account.

370 (b) The administrator and the Division of Finance shall determine the manner of
371 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
372 grant payments as provided in Subsection (3).

373 (5) (a) (i) At the end of each fiscal year, the [~~unrestricted, undesignated~~] General Fund
374 revenue surplus balance after the transfers of surplus of General Fund revenues described in
375 this Subsection (5)(a) shall be earmarked to the Industrial Assistance Account in an amount
376 equal to any credit that has accrued under this part.

377 (ii) The earmark under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which
378 time no subsequent contributions may be made and any interest accrued above the \$50,000,000
379 cap shall be deposited into the General Fund.

380 (b) The earmark required by Subsection (5)(a) shall be made after the transfer of
381 surplus General Fund revenues is made:

382 (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as
383 provided in Section 63J-1-315;

384 [~~(i)~~] (ii) to the General Fund Budget Reserve Account, as provided in Section
385 63J-1-312; and

386 [~~(ii) beginning with the fiscal year ending June 30, 2007]~~

387 (iii) to the State Disaster Recovery Restricted Account, as provided in Section
388 63J-1-314.

389 (c) These credit amounts may not be used for purposes of the restricted account as
390 provided in this part until appropriated by the Legislature.