

1 **CONCURRENT RESOLUTION ON THE PATIENT**
2 **PROTECTION AND AFFORDABLE CARE ACT AND STATE**
3 **HEALTH CARE REFORM**

4 2013 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Ken Ivory**

7 Senate Sponsor: J. Stuart Adams

9 **LONG TITLE**

10 **General Description:**

11 This concurrent resolution describes the impacts of the federal Patient Protection and
12 Affordable Care Act on Utah families, employers, insurers, health care providers, and
13 the state, and urges actions to ensure the continued success of state-based health care
14 innovation and reform.

15 **Highlighted Provisions:**

16 This resolution:

- 17 ▶ describes the impacts of the federal Patient Protection and Affordable Care Act
- 18 (ACA) on Utah families, employers, insurers, health care providers, and the state;
- 19 ▶ urges the state's Congressional delegation to continue its efforts to arrest the
- 20 devastating impacts of the ACA using all means possible, including repeal of the
- 21 act;
- 22 ▶ urges Utah's Congressional delegation to work cooperatively with others to develop
- 23 workable alternatives to the ACA;
- 24 ▶ affirms the state's policy that no person in this state should be required to either
- 25 sponsor or enroll in health insurance;
- 26 ▶ urges the Legislature's Health Reform Task Force to continue working cooperatively
- 27 with the Governor's Office to ensure that ACA implementation rules address the



28 needs of Utah health care stakeholders;

29 ▶ urges all stakeholders in Utah's health care system to continue working
30 cooperatively to develop state-based health care reforms; and

31 ▶ specifies to whom this resolution should be sent.

32 **Special Clauses:**

33 None

34

35 *Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

36 WHEREAS, the federal Patient Protection and Affordable Care Act and its companion
37 legislation, the Health Care and Education Reconciliation Act of 2010, referred to jointly as
38 "the Affordable Care Act," "the ACA," or "Obamacare," were enacted in March 2010;

39 WHEREAS, under the ACA, Utah families, employers, manufacturers, and insurers
40 will pay at least 18 new or increased taxes and fees that over 10 years will transfer \$500 billion
41 from the private sector to the public sector, suppressing economic growth and reducing
42 employment in the state;

42a **H→ Whereas hundreds of Utah medical device companies will be subject to the ACA's**
42b **excise tax on manufacturers and importers of certain medical devices, without regard for**
42c **company profitability;**

42d **Whereas, the tax will threaten the viability of many firms and have a chilling effect on**
42e **the very innovation needed to drive down health care costs and support economic growth in**
42f **this state; ←H**

43 WHEREAS, Utahns will suffer further reductions in employment growth and economic
44 activity as employers comply with uncompensated regulatory burdens imposed by the ACA;

45 WHEREAS, Utah families will also pay more for goods and services as employers,
46 insurers, and medical providers pass along various costs imposed by the ACA;

47 WHEREAS, health insurance premiums for certain younger, healthier Utahns will more
48 than double in 2014 as the result of various ACA provisions, including a prohibition on
49 medical underwriting and restrictions on the use of age-based premiums;

50 WHEREAS, the cost of insurance for many other Utah families will go up as well in
51 response to ACA provisions that are known to drive up costs, including prohibitions on
52 pre-existing condition exclusions, annual benefit limits, and lifetime benefit limits;

53 WHEREAS, the ACA will penalize Utah employers that have more than 50 employees
54 if they do not offer health insurance to their employees, even if an employer cannot afford
55 insurance or chooses instead to compensate employees with higher wages, larger retirement
56 contributions, or other employee benefits;

57 WHEREAS, working Utah families will have fewer full-time employment
58 opportunities as employers replace full-time workers with part-time workers to avoid ACA

59 penalties;

60 WHEREAS, some Utah families will be unable to keep their current health insurance
61 and may have fewer options as employers abandon plans not meeting minimum benefit and
62 affordability requirements in order to avoid ACA penalties;

63 WHEREAS, working Utah families will find it even harder to secure employment with
64 health insurance benefits as premium increases continue unabated in response to both the ACA
65 and long-term cost drivers not addressed by the ACA;

66 WHEREAS, many Utahns will face increased premiums as their insurers attempt to
67 fund \$81 million in losses created by the ACA's transfer of individuals from publicly funded
68 high-risk pools to the private insurance market;

69 WHEREAS, many Utah families with insurance offered by small or midsize employers
70 could be threatened with higher premiums or no insurance at all if commercial insurance risk
71 increases too much as the result of employers dropping coverage or switching to self-insurance
72 arrangements;

73 ~~Ĥ→ [WHEREAS, Utah families who lose employer-sponsored coverage under the ACA may
74 find exchange plans unaffordable because federal premium and cost sharing subsidies are based
75 on 70/30 plans for single, not family, coverage;] ←Ĥ~~

76 WHEREAS, there is a high likelihood that many Utah families will experience higher
77 premiums due to the ACA's minimum benefit requirements, which threaten to ratchet up plan
78 costs both inside and outside health insurance exchanges;

79 WHEREAS, Utah families will pay higher insurance premiums because of ACA
80 provisions that subsidize states with high-cost, poorly managed health care plans at the expense
81 of states like Utah that have low-cost, better managed plans;

82 WHEREAS, Utah seniors will likely have fewer care options due to Medicare provider
83 payment reductions made by the ACA;

84 WHEREAS, Medicaid enrollees will likely have greater difficulty making appointments
85 with health care providers as Medicaid enrollment expands under the ACA, particularly after
86 the two-year enhanced reimbursement rate for primary care providers ends;

87 WHEREAS, Utah hospitals will suffer as a result of ACA reductions in funds paid to
88 hospitals that serve a disproportionate number of low-income individuals;

88a ~~Ĥ→ Whereas, Utah families will suffer if medical facilities close or medical practitioners
88b leave their professions in response to the financial strain created by shrinking provider
88c payments under the ACA; ←Ĥ~~

89 WHEREAS, state funding for education, roads, public safety, and other important

90 services will be crowded by a \$46 million annual liability to pay for the ACA's mandatory
91 Medicaid eligibility expansion;

92 WHEREAS, we and our children must one day pay the price for entitlements Congress
93 has created but failed to realistically fund, including the ACA;

94 WHEREAS, that price already includes tax increases and cost shifting to our posterity,
95 and will likely include benefit reductions and even currency devaluation;

96 WHEREAS, that price will tend to include the shifting of greater fiscal responsibility
97 for government programs--including Medicaid--from Washington to the states, even further
98 crowding out funding for education and other essential state services;

99 WHEREAS, the real cost of more Utahns having insurance under the ACA will be a far
100 greater dependence on government, not less;

101 WHEREAS, under an optional Medicaid expansion the state would incur large,
102 ongoing funding liabilities and both the state and its citizens would be more dependent, not less
103 dependent, on a fiscally unsustainable federal government;

104 WHEREAS, Utah has refused to exacerbate the federal fiscal crisis by choosing not to
105 implement the ACA's federally subsidized health insurance exchange, which makes people
106 dependent on large government subsidies and gives priority to publically funded, rather than
107 privately funded, coverage;

108 WHEREAS, because of the ACA, Utah employers, insurers, and health care providers
109 will face more regulation, not less regulation, and will have fewer options, not more options,
110 for addressing the underlying challenges faced by our health care system;

111 WHEREAS, notwithstanding the ACA's focus on preventive care and its
112 acknowledgment of alternative payment and delivery systems, many Utahns will see little relief
113 from premium increases driven by underlying problems the ACA fails to address, including
114 reliance on payment and delivery systems that promote over consumption of health care;

115 WHEREAS, implementation of the ACA will tend to ~~H~~→ [completely] ←~~H~~ destroy the
115a private
116 market for health insurance and move families, insurers, and health care providers ever closer
117 to a single-payer system of federally controlled health care;

118 WHEREAS, the state, its citizens, employers, insurers, and health care providers will
119 all suffer as the ACA fails to bring unsustainable health care spending under control and
120 metastasises instead into greater federal regulation and control of not just health care, but most

121 aspects of Utahns' and Americans' daily lives and activities;

122 WHEREAS, the ACA disregards state jurisdiction over health care policy and
123 constrains the state's efforts to develop and implement meaningful health care reform; and

124 WHEREAS, the Legislature and the Governor believe that successful reform of health
125 care's most vexing problems will require more--not less--state flexibility and innovation;

126 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the
127 Governor concurring therein, urges the state's Congressional delegation to continue its efforts
128 to arrest the devastating impacts of the ACA on Utah's economy, its citizens, its employers, its
129 medical providers, and its insurers, using all means possible, including repeal of the act;

130 BE IT FURTHER RESOLVED that the Legislature and the Governor urge Utah's
131 Congressional delegation to work cooperatively with other members of Congress and officials
132 of this state and other states to develop workable alternatives to the ACA that encourage state
133 innovation, preserve states' policy-making jurisdiction and regulatory authority, and lead to
134 greater enrollment in affordable health insurance;

135 BE IT FURTHER RESOLVED that the Legislature and the Governor affirm by this
136 resolution the state's policy that no person in this state should be required to either sponsor or
137 enroll in health insurance, particularly under threat of federal penalty;

138 BE IT FURTHER RESOLVED that the Legislature and the Governor urge the
139 Legislature's Health Reform Task Force to continue working cooperatively with the Governor's
140 Office to ensure that ACA implementation rules address the needs of Utah families, employers,
141 health care providers, insurers, and insurance regulators;

142 BE IT FURTHER RESOLVED that the Legislature and the Governor urge all
143 stakeholders in Utah's health care system--including families, employers, health care providers,
144 and insurers--to continue working cooperatively with the Governor and the Legislature to
145 develop state-based health care reforms with the greatest potential for increasing consumerism,
146 improving quality of care, constraining spending growth, and promoting enrollment in
147 affordable health insurance, regardless of how ACA implementation unfolds;

148 BE IT FURTHER RESOLVED that this resolution be sent to the United States
149 Secretary of Health and Human Services, the Governor, the Legislature's Health Reform Task
150 Force, Utah's Congressional delegation, the Utah Health Policy Project and other consumer
151 advocacy groups, the Salt Lake Chamber of Commerce and other employer associations, the

152 Utah Hospital Association, the Utah Medical Association, Utah insurers, the Utah Association
153 of Health Underwriters, and the Speakers and Presidents presiding over the legislatures of each
154 of the 49 other states.

Legislative Review Note
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Office of Legislative Research and General Counsel