

Representative Jacob L. Anderegg proposes the following substitute bill:

PROHIBITION OF MEDICAID EXPANSION

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends the governor's programs related to the Health System Reform Act by prohibiting the governor and the Department of Health from expanding the Medicaid program.

Highlighted Provisions:

This bill:

▶ prohibits the governor or the Department of Health from expanding Medicaid to the optional population under the Patient Protection and Affordable Care Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-18, Utah Code Annotated 1953

63M-1-2508, Utah Code Annotated 1953

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



26 Section 1. Section 26-18-18 is enacted to read:

27 **26-18-18. Prohibition of Medicaid expansion.**

28 The department shall comply with Section 63M-1-2508.

29 Section 2. Section 63M-1-2508 is enacted to read:

30 **63M-1-2508. Prohibition of Medicaid expansion.**

31 (1) The purpose of this section is to respond to Chief Justice Robert's opinion in Nat'l
32 Federation of Business v. Sebelius, Sec'y of Health and Human Services, 132 S.Ct. 2566
33 (2012) which stated:

34 (a) "In the typical case we look to the States to defend their prerogatives by adopting
35 'the simple expedient of not yielding' to federal blandishments when they do not want to
36 embrace the federal policies as their own. The States are separate and independent sovereigns.
37 Sometimes they have to act like it...'; and

38 (b) ". . . As for the Medicaid expansion, that portion of the Affordable Care Act
39 violates the Constitution by threatening existing Medicaid funding. Congress has no authority
40 to order the States to regulate according to its instructions. Congress may offer the States
41 grants and require the States to comply with accompanying conditions, but the States must
42 have a genuine choice whether to accept the offer. The States are given no such choice in this
43 case: They must either accept a basic change in the nature of Medicaid, or risk losing all
44 Medicaid funding. The remedy for that constitutional violation is to preclude the Federal
45 Government from imposing such a sanction. . . ."

46 (2) The Governor and the Department of Health shall not expand the state Medicaid
47 program to the optional expansion population under the Patient Protection and Affordable Care
48 Act, as permitted by the Supreme Court decision described in Subsection (1).

Legislative Review Note
as of 3-11-13 9:02 AM

Second Substitute House Bill 391, as substituted by the Business and Labor and Rules Committees of the Utah House of Representatives, does not have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel