

**Senator Brian E. Shiozawa** proposes the following substitute bill:

**ACCESS TO HEALTH CARE AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian E. Shiozawa**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**General Description:**

This bill authorizes an application for a waiver to the state Medicaid program to expand access to health care to the adult expansion population that does not qualify for the state's traditional Medicaid program.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Department of Health and the governor to negotiate a waiver to the state Medicaid program to establish a pilot program to provide access to health care to certain individuals in the state;
- ▶ requires the state Medicaid waiver to meet certain conditions, including notifying enrollees that the expansion is a two year pilot program;
- ▶ sunsets the Medicaid waiver in two years and requires a legislative review regarding:
  - the percentage of participants employed, in training, or participating in a work search program;
  - program enrollment categorized by employer sponsored plans, premium assistance, and medically exempt; and
  - annual cost per enrollee;



26           ▶ requires approval by the Legislature if the Center for Medicare and Medicaid  
 27 Services changes the waiver conditions approved by the Legislature in this bill; and  
 28           ▶ immediately repeals the Medicaid waiver if federal fund participation is reduced  
 29 below a certain level.

30 **Money Appropriated in this Bill:**

31           This bill appropriates:  
 32           ▶ for fiscal years 2016 and 2017:  
 33           • funds the two year pilot program, including funding more than the estimated  
 34 woodwork effect and more than the estimated crowd-out effect.

35 **Other Special Clauses:**

36           None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39           **26-18-18**, as enacted by Laws of Utah 2013, Chapter 477  
 40           **63I-1-226**, as last amended by Laws of Utah 2014, Chapters 25 and 118  
 41           **63J-1-602.1**, as last amended by Laws of Utah 2014, Chapter 384

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

44           Section 1. Section **26-18-18** is amended to read:

45           **26-18-18. Optional Medicaid expansion.**

46           (1) For purposes of this section:

47           (a) "Adult expansion population" means individuals who:

48           (i) are described in 42 U.S.C. Sec. 1396a(10)(A)(i)(VIII); and

49           (ii) are not otherwise eligible for Medicaid as mandatory categorically needy

50 individuals.

51           (b) "Medically exempt" means an individual who meets the criteria of 42 C.F.R.

52 440.315 as determined by the department based on methodology administered by the

53 department or another entity selected by the department.

54           (c) "PPACA" [is as] means the same as that term is defined in Section 31A-1-301.

55           (2) The department and the governor shall not expand the state's Medicaid program to  
 56 the ~~[optional]~~ adult expansion population under PPACA unless:

57 ~~[(a) the Health Reform Task Force has completed a thorough analysis of a statewide~~  
58 ~~charity care system;]~~

59 ~~[(b) the department and its contractors have:]~~

60 ~~[(i) completed a thorough analysis of the impact to the state of expanding the state's~~  
61 ~~Medicaid program to optional populations under PPACA; and]~~

62 ~~[(ii) made the analysis conducted under Subsection (2)(b)(i) available to the public;]~~

63 ~~[(c) the governor or the governor's designee has reported the intention to expand the~~  
64 ~~state Medicaid program under PPACA to the Legislature in compliance with the legislative~~  
65 ~~review process in Sections ~~63M-1-2505.5~~ and ~~26-18-3~~; and]~~

66 (a) the department implements a program for the adult expansion population in  
67 accordance with Subsection (3); or

68 ~~[(d)]~~ (b) notwithstanding Subsection 63J-5-103(2), the governor submits the request  
69 for expansion of the Medicaid program for [optional] the adult expansion populations to the  
70 Legislature under the high impact federal funds request process required by Section 63J-5-204,  
71 Legislative review and approval of certain federal funds request.

72 (3) The department shall amend the state Medicaid plan and obtain from the Centers  
73 for Medicare and Medicaid Services within the United States Department of Health and  
74 Human Services waivers from federal statutory and regulatory law necessary to implement a  
75 plan to:

76 (a) provide a premium subsidy to an individual who is:

77 (i) in the adult expansion population; and

78 (ii) except as provided in Subsection (3)(g), not medically exempt;

79 (b) for individuals described in Subsection (3)(a), establish a mechanism for an  
80 individual to:

81 (i) select a health benefit plan using the premium subsidy offered under Subsection  
82 (3)(a); or

83 (ii) if the individual is offered employer sponsored health insurance, enroll in the  
84 employer sponsored coverage;

85 (c) seek maximum flexibility for the benefit design of the health benefit plans that an  
86 individual described in Subsection (3)(a) may select;

87 (d) seek maximum flexibility for individual responsibility, cost sharing, and wellness

88 programs incorporated into the health benefit plans an individual described in Subsection (3)(a)  
89 may select;

90 (e) offer enrollees the option to obtain services to look for and obtain employment;

91 (f) seek flexibility to develop a pilot program to integrate physical and behavioral  
92 health services;

93 (g) offer coverage in accordance with 42 C.F.R. 440.315 to an individual who is in the  
94 adult expansion population and medically exempt, which shall include the option for the  
95 individual to accept a premium subsidy under Subsection (3)(a); and

96 (h) obtain the maximum federal financial participation for the adult expansion  
97 population as set forth in 42 U.S.C. Sec. 1396d(y).

98 (4) (a) If the department obtains waivers under Subsection (3):

99 (i) the department may implement the Medicaid program in accordance with the  
100 waiver;

101 (ii) the department may implement a transition program to provide coverage to the  
102 adult expansion population beginning July 1, 2015 until January 1, 2016;

103 (iii) the department shall notify a person in the adult expansion population who enrolls  
104 in the program that the enrollment in the Medicaid program is based on a pilot program; and

105 (iv) in addition to implementing the waiver under Subsection (3), the department may  
106 continue to negotiate with the Centers for Medicare and Medicaid Services for additional  
107 waivers to the state Medicaid program for the adult expansion population that would establish  
108 budgetary protections for the state, such as caps on spending, caps on enrollment, or limitation  
109 of benefits available to the adult population.

110 (b) Notwithstanding Subsection (2)(b), if the department obtains additional waivers  
111 described in Subsection (4)(a)(iv), the department may implement the waivers without prior  
112 authorization under the high impact federal funds request process.

113 (5) If the department does not obtain waivers in accordance with Subsection (3), the  
114 department and the governor:

115 (a) may continue negotiations with the Centers for Medicare and Medicaid Services  
116 within the United States Department of Health and Human Services regarding waivers from  
117 federal statutory and regulatory law; and

118 (b) shall comply with the reporting and the legislative approval process required by

119 Subsection (2)(b)(ii) before expanding Medicaid to any portion of the adult expansion  
 120 population.

121 (6) On or before July 1, 2017, the department shall report to the Legislature's Health  
 122 and Human Services Interim Committee regarding:

123 (a) the percentage of participants employed, in training, or participating in a work  
 124 search program;

125 (b) program enrollment, categorized by employer sponsored plans, premium assistance  
 126 plans, and the medically exempt; and

127 (c) the annual cost per enrollee.

128 (7) The premium subsidy program and benefits provided to the adult expansion  
 129 population under this section are repealed on the earlier of:

130 (a) the date of a certification by the executive director that Congress has taken action  
 131 that will reduce federal financial participation for the adult expansion population below the  
 132 rates set forth in 42 U.S.C. Sec. 1396d(y) as of January 1, 2014; or

133 (b) the date in Section [63I-1-226](#).

134 Section 2. Section **63I-1-226** is amended to read:

135 **63I-1-226. Repeal dates, Title 26.**

136 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July  
 137 1, 2015.

138 (2) Section [26-10-11](#) is repealed July 1, 2015.

139 (3) Section [26-18-12](#), Expansion of 340B drug pricing programs, is repealed July 1,  
 140 2013.

141 (4) Section [26-21-23](#), Licensing of non-Medicaid nursing care facility beds, is repealed  
 142 July 1, 2018.

143 (5) Section [26-21-211](#) is repealed July 1, 2013.

144 (6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

145 (7) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

146 (8) The Medicaid waiver authorized in Subsection [26-18-18\(3\)](#) is repealed July 1,  
 147 2017.

148 [~~8~~] (9) Section [26-38-2.5](#) is repealed July 1, 2017.

149 [~~9~~] (10) Section [26-38-2.6](#) is repealed July 1, 2017.

150            [~~(10)~~] (11) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1,  
151 2016.

152            Section 3. Section **63J-1-602.1** is amended to read:

153            **63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title**  
154 **1 through Title 30.**

155            (1) Appropriations made to the Legislature and its committees.

156            (2) The Percent-for-Art Program created in Section [9-6-404](#).

157            (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in  
158 Section [9-18-102](#).

159            (4) The LeRay McAllister Critical Land Conservation Program created in Section  
160 [11-38-301](#).

161            (5) An appropriation made to the Division of Wildlife Resources for the appraisal and  
162 purchase of lands under the Pelican Management Act, as provided in Section [23-21a-6](#).

163            (6) Award money under the State Asset Forfeiture Grant Program, as provided under  
164 Section [24-4-117](#).

165            (7) Funds collected from the emergency medical services grant program, as provided in  
166 Section [26-8a-207](#).

167            (8) The Prostate Cancer Support Restricted Account created in Section [26-21a-303](#).

168            (9) State funds appropriated for matching federal funds in the Children's Health  
169 Insurance Program as provided in Section [26-40-108](#).

170            (10) The Utah Health Care Workforce Financial Assistance Program created in Section  
171 [26-46-102](#).

172            (11) The primary care grant program created in Section [26-10b-102](#).

173            (12) All appropriations associated with the adult expansion population in the Medicaid  
174 program created in Section [26-18-18](#).

175            Section 4. **Appropriation.**

176            Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for  
177 the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money  
178 are appropriated from resources not otherwise appropriated, or reduced from amounts  
179 previously appropriated, out of the funds or accounts indicated. These sums of money are in  
180 addition to any amounts previously appropriated for fiscal year 2015.

181	<u>To Insurance Department - Insurance Department Administration</u>	
182	<u>From General Fund Restricted - Insurance Department Account</u>	<u>\$5,600</u>
183	<u>Schedule of Programs:</u>	
184	<u>Administration</u>	<u>\$5,600</u>
185	<u>To Department of Health - Medicaid and Health Financing</u>	
186	<u>From General Fund, One-time</u>	<u>\$793,500</u>
187	<u>From Federal Funds</u>	<u>\$1,623,500</u>
188	<u>Schedule of Programs:</u>	
189	<u>Director's Office</u>	<u>\$2,417,000</u>
190	<u>To Department of Workforce Services - Operations and Policy</u>	
191	<u>From General Fund, One-time</u>	<u>\$140,500</u>
192	<u>From Federal Funds</u>	<u>\$1,264,200</u>
193	<u>Schedule of Programs:</u>	
194	<u>Information Technology</u>	<u>\$1,298,800</u>
195	<u>Eligibility Services</u>	<u>\$105,900</u>
196	<u>Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for</u>	
197	<u>the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money</u>	
198	<u>are appropriated from resources not otherwise appropriated, or reduced from amounts</u>	
199	<u>previously appropriated, out of the funds or accounts indicated. These sums of money are in</u>	
200	<u>addition to any amounts previously appropriated for fiscal year 2016.</u>	
201	<u>To Department of Administrative Services - Inspector General of Medicaid Services</u>	
202	<u>From General Fund</u>	<u>\$48,800</u>
203	<u>From Federal Funds</u>	<u>\$48,700</u>
204	<u>Schedule of Programs:</u>	
205	<u>Inspector General of Medicaid Services</u>	<u>\$97,500</u>
206	<u>To Department of Human Services - Substance Abuse and Mental Health</u>	
207	<u>From General Fund</u>	<u>(\$6,000,000)</u>
208	<u>Schedule of Programs:</u>	
209	<u>Mental Health Centers</u>	<u>(\$235,800)</u>
210	<u>Local Substance Abuse Services</u>	<u>(\$5,764,200)</u>
211	<u>To Department of Health - Medicaid and Health Financing</u>	

212	<u>From General Fund</u>	<u>\$658,500</u>
213	<u>From Federal Funds</u>	<u>\$778,500</u>
214	<u>Schedule of Programs:</u>	
215	<u>Director's Office</u>	<u>\$1,437,000</u>
216	<u>To Department of Health - Medicaid Optional Services</u>	
217	<u>From General Fund</u>	<u>(\$5,000,000)</u>
218	<u>From General Fund, One-time</u>	<u>\$12,000,000</u>
219	<u>From Federal Funds</u>	<u>\$342,000,000</u>
220	<u>Schedule of Programs:</u>	
221	<u>Other Optional Services</u>	<u>\$349,000,000</u>
222	<u>To Department of Health - Medicaid Mandatory Services</u>	
223	<u>From General Fund, One-time</u>	<u>\$33,500,000</u>
224	<u>From Federal Funds</u>	<u>\$27,000,000</u>
225	<u>Schedule of Programs:</u>	
226	<u>Other Mandatory Services</u>	<u>\$58,500,000</u>
227	<u>Medicaid Management Information</u>	
228	<u>System Replacement</u>	<u>\$2,000,000</u>
229	<u>To Department of Workforce Services - Operations and Policy</u>	
230	<u>From General Fund</u>	<u>\$1,590,000</u>
231	<u>From General Fund, One-time</u>	<u>\$140,500</u>
232	<u>From Federal Funds</u>	<u>\$6,034,200</u>
233	<u>Schedule of Programs:</u>	
234	<u>Eligibility Services</u>	<u>\$6,217,500</u>
235	<u>Information Technology</u>	<u>\$1,547,200</u>
236	<u>To Utah Department of Corrections - Department Medical Services</u>	
237	<u>From General Fund</u>	<u>(\$2,000,000)</u>
238	<u>Schedule of Programs:</u>	
239	<u>Medical Services</u>	<u>(\$2,000,000)</u>
240	<u>To Insurance Department - Insurance Department Administration</u>	
241	<u>From General Fund Restricted Account - Insurance Department</u>	
242	<u>Restricted Account</u>	<u>\$90,600</u>



243

Schedule of Programs:

244

Insurance Department - Administration

\$90,600