

## SB0164S02 compared with SB0164S01

~~{deleted text}~~ shows text that was in SB0164S01 but was deleted in SB0164S02.

inserted text shows text that was not in SB0164S01 but was inserted into SB0164S02.

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Senator ~~{Brian E. Shiozawa}~~Gene Davis proposes the following substitute bill:

### ACCESS TO HEALTH CARE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian E. Shiozawa**

House Sponsor: \_\_\_\_\_

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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}~~amends the Utah Health Code related to the state Medicaid program.

##### Highlighted Provisions:

This bill:

- ▶ ~~{authorizes}~~requires the Department of Health ~~{and the governor }~~to ~~{negotiate a waiver to}~~amend the state Medicaid ~~{program}~~plan to ~~{establish a pilot program to provide access to health care to certain individuals in the state}~~expand Medicaid eligibility to the optional populations under the Patient Protection and Affordable Care Act;

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- ▶ requires the ~~{state Medicaid waiver to meet certain conditions, including notifying enrollees that the expansion is a two year pilot program;~~
- ~~sunsetts 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;~~
- ~~requires approval by the Legislature if the Center for Medicare and Medicaid Services changes the waiver conditions approved by the Legislature in this bill; and~~
- ~~immediately repeals the Medicaid waiver;~~ General Fund savings associated with Medicaid expansion to be deposited into the Medicaid Growth Reduction and Budget Stabilization Account to be used to fund the future costs of Medicaid expansion;
  - ▶ repeals a provision requiring the governor to comply with certain requirements before expanding Medicaid; and
  - ▶ provides that Medicaid expansion is repealed if federal ~~{fund participation is reduced below a certain level}~~ funding decreases from the Patient Protection and Affordable Care Act funding rates.

### Money Appropriated in this Bill:

- ~~{This bill appropriates:~~
- ~~for fiscal years 2016 and 2017:~~
  - ~~funds the two year pilot program, including funding more than the estimated woodwork effect and more than the estimated crowd-out effect.}~~ None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

63J-1-315, as enacted by Laws of Utah 2011, Chapter 211

ENACTS:

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26-18-20, Utah Code Annotated 1953

### REPEALS:

26-18-18, as enacted by Laws of Utah 2013, Chapter 477

~~{ 63I-1-226, as last amended by Laws of Utah 2014, Chapters 25 and 118~~

~~63J-1-602.1, as last amended by Laws of Utah 2014, Chapter 384~~

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

Section 1. Section ~~{26-18-18}~~26-18-20 is ~~{amended}~~enacted to read:

~~{26-18-18}~~26-18-20. ~~{ Optional Medicaid}~~ Medicaid eligibility expansion.

(1) For purposes of this section ~~{:~~

~~\_\_\_\_\_ (a) "Adult expansion population" means individuals who:~~

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

~~\_\_\_\_\_ (ii) are not otherwise eligible for Medicaid as mandatory categorically needy individuals.~~

~~\_\_\_\_\_ (b) "Medically exempt" means an individual who meets the criteria of 42 C.F.R. 440.315 as determined by the department based on methodology administered by the department or another entity selected by the department.~~

~~\_\_\_\_\_ (c) "PPACA" [is as]};~~ "PPACA" means the same as that term is defined in Section 31A-1-301.

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

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

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

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

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

~~\_\_\_\_\_ [(c) the governor or the governor's designee has reported the intention to expand~~

~~the} (2) The state shall, in accordance with this section and PPACA, amend its state Medicaid {program under PPACA to the Legislature in compliance with the legislative review process in Sections 63M-1-2505.5 and 26-18-3; and}~~

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~~\_\_\_\_\_ (a) the department implements a program for } plan to expand Medicaid eligibility to the adult expansion population } in accordance with Subsection (3); or~~

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

~~\_\_\_\_\_ (3) under PPACA.~~

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

~~\_\_\_\_\_ (a) provide a premium subsidy to an individual who is:~~

~~\_\_\_\_\_ (i) in the adult expansion population; and~~

~~\_\_\_\_\_ (ii) except as provided in Subsection (3)(g), not medically exempt;~~

~~\_\_\_\_\_ (b) for individuals described in Subsection (3)(a), establish a mechanism for an individual to:~~

~~\_\_\_\_\_ (i) select a health benefit plan using the premium subsidy offered; } report to the Division of Finance the identified savings to the state General Fund associated with the expansion of Medicaid eligibility under this section.~~

~~(b) The Division of Finance shall deposit the savings identified under Subsection (3)(a) } or~~

~~\_\_\_\_\_ (ii) if the individual is offered employer sponsored health insurance, enroll in the employer sponsored coverage;~~

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

~~\_\_\_\_\_ (d) seek maximum flexibility for individual responsibility, cost sharing, and wellness programs incorporated} into the } health benefit plans an individual described in Subsection (3)(a) may select;~~

~~\_\_\_\_\_ (e) offer enrollees the option to obtain services to look for and obtain employment;~~

~~\_\_\_\_\_ (f) seek flexibility to develop a pilot program to integrate physical and behavioral health services;~~

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~~\_\_\_\_\_ (g) offer coverage;~~ Medicaid Growth Reduction and Budget Stabilization Account in accordance with ~~{42 C.F.R. 440.315 to an individual who is in the adult expansion population and medically exempt, which shall include the option for the individual to accept a premium subsidy under Subsection (3)(a); and~~

~~\_\_\_\_\_ (h) obtain the maximum;~~ Section 63J-1-315.

(4) The Medicaid expansion under this section is repealed on the date of a certification by the executive director that:

(a) Congress has taken an action that will reduce the federal financial participation for the adult expansion population {as set forth}; and

(b) the reduction in federal financial participation exceeds the reductions described in 42 U.S.C. Sec. 1396d(y).†

~~\_\_\_\_\_ (4) (a) If the department obtains waivers under Subsection (3):~~

~~\_\_\_\_\_ (i) the department may implement the Medicaid program in accordance with the waiver;~~

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

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

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

~~\_\_\_\_\_ (b) Notwithstanding Subsection (2)(b), if the department obtains additional waivers described in Subsection (4)(a)(iv), the department may implement the waivers without prior authorization under the high impact federal funds request process;~~

~~\_\_\_\_\_ (5) If the department does not obtain waivers in accordance with Subsection (3), the department and the governor:~~

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

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~~\_\_\_\_\_ (b) shall comply with the reporting and the legislative approval process required by Subsection (2)(b)(ii) before expanding Medicaid to any portion of the adult expansion population.~~

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

~~\_\_\_\_\_ (a) the percentage of participants employed, in training, or participating in a work search program;~~

~~\_\_\_\_\_ (b) program enrollment, categorized by employer sponsored plans, premium assistance plans, and the medically exempt; and~~

~~\_\_\_\_\_ (c) the annual cost per enrollee.~~

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

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

~~\_\_\_\_\_ (b) the date in Section 63I-1-226.~~

~~\_\_\_\_\_~~

Section 2. Section ~~{63I-1-226}~~**63J-1-315** is amended to read:

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

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

~~\_\_\_\_\_ (2) Section 26-10-11 is repealed July 1, 2015.~~

~~\_\_\_\_\_ (3) Section 26-18-12, Expansion of 340B drug pricing programs, is repealed July 1, 2013.~~

~~\_\_\_\_\_ (4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.~~

~~\_\_\_\_\_ (5) Section 26-21-211 is repealed July 1, 2013.~~

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

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

~~\_\_\_\_\_ (8) The Medicaid waiver authorized in Subsection 26-18-18(3) is repealed July 1, 2017.~~

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

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

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

### ‡ **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account**

#### **--Transfers of Medicaid growth savings -- Base budget adjustments.**

(1) As used in this section:

(a) "Department" means the Department of Health created in Section 26-1-4.

(b) "Division" means the Division of Health Care Financing created within the department under Section 26-18-2.1.

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

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

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

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

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

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

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or

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appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

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

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

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

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

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements:

(i) the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year; or

(ii) expansion of Medicaid eligibility under Section 26-18-20.

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

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

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

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

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

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

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay



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additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

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

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

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

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63M-1-905, transfers to the State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

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

(a) (i) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

~~(b)~~ (ii) for the Medicaid program~~[-];~~ or  
(b) to fund Medicaid expansion under Section 26-18-20.

(8) The Division of Finance shall deposit interest or other earnings derived from

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investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 3. ~~{ Section 63J-1-602.1 is amended to read:~~

~~———— 63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30:~~

~~———— (1) Appropriations made to the Legislature and its committees:~~

~~———— (2) The Percent-for-Art Program created in Section 9-6-404:~~

~~———— (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102:~~

~~———— (4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301:~~

~~———— (5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6:~~

~~———— (6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117:~~

~~———— (7) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207:~~

~~———— (8) The Prostate Cancer Support Restricted Account created in Section 26-21a-303:~~

~~———— (9) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108:~~

~~———— (10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102:~~

~~———— (11) The primary care grant program created in Section 26-10b-102:~~

~~———— (12) All appropriations associated with the adult expansion population in the Medicaid program created in Section 26-18-18:~~

~~———— Section 4. **Appropriation:**~~

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

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<del><u>To Insurance Department - Insurance Department Administration</u></del>	
<del><u>From General Fund Restricted - Insurance Department Account</u></del>	<del><u>\$5,600</u></del>
<del><u>Schedule of Programs:</u></del>	
<del><u>Administration</u></del>	<del><u>\$5,600</u></del>
<del><u>To Department of Health - Medicaid and Health Financing</u></del>	
<del><u>From General Fund, One-time</u></del>	<del><u>\$793,500</u></del>
<del><u>From Federal Funds</u></del>	<del><u>\$1,623,500</u></del>
<del><u>Schedule of Programs:</u></del>	
<del><u>Director's Office</u></del>	<del><u>\$2,417,000</u></del>
<del><u>To Department of Workforce Services - Operations and Policy</u></del>	
<del><u>From General Fund, One-time</u></del>	<del><u>\$140,500</u></del>
<del><u>From Federal Funds</u></del>	<del><u>\$1,264,200</u></del>
<del><u>Schedule of Programs:</u></del>	
<del><u>Information Technology</u></del>	<del><u>\$1,298,800</u></del>
<del><u>Eligibility Services</u></del>	<del><u>\$105,900</u></del>
<del><u>Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.</u></del>	
<del><u>To Department of Administrative Services - Inspector General of Medicaid Services</u></del>	
<del><u>From General Fund</u></del>	<del><u>\$48,800</u></del>
<del><u>From Federal Funds</u></del>	<del><u>\$48,700</u></del>
<del><u>Schedule of Programs:</u></del>	
<del><u>Inspector General of Medicaid Services</u></del>	<del><u>\$97,500</u></del>
<del><u>To Department of Human Services - Substance Abuse and Mental Health</u></del>	
<del><u>From General Fund</u></del>	<del><u>(\$6,000,000)</u></del>
<del><u>Schedule of Programs:</u></del>	
<del><u>Mental Health Centers</u></del>	<del><u>(\$235,800)</u></del>
<del><u>Local Substance Abuse Services</u></del>	<del><u>(\$5,764,200)</u></del>
<del><u>To Department of Health - Medicaid and Health Financing</u></del>	

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<u>From General Fund</u>	<u>\$658,500</u>
<u>From Federal Funds</u>	<u>\$778,500</u>
<u>Schedule of Programs:</u>	
<u>Director's Office</u>	<u>\$1,437,000</u>
<u>To Department of Health - Medicaid Optional Services</u>	
<u>From General Fund</u>	<u>(\$5,000,000)</u>
<u>From General Fund, One-time</u>	<u>\$12,000,000</u>
<u>From Federal Funds</u>	<u>\$342,000,000</u>
<u>Schedule of Programs:</u>	
<u>Other Optional Services</u>	<u>\$349,000,000</u>
<u>To Department of Health - Medicaid Mandatory Services</u>	
<u>From General Fund, One-time</u>	<u>\$33,500,000</u>
<u>From Federal Funds</u>	<u>\$27,000,000</u>
<u>Schedule of Programs:</u>	
<u>Other Mandatory Services</u>	<u>\$58,500,000</u>
<u>Medicaid Management Information</u>	
<u>System Replacement</u>	<u>\$2,000,000</u>
<u>To Department of Workforce Services - Operations and Policy</u>	
<u>From General Fund</u>	<u>\$1,590,000</u>
<u>From General Fund, One-time</u>	<u>\$140,500</u>
<u>From Federal Funds</u>	<u>\$6,034,200</u>
<u>Schedule of Programs:</u>	
<u>Eligibility Services</u>	<u>\$6,217,500</u>
<u>Information Technology</u>	<u>\$1,547,200</u>
<u>To Utah Department of Corrections - Department Medical Services</u>	
<u>From General Fund</u>	<u>(\$2,000,000)</u>
<u>Schedule of Programs:</u>	
<u>Medical Services</u>	<u>(\$2,000,000)</u>
<u>To Insurance Department - Insurance Department Administration</u>	
<u>From General Fund Restricted Account - Insurance Department</u>	
<u>Restricted Account</u>	<u>\$90,600</u>

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~~Schedule of Programs:~~

~~Insurance Department - Administration \$90,600~~

**Repealer.**

This bill repeals:

Section 26-18-18, Optional Medicaid expansion.