

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 298

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO HEALTH CARE LAW; AMENDING SECTION 39-9003, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATEMENT OF PUBLIC POLICY RELATING TO HEALTH CARE SERVICES; AMENDING CHAPTER 90, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-9005, IDAHO CODE, TO PROVIDE THAT CERTAIN PROVISIONS OF CERTAIN PUBLIC LAWS SHALL NOT BE ENFORCED BY THE STATE OF IDAHO, TO PROVIDE PROVISIONS THAT CERTAIN ENTITIES SHALL NOT ACT TO IMPLEMENT CERTAIN PROVISIONS OF CERTAIN PUBLIC LAWS AND TO PROVIDE PROVISIONS RELATING TO AN EXECUTIVE ORDER; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-9006, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO VERIFICATION OF CERTAIN PUBLIC LAWS; TO PROVIDE PROVISIONS RELATING TO INTERPRETATION OF THE ACT; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-9003, Idaho Code, be, and the same is hereby amended to read as follows:

39-9003. STATEMENT OF PUBLIC POLICY. (1) The power to require or regulate a person's choice in the mode of securing health care services, require employers to provide health insurance coverage to their employees, determine the content of health insurance policies, or limit the construction or expansion of hospital or medical facilities or to impose a penalty related thereto, is not found in the Constitution of the United States of America, and is therefore a power reserved to the people pursuant to the Ninth Amendment, and to the several states pursuant to the Tenth Amendment. The state of Idaho hereby exercises its sovereign power to declare the public policy of the state of Idaho regarding the right of all persons residing in the state of Idaho in choosing the mode of securing health care services free from the imposition of penalties, or the threat thereof, by the federal government of the United States of America relating thereto.

(2) It is hereby declared that the public policy of the state of Idaho, consistent with our constitutionally recognized and inalienable rights of liberty, is that:

(a) Every person within the state of Idaho is and shall be free to choose or decline to choose any mode of securing health care services without penalty or threat of penalty by the federal government of the United States of America.

(b) No person within the state of Idaho shall be compelled to participate in a government health insurance program not authorized by the state of Idaho.

(c) Every employer in the state of Idaho shall be free to decide whether or not to offer, maintain, contribute to or modify health insurance plans for their employees and their dependents.

(d) The state of Idaho reaffirms its power pursuant to the Tenth Amendment to provide regulatory oversight of insurance content, coverage, benefits and beneficiaries within the state of Idaho.

(e) The construction or expansion of a private or state authorized hospital or medical facility of any kind in the state of Idaho is a matter reserved to the jurisdiction of the state of Idaho.

(3) The policy stated herein shall not be applied to impair any right of contract related to the provision of health care services to any person or group.

SECTION 2. That Chapter 90, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-9005, Idaho Code, and to read as follows:

39-9005. RESTRICTION OF CERTAIN PUBLIC LAWS -- PROHIBITION OF DISCRETIONARY PROVISIONS. (1) The discretionary provisions of the patient protection and affordable care act, P.L. 111-148, 124 Stat. 119 (2010), as amended by the health care and education reconciliation act of 2010, P.L. 111-152, 124 Stat. 1029 (2010), herein collectively referred to as PPACA, shall not be enforced, administered or enacted by the state of Idaho including, but not limited to, any of its departments, political subdivisions, courts, public officers or employees thereof as specified by this section.

As used in this section, "discretionary provisions" means:

(a) Those portions of the PPACA not specifically required, mandated or directed of the states by the federal government; or

(b) Those requirements of the PPACA that will not take effect or require state action prior to June 30, 2012.

"Discretionary provisions" do not include medicaid, as defined by chapter 1, title 56, Idaho Code.

(2) No department, agency or political subdivision of the state of Idaho shall establish any program, promulgate any rule, policy, guideline or plan or change any program, rule, policy or guideline to implement discretionary provisions of the PPACA.

(3) No department, agency or political subdivision, public officer or employee of the state of Idaho shall enter into any agreement or any obligation to implement discretionary provisions of the PPACA.

(4) No department, agency, political subdivision, public officer or employee of the state of Idaho shall provide assistance or resources of any kind to any agency, public official, employee or agent of the federal government related to any attempted implementation or enforcement of the PPACA, unless such assistance or resources are required by federal law;

(5) No department, agency or political subdivision of the state of Idaho shall accept or expend moneys related to the implementation of discretionary provisions of the PPACA.

(6) Nothing contained in this section shall prohibit the governor, upon finding by any federal appeals court as to the unconstitutionality of the PPACA, from issuing an executive order to further restrict or prohibit the implementation of the provisions of the PPACA in Idaho.

1 SECTION 3. That Chapter 90, Title 39, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 39-9006, Idaho Code, and to read as follows:

4 39-9006. VALIDITY OF CERTAIN FEDERAL PUBLIC LAW -- REVIEW AND RE-
5 PORTING PROCESS. No department, agency, or political subdivision, public
6 officer or employee shall implement any provision of the PPACA, or accept
7 or expend any moneys received for the purposes thereof, without first pro-
8 viding written verification that such implementation is consistent with
9 section 39-9005, Idaho Code. Such verification shall be submitted to the
10 division of financial management and the legislative council a minimum of
11 sixty (60) days prior to implementation. Each verification shall be sub-
12 mitted separately, one (1) for each program, grant, rule change, memorandum
13 of understanding or other action deemed required, mandated or directed of
14 the state under the PPACA. Each verification shall be posted on the division
15 of financial management internet page, accessible from the division's home
16 page, and contain:

17 (1) The specific federal statutory or regulatory citation for the re-
18 quirement or mandate;

19 (2) Confirmation that agency action is required, mandated and other-
20 wise unavoidable;

21 (3) Confirmation that the agency explored and exhausted available op-
22 tions that would have limited or negated the need for the agency to act;

23 (4) A plain language explanation for the federal requirement, the an-
24 ticipated effect of the federal requirement and a plain language description
25 for the action being taken by the agency including, but not limited to, a de-
26 tail of the moneys that will be expended by fund source, a timetable for im-
27 plementation of the federal requirement and number of employees who will be
28 hired or otherwise involved as a result of the requirement; and

29 (5) The signature of the agency director or authorized employee respon-
30 sible for the verification.

31 SECTION 4. INTERPRETATION OF PROVISIONS OF ACT. Nothing in this act
32 shall be construed or interpreted to prohibit or restrict the state of Idaho
33 or any agencies thereof from seeking, from the federal government or other
34 appropriate entity, waivers or other appropriate options to delay implemen-
35 tation of provisions of the PPACA.

36 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared
37 to be severable and if any provision of this act or the application of such
38 provision to any person or circumstance is declared invalid for any reason,
39 such declaration shall not affect the validity of the remaining portions of
40 this act.

41 SECTION 6. An emergency existing therefor, which emergency is hereby
42 declared to exist, this act shall be in full force and effect on and after
43 passage and approval. The provisions of Sections 2 and 3 of this act shall be
44 null, void and of no force and effect on and after July 1, 2012.