

House OKs roadblocks to federal health reform

Politics » Dems warn measure could cost Medicaid bucks.

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The Utah House on Thursday passed a bill telling Congress that it's not in control of health care here.

The Legislature's attorneys say it may be unconstitutional, and the governor isn't ready to commit to it, but a substitute version of the message bill HB67 passed 53-20 on a largely party-line vote.

Should it pass the Senate and gain Gov. Gary Herbert's signature, it would require both the Legislature and the governor to sign off before state agencies start participating in any health care programs enacted by Congress.

Democrats opposing the bill said it's premature because federal reform hasn't happened and no longer seems imminent. They also feared the state's hurdle could cost the state and its neediest residents millions in federal Medicaid assistance.

"Federal health care reform -- any health care reform that passes through Congress -- stops with us, the Legislature," said Rep. Carl Wimmer, R-Herriman, the bill's sponsor. "We are the stopgap for the people of this state. The citizens elected us to represent them."

Wimmer said the state must stop any federal mandates that remove choice from individuals' hands. He said bills recently debated in Congress do that.

Democrats countered that Wimmer's measure, which now goes to the state Senate, threatens to worsen Utah's health crisis by causing the federal government to withhold Medicaid dollars. That possibility threatens "the lives of the people who can least afford those cuts," said Rep. Phil Riesen, D-Holladay.

Wimmer acknowledged that's a risk if Washington withholds money "in pettiness."

Legislative attorneys attached a rare constitutional note to the bill, saying it "might violate the Supremacy Clause" of the U.S. Constitution. The attorneys also wrote that Utah could face difficulty making a states' rights case because the Supreme Court has determined that the federal government has broad powers to govern interstate commerce. Finally, according to their note, the bill's requirement that the Legislature approve executive branch actions may violate the Utah Constitution's separation of powers.

Asked during House debate whether the sketchy constitutional review worried him, Wimmer called it a "badge of honor." He and some bill supporters said they're voting their conscience in seeking a new court interpretation of federal, state and individual rights.

The governor has not decided what to do with the bill if it also passes the Senate, spokeswoman Angie Welling said. He "wholeheartedly agrees with reaffirming states' rights," she said, but is unsure about taking on a possibly expensive legal fight during a tough budget year.

Rep. Steve Mascaro, R-West Jordan, voted with every other present Republican for Wimmer's bill, but not before telling his colleagues that it threatens the Utah Constitution.

"I have no interest in harming the separation of powers," Mascaro said. "I hold that constitution inviolate and dear to my heart."

He added that the attorneys' constitutional note is the longest such warning he has seen attached to a bill during his nine years in the Legislature. He called for crafting a health care bill that protects the Utah

Constitution.

Still, he voted with the majority, and later said he did so because the Legislature can always fix the law if the Utah Supreme Court finds it unconstitutional. Mascaro said he supports a challenge to the federal government, because he's tired of its mandates.

The vote followed a press conference by the Utah Health Policy Project urging representatives to consider a substitute bill introduced by Rep. Carol Spackman-Moss, D-Holladay. Her replacement, which failed Thursday, would have allowed the state to block federal health care reform as long as it had also considered whether federal measures best served individuals and whether there would be consequences, such as losing Medicaid funding.

Speakers ranged from mothers, nurses and small-business owners who opposed Wimmer's bill, saying Utah was not ready to fund or manage residents' health care on its own.

"Without some help from Medicaid, you could cripple families -- and that's a scary thought," said an emotional Jennifer Fillmore. Though most of her family is insured through her husband's work, her 13-year-old son's autism is considered a pre-existing condition, which won't be covered. The Fillmores rely on Medicaid to pay for his multitude of therapies, which can cost \$1,000 a month.

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