



HOUSE OF REPRESENTATIVES

HB 2643

sovereign authority; affordable care act
Sponsors: Representatives Olson, Leach

DPA Committee on Federalism & States' Rights

DPA Caucus and COW

X As Transmitted to the Governor

OVERVIEW

HB 2643 prohibits the state and all political subdivisions from using any personnel or financial resources to enforce, administer, or cooperate with the Affordable Care Act (ACA).

HISTORY

The ACA is a Federal law signed into effect on March 23, 2010. The ACA prohibits insurers from denying coverage to individuals due to pre-existing conditions, and a partial community rating requires insurers to offer the same premium price to all applicants of the same age and geographical location without regard to gender or most pre-existing conditions. Minimum standards for health insurance policies were also established. The ACA provides an individual mandate which requires all individuals not covered by an employer sponsored health plan, Medicaid, Medicare or other public insurance programs to secure an approved private-insurance policy or pay a penalty, unless the applicable individual has a financial hardship or is a member of a recognized religious sect exempted by the Internal Revenue Service. The law includes subsidies to help people with low incomes comply with the mandate.

The Tenth Amendment of the United States Constitution provides the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people. The Arizona Constitution, Article Two, Section Three provides to protect the people's freedom and to preserve the checks and balances of the U.S. Constitution, this state may exercise its sovereign authority to restrict the actions of its personnel and the use of its financial resources to purposes that are consistent with the constitution. If the people or their representatives exercise their authority pursuant to this section, this state and all political subdivisions of this state are prohibited from using any personnel or financial resources to enforce, administer or cooperate with the designated federal action or program.

PROVISIONS

1. Prohibits this state and all political subdivisions from using any personnel or financial resources to enforce, administer, or cooperate with the Affordable Care Act by:
 - a. Funding or implementing a state-based health care exchange or marketplace.
 - b. Limiting the availability of self-funded health insurance programs, reinsurance, or other products traditionally used with self-funded health insurance programs.
 - c. Funding or aiding in the prosecution of any entity for a violation of the act except as necessary to maintain the program integrity of the Arizona Health Care Cost Containment System (AHCCCS).
 - d. Funding or administering any program or provision of the Act except for regulatory activities that:

- i. Are associated with state regulation of health insurance,
 - ii. Are administered under the Hospital Assessment Program and Fund,
 - iii. Involve AHCCCS,
 - iv. Associated with health insurance navigators and certified application counselors,
 - v. Associated with the requirement that health insurers act consistently with the ACA, or
 - vi. Associated with initiatives, grants or other funding related to public health treatment, preparedness, education or prevention programs authorized by the ACA which do not impose unrelated requirements on the state or its political subdivisions.
2. Permits the state and its political subdivisions to use personnel and financial resources to provide employee health insurance benefits and specifies such benefits may be in compliance with provisions of the ACA.
3. Defines for the purposes of this section *Act* and *Affordable Care Act*.