



C. L. "BUTCH" OTTER
GOVERNOR

April 20, 2011

The Honorable Ben Ysursa
Secretary of State
State Capitol
Boise, ID 83720

VIA HAND DELIVERY

Dear Mr. Secretary,

I hereby advise you that I have returned without my approval, disapproved and vetoed, the following House Bill, to wit:

H 298

within the time limited by law, the same having arrived in the Office of the Governor following the adjournment of the Legislature at the hour of 12:10 p.m. on April 8, 2011.

No one has opposed Obamacare more vehemently than me. I truly believe the insurance mandate for individuals is an unconstitutional overreach by Congress and the President. That is why I signed House Bill 391, "The Health Care Freedom Act," into law in 2010. The purpose of the Health Care Freedom Act was to oppose any national effort to force citizens to buy health insurance and to protect the rights of Idaho citizens to choose their own mode of securing healthcare coverage, or decline to obtain that coverage, without the threat of federal penalty.

As part of my opposition, I also sued the national government in federal court, challenging the constitutionality of requiring individuals to purchase healthcare coverage. I was pleased with the federal court decision out of Florida overturning Obamacare. Obviously that decision will not be the last word, but it confirms my concerns that Congress overstepped its authority. Unfortunately, the President has done his best to frustrate the appeal process and it is uncertain when a final ruling might be issued. As a result, we have to seriously question and reexamine the wisdom of any further efforts in Idaho to implement an act that two separate federal courts have struck down.

Every alternative that could lead to reversal of Obamacare was worth trying – Congress repealing the law, a court throwing it out or Idaho nullifying it. House Bill 298 and the other bills this session were part of a growing chorus of dissent in Idaho and around the country opposing

Obamacare. However, ending Obamacare by whatever means does not alleviate the need for Idaho to develop its own solutions to healthcare issues in our state.

The Legislature passed H 298 this session to prevent the implementation of Obamacare in Idaho. House Bill 298 not only prohibits the State from implementing Obamacare, but it also prevents the State from, among other things, creating an insurance exchange. While I agree that the State should not implement Obamacare, this legislation has the unintended consequence of eliminating a possible opportunity for Idaho and ceding control to the national government. Under Obamacare, individual states retain control of the creation of an insurance exchange. The fact is, the federal government will develop and operate an exchange for us if Idaho elects to forego the creation of our own exchange as H 298 would require.

I have always believed that the answers to our healthcare concerns should come from the State, not Washington, D.C. That is why I formed a Select Committee on Health Care (Committee) in 2007 to examine our healthcare issues and needs. The recommendations from the Committee have focused our efforts in key areas, including: expanding insurance coverage for adults through an exchange; expanding residency opportunities; addressing the shortage of healthcare professionals in Idaho; developing primary care medical homes, and encouraging prevention and personal responsibility. The Committee's recommendations led to creation of the Governor's Idaho Health Professions Education Council and the Idaho Medical Home Collaborative, which address the growing need for medical professionals and create a multi-layer pilot to test the efficacy of patient-centered medical homes, respectively. Just last year I also created the Idaho Health Care Council to develop additional solutions in healthcare delivery, health information technology and health insurance affordability and accessibility.

That is why I also see value in evaluating an Idaho Health Insurance Exchange and have been an advocate for doing so before the concept was co-opted by the national government. It is clear to me that Idaho can use state money to help evaluate and develop an Idaho Health Insurance Exchange without going further and implementing Obamacare.

There are many benefits of exchanges and there are important reasons why I believe Idaho should evaluate developing an Idaho Health Insurance Exchange regardless of Obamacare:

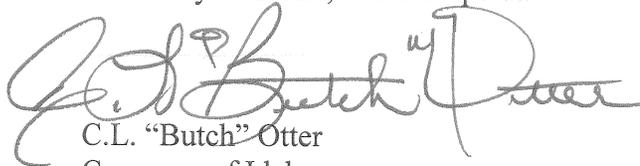
1. Again, if Idaho is unable to demonstrate to the U.S. Department of Health and Human Services by January 1, 2013 that we will have a viable exchange in place by 2014, we will lose the opportunity to run a State exchange. Instead, the federal government will operate the Health Insurance Exchange for Idaho. In short, health insurance coverage options available to individuals and small employers through the exchange will be decided entirely by federal bureaucrats in Washington, D.C.
2. If we default to the federal government to run the exchange, it can impose regulations and requirements that discourage or make it impossible for insurers to offer affordable health coverage to individuals and small employers in Idaho. If Idaho operates its own exchange, we can preserve the private marketplace for health insurance and look for ways

to help it function more efficiently. Moreover, Idaho residents will have a voice in what the exchange looks like and how it will be run.

3. The work done on developing an insurance exchange will not be wasted if the U.S. Supreme Court rules that Obamacare is unconstitutional, as we believe it will. The information developed through the planning process will enable Idaho leaders to make an informed decision as to whether some type of Health Insurance Exchange will be useful in providing better access to coverage options for employers and individuals.

The Legislature clearly wanted to send a message to the national government this session, expressing its frustration with Obamacare. I agree with the message and know the debate about Obamacare would be vastly different, if not completely unnecessary, if the national government adhered to the Tenth Amendment. I also agree with the Legislature and sponsors of this bill that now is not the time to implement Obamacare. However, it is equally unacceptable to forego exploring viable state solutions to our healthcare needs and allowing the national government to assert more control over Idahoans. Even though I vetoed the bill today, I have issued an executive order, which is attached, prohibiting State agencies and departments from implementing Obamacare, while allowing us to develop our own health care solutions. That avoids the unintended consequences of this legislation and strikes an appropriate balance between achieving the spirit of H 298 – which I support – and my desire to not capitulate to the national government.

As Always – Idaho, “Esto Perpetua”



C.L. “Butch” Otter
Governor of Idaho

Cc: The Honorable Lawrence Denney
Speaker of the House