

SENATE RESOLUTION NO. 27

WHEREAS, attorneys general from 13 states sued the federal government on March 23, 2010, claiming the landmark health care reform bill is unconstitutional. The amended complaint currently features 20 state plaintiffs, with the National Federation of Independent Business (NFIB) joining as a co-plaintiff on behalf of its members nationwide; and

WHEREAS, the lawsuit filed and joined by a total of 20 attorneys general includes and asserts:

- (1) A Commerce Clause claim;
- (2) A Tenth Amendment sovereignty violation for forcing states, among other things, to expand Medicaid coverage;
- (3) A direct tax violation for the one-size-fits all penalty if a person fails to purchase health insurance; and
- (4) A violation of Article 4, Section 4 of the United States Constitution because “the Act deprives [the States] of ... their right to a republican form of government”; and

WHEREAS, the lawsuit asks the bill be declared unconstitutional because “the Constitution nowhere authorizes the United States to mandate, either directly or under threat of penalty, that all citizens and legal residents have qualifying health care coverage”; and

WHEREAS, the lawsuit also claims the health care legislation violates the Tenth Amendment of the United States Constitution, which says the federal government has no authority beyond the powers granted to it under the Constitution, by forcing the states to carry out its provisions but not reimbursing them for the costs; and

WHEREAS, the lawsuit also asserts that the states cannot afford the new law because the health care legislation will add millions of people to state Medicaid rolls, costing some states more than one billion dollars over the next ten years in increased Medicaid expenditures; and

WHEREAS, according to an attorney representing the 20 attorneys general joining in the lawsuit, those state attorneys general “are convinced that the federal health care legislation is fundamentally flawed as a matter of constitutional law, that it exceeds the scope of proper constitutional authority of the federal government and tramples upon the rights and prerogatives of states and their citizens”; and

WHEREAS, on July 7, 2010, Missouri Lieutenant Governor Peter Kinder sued members of the Obama Administration responsible for enforcing the provisions of the federal health care reform law. The lawsuit challenges those provisions of the federal health care reform law which actually reduce Missourians access to affordable health care and which violate the Missouri Constitution and the United States Constitution; and

WHEREAS, under the federal legislation, beginning in 2014, most Americans will be required to carry health insurance, either through an employer or government program or by purchasing it themselves. Those Americans who refuse to carry such health insurance will face penalties from the Internal Revenue Service; and

WHEREAS, an overwhelming majority of 71% of Missourians supported the passage of Proposition C in a 2010 General Election in Missouri that protects Missourians from being penalized for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful health care; and

WHEREAS, according to the American Legislative Exchange Council, at least 42 states are attempting to limit, alter, or oppose some of the federal legislation's provisions through state constitutional amendments or laws, with many of the proposals seeking to keep health insurance coverage optional for individuals and exempt employers from penalties if they don't offer coverage for workers; and

WHEREAS, all other attorneys general in the nation have joined the suit voluntarily without legislative action:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-sixth General Assembly, First Regular Session, hereby call on Missouri Attorney General Chris Koster to file an independent lawsuit, join Lieutenant Governor Peter Kinder's lawsuit, or join the 20 other state attorneys general from across the nation in challenging the constitutionality and validity of the Patient Protection and Affordable Care Act, the federal health care legislation, and to aggressively defend the validity of Proposition C as voted on by the people of Missouri in a 2010 Missouri General Election; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for Missouri Attorney General Chris Koster.