

# Journal of the Senate

FIRST REGULAR SESSION

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**FOURTH DAY—TUESDAY, JANUARY 11, 2011**

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The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Resolve to keep happy and your joy and you shall form an invincible host against difficulties.” (Helen Keller)

We are still adjusting to the newest of all that we are encountering here, O Lord, so we seek Your wisdom and teachings to help us make the very best of this time You have given us this day. We are thankful for those who clear our roads and work to ensure the safety of the people of Missouri. We are thankful for shared abilities that help us address the challenges that continue and we must find ways to address. So bless us with Your presence and walk with us this new day. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

The following Senators were present during the day’s proceedings:

Present—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Dempsey	Dixon	Engler
Goodman	Green	Justus	Keaveny	Kehoe	Kraus	Lager	Lamping
Lembke	Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason
Richard	Rupp	Schaaf	Schaefer	Schmitt	Stouffer	Wasson	Wright-Jones—32

Absent—Senators—None

Absent with leave—Senator Ridgeway—1

Vacancies—1

The Lieutenant Governor was present.

## RESOLUTIONS

Senator Parson offered Senate Resolution No. 23, regarding Bolivar R-I Board of Education, which was

adopted.

Senator Rupp offered Senate Resolution No. 24, regarding the Twenty-fifth Wedding Anniversary of Mr. and Mrs. Dan Nolfo, O’Fallon, which was adopted.

Senator Rupp offered Senate Resolution No. 25, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Ronald Crossen, Lake St. Louis, which was adopted.

Senator Rupp offered Senate Resolution No. 26, regarding the Sixtieth Wedding Anniversary of Mr. and Mrs. Jack Ladlie, Truxton, which was adopted.

Senator Cunningham offered the following resolution:

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.

Senator Pearce offered Senate Resolution No. 28, regarding Gilbert Lee Powers, Warrensburg, which was adopted.

### INTRODUCTION OF BILLS

The following Bills were read the 1st time and ordered printed:

**SB 90**—By Dempsey.

An Act to repeal section 103.089, RSMo, and to enact in lieu thereof one new section relating to health care benefits provided to Medicare eligible participants participating in the state employee health insurance program.

**SB 91**—By Engler.

An Act to repeal sections 578.501 and 578.502, RSMo, and to enact in lieu thereof two new sections relating to funeral protests, with penalty provisions.

**SB 92**—By Schaaf.

An Act to repeal section 374.184, RSMo, and to enact in lieu thereof one new section relating to health insurance.

**SB 93**—By Kraus.

An Act to amend chapters 28 and 67, RSMo, by adding thereto two new sections relating to business origination requirements.

### CONCURRENT RESOLUTIONS

Senator Dempsey moved that **HCR 1** be taken up for adoption, which motion prevailed.

On motion of Senator Demsey, **HCR 1** was adopted by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Dempsey	Dixon	Engler
Goodman	Justus	Keaveny	Kehoe	Kraus	Lager	Lamping	Lembke
Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason	Richard
Rupp	Schaaf	Schmitt	Stouffer	Wasson	Wright-Jones—30		

NAYS—Senators—None

Absent—Senator Green—1

Absent with leave—Senators

Ridgeway      Schaefer—2

Vacancies—1

Senator Stouffer assumed the Chair.

Senator Dempsey moved that **HCR 2** be taken up for adoption, which motion prevailed.

On motion of Senator Dempsey, **HCR 2** was adopted by the following vote:

YEAS—Senators

Brown	Callahan	Chappelle-Nadal	Crowell	Cunningham	Dempsey	Dixon	Engler
Goodman	Justus	Keaveny	Kehoe	Kraus	Lager	Lamping	Lembke
Mayer	McKenna	Munzlinger	Nieves	Parson	Pearce	Purgason	Richard
Rupp	Schaaf	Schmitt	Stouffer	Wasson	Wright-Jones—30		

NAYS—Senators—None

Absent—Senator Green—1

Absent with leave—Senators

Ridgeway      Schaefer—2

Vacancies—1

### INTRODUCTIONS OF GUESTS

Senator Wright-Jones introduced to the Senate, Reverend Paul Jakes, Jr., Chicago, Illinois.

Senator Lamping introduced to the Senate, the Physician of the Day, Dr. Sam Page, M.D., St. Louis.

On motion of Senator Dempsey, the Senate adjourned under the rules.

### SENATE CALENDAR

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FIFTH DAY—WEDNESDAY, JANUARY 12, 2011

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### FORMAL CALENDAR

### SECOND READING OF SENATE BILLS

SB 1-Ridgeway  
 SB 2-Ridgeway  
 SB 3-Stouffer  
 SB 4-Stouffer  
 SB 5-Stouffer  
 SB 6-Goodman

SB 7-Goodman  
 SB 8-Goodman  
 SB 9-Rupp  
 SB 10-Rupp  
 SB 11-McKenna  
 SB 12-Pearce

SB 13-Pearce	SB 58-Stouffer
SB 14-Pearce	SB 59-Keaveny
SB 15-Lembke	SB 60-Keaveny
SB 16-Lembke	SB 61-Keaveny
SB 17-Lembke	SB 62-Schaaf
SB 18-Schmitt	SB 63-Mayer
SB 19-Schmitt	SB 64-Parson
SB 20-Wright-Jones	SB 65-Mayer, et al
SB 21-Wright-Jones	SB 67-Cunningham
SB 22-Wright-Jones	SB 68-Mayer
SB 23-Keaveny	SB 69-Schaefer
SB 24-Keaveny	SB 70-Schaefer
SB 25-Schaaf	SB 71-Parson
SB 26-Wasson	SB 72-Kraus
SB 27-Brown	SB 73-Kraus
SB 28-Brown	SB 74-Kraus
SB 29-Brown	SB 75-Kraus
SB 30-Chappelle-Nadal	SB 76-Schaaf
SB 31-Chappelle-Nadal	SB 77-Stouffer
SB 32-Chappelle-Nadal	SB 78-Brown
SB 33-Stouffer	SB 79-Justus
SB 34-Stouffer	SB 80-Justus
SB 35-Lembke	SB 81-Pearce
SB 36-Lembke	SB 82-Pearce
SB 37-Lembke	SB 83-Pearce
SB 38-Wright-Jones	SB 84-Wright-Jones
SB 39-Wright-Jones	SB 85-Lembke
SB 40-Wright-Jones	SB 86-Lembke
SB 41-Chappelle-Nadal	SB 87-Parson
SB 42-Chappelle-Nadal	SB 88-Schaaf
SB 43-Chappelle-Nadal	SB 89-Lembke
SB 44-Wright-Jones	SB 90-Dempsey
SB 45-Wright-Jones	SB 91-Engler
SB 46-Wright-Jones	SB 92-Schaaf
SB 47-Wright-Jones	SB 93-Kraus
SB 48-Wright-Jones	SJR 1-Ridgeway
SB 49-Wright-Jones	SJR 2-Stouffer
SB 50-Kehoe, et al	SJR 3-Goodman
SB 51-Cunningham	SJR 5-Chappelle-Nadal
SB 52-Cunningham	SJR 6-Chappelle-Nadal
SB 53-Cunningham	SJR 7-Lembke
SB 54-Cunningham	SJR 8-Kraus
SB 55-Brown	SJR 9-Engler
SB 56-Rupp	SJR 10-Lembke
SB 57-Callahan	

INFORMAL CALENDAR

RESOLUTIONS

To be Referred

SR 27-Cunningham

