

House Concurrent Resolution No. 77

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FRANZ (Sponsor), RICHARD, PRATT, SELF, SATER, NIEVES, FISHER (125), DUSENBERG, SCHARNHORST, FUNDERBURK, TILLEY, DAY, BIVINS, KINGERY, DIEHL, RUESTMAN, ALLEN, SMITH (150), DAVIS, SUTHERLAND, AYRES, CUNNINGHAM, DIECKHAUS, WASSON, DENISON, WELLS, BRANDOM, POLLOCK, DEEKEN, ICET, ZERR, LIPKE, DUGGER, PARKINSON, GUERNSEY, BRUNS, HOBBS, SCHLOTTACH, ERVIN, LAIR, NOLTE, SCHAD, COX, JONES (89), BURLISON, WILSON (130), HOSKINS (121), TRACY, VIEBROCK, RUZICKA, SCHAAF, STREAM, WILSON (119), DETHROW, McNARY, KOENIG, DIXON, SANDER, EMERY, SMITH (14), THOMSON, BROWN (149), KRAUS, BROWN (30), KEENEY, SILVEY, JONES (117), SCHOELLER, GUEST, NANCE, FLANIGAN AND MOLENDORP (Co-sponsors).

5442L.011

AN ACT

Relating to the filing of a Missouri legal challenge to the constitutionality of federal health care legislation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Whereas, attorneys general from 13 states - Florida, South Dakota, South Carolina, Nebraska, Louisiana, Texas, Alabama, Utah, Colorado, Pennsylvania, Washington, Idaho, and Michigan - sued the federal government on March 23, 2010, claiming the landmark health care overhaul bill is unconstitutional; and

Whereas, a 14th state, Virginia, did not join the larger lawsuit, but has filed its own lawsuit challenging the federal legislation; and

Whereas, the lawsuit filed by 13 attorneys general includes and asserts:

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11 (1) A Commerce Clause claim;

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13 (2) A Tenth Amendment sovereignty violation for forcing states, among other things,
14 to expand Medicaid coverage;

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16 (3) A direct tax violation for the one-size-fits all penalty if a person fails to purchase
17 health insurance; and

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19 (4) A violation of Article 4, Section 4 of the United States Constitution because "the Act
20 deprives [the States] of ... their right to a republican form of government"; and
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22 **Whereas**, Virginia and Idaho have passed legislation aimed at blocking the
23 legislation's insurance requirement from taking effect; and
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25 **Whereas**, under the federal legislation, beginning in 2014, most Americans will
26 be required to carry health insurance, either through an employer or government program or by
27 purchasing it themselves. Those Americans who refuse to carry such health insurance will face
28 penalties from the Internal Revenue Service; and
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30 **Whereas**, the lawsuit asks the bill be declared unconstitutional because "the
31 Constitution nowhere authorizes the United States to mandate, either directly or under threat of
32 penalty, that all citizens and legal residents have qualifying health care coverage"; and
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34 **Whereas**, the lawsuit also claims the health care legislation violates the Tenth
35 Amendment of the United States Constitution, which says the federal government has no
36 authority beyond the powers granted to it under the Constitution, by forcing the states to carry
37 out its provisions but not reimbursing them for the costs; and
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39 **Whereas**, the lawsuit also asserts that the states cannot afford the new law because
40 the health care legislation will add millions of people to state Medicaid rolls, costing some states
41 more than one billion dollars over the next ten years in increased Medicaid expenditures; and
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43 **Whereas**, according to an attorney representing the 13 attorneys general joining
44 in the lawsuit, those state attorneys general "are convinced that the federal health care legislation
45 is fundamentally flawed as a matter of constitutional law, that it exceeds the scope of proper
46 constitutional authority of the federal government and tramples upon the rights and prerogatives
47 of states and their citizens"; and
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49 **Whereas**, according to the National Conference of State Legislatures, at least 36
50 states are attempting to limit, alter, or oppose some of the federal legislation's provisions through
51 state constitutional amendments or laws, with many of the proposals seeking to keep health
52 insurance coverage optional for individuals and exempt employers from penalties if they don't
53 offer coverage for workers:
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55 **Now, therefore, be it resolved** that the members of the House of
56 Representatives of the Ninety-fifth General Assembly, Second Regular Session, the Senate
57 concurring therein, hereby call on Missouri Attorney General Chris Koster to file an independent
58 lawsuit or join the 13 other state attorneys general from across the nation in challenging the
59 constitutionality and validity of the Patient Protection and Affordable Care Act, the federal health
60 care legislation; and
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62 **Be it further resolved** that this resolution be sent to the Governor for his
63 approval or rejection pursuant to the Missouri Constitution.

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