

# 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).

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### AN ACT

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

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*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:

(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

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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