

House Resolution No. 39

96TH GENERAL ASSEMBLY

0731L.011

2 **WHEREAS**, attorneys general from 13 states sued the federal government on March 23,
3 2010, claiming the landmark health care reform bill is unconstitutional. The amended complaint
4 currently features 20 state plaintiffs, with the National Federation of Independent Business
5 (NFIB) joining as a co-plaintiff on behalf of its members nationwide; and

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

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9 (1) A Commerce Clause claim;

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

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

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17 (4) A violation of Article 4, Section 4 of the United States Constitution because "the Act
18 deprives [the States] of ... their right to a republican form of government"; and

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

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

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

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

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

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

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

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54 **WHEREAS**, according to the National Conference of State Legislatures, at least 36
55 states are attempting to limit, alter, or oppose some of the federal legislation's provisions through
56 state constitutional amendments or laws, with many of the proposals seeking to keep health
57 insurance coverage optional for individuals and exempt employers from penalties if they don't
58 offer coverage for workers:

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60 **NOW, THEREFORE, BE IT RESOLVED** that we, the members of the Missouri
61 House of Representatives, Ninety-sixth General Assembly, hereby call on Missouri Attorney
62 General Chris Koster to file an independent lawsuit or join the 20 other state attorneys general
63 from across the nation in challenging the constitutionality and validity of the Patient Protection
64 and Affordable Care Act, the federal health care legislation, and to aggressively defend the
65 validity of Proposition C as voted on by the people of Missouri in the 2010 Missouri General
66 Election; and

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68 **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of
69 Representatives be instructed to prepare a properly inscribed copy of this resolution for Missouri
70 Attorney General Chris Koster.

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