Written by **Joe Wolverton, II, J.D.** on January 4, 2014

Missouri State Senator Proposes Anti-ObamaCare Bill

Another state is taking aim at the Affordable Care Act.

The state Senate of Missouri will soon say to the Obama administration, "Show me where the Constitution authorizes the federal government to demand that Americans pay for health insurance."

In advance of the 2014 legislative session, Missouri State Senator John Lamping (shown) has pre-filed Senate Bill 546, a revision of the Health Care Freedom Act passed by referendum by Missourians in 2010. As *The New American* reported at that time, the Health Care Freedom Act was approved by over 70 percent of voters.

Lamping's legislation eviscerates ObamaCare, negating any "law or rule" that would "compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system."

Another provision of the bill goes right to the heart of ObamaCare, exempting any person or employer in the state from being subject to any "penalty or fines for paying directly for lawful health care services." So much for the tax penalties imposed (unconstitutionally) by Chief Justice John Roberts in his ObamaCare decision.

Section 1.334.4 of the bill requires the immediate suspension by the Missouri director of the department of insurance, financial institutions, and professional registration of state issued insurance licenses of any state insurer that accepts ObamaCare subsidies that results in the "imposition of penalties contrary to the public policy."

This takes the teeth out of the Obama administration's ability under ObamaCare to impose penalties on employers who take those federal subsidies.

Apart from refusing to impose unconstitutional and financially devastating demands on citizens of Missouri, Senator Lamping explained in a statement that his "ideas are aimed at improving all … health care decisions for Missourians."

The Missouri bill relies, as do similar measures that will soon be considered in South Carolina and Georgia, on the anti-commandeering doctrine that has long been a key principle of federalism.

Put simply, anti-commandeering prohibits the federal government from forcing states to participate in any federal program that does not concern "international and interstate matters."

While this expression of federalism ("dual sovereignty" as it was named by Justice Antonin Scalia) was first set forth in the case of *New York v. United States* (1992), most recently it was reaffirmed by the high court in the case of *Mack and Printz v. United States* (1997).

Sheriff Richard Mack was one of the named plaintiffs in this landmark case, and on the website of his organization the Constitutional Sheriffs and Peace Officers Association, he recounts the basic facts of

the case:

> The Mack/Printz case was the case that set Sheriff Mack on a path of nationwide renown as he and Sheriff Printz sued the Clinton administration over unconstitutional gun control measures, were eventually joined by other sheriffs for a total of seven, went all the way to the supreme court and won.
>
> There is much more "ammo" in this historic and liberty-saving Supreme Court ruling. We have been trying to get state and local officials from all over the country to read and study this most amazing ruling for almost two decades. Please get a copy of it today and pass it around to your legislators, county commissioners, city councils, state reps, even governors!
>
> The Mack/Printz ruling makes it clear that the states do not have to accept orders from the feds!

Right now, legislators in the three states mentioned above are relying, at least in part, on the decision handed down in the Mack/Printz case. Some leaders in the liberty movement believe these are but the first few sparks that will ignite a larger fire of state resistance to federal overreach. The Tenth Amendment Center's national communications director Mike Maherry said, "Our sources tell us to expect at least ten states moving in this direction in the coming months. But that will only come true if people start calling their state representatives and senators right now. State lawmakers need to know they should introduce bills to ban the state from participating in any ObamaCare programs."

In fairness, though, there is no reason to limit lawmakers to one method of fighting the federal menace. One of the most potent weapons — and one of the most constitutionally sound — is nullification.

The states, through the exercise of the Tenth Amendment and their authority to rule as sovereign entities, may stop ObamaCare at the state borders by enacting state statutes nullifying the healthcare law and criminalizing state participation in administering or executing the unconstitutional provisions thereof.

Nullification is the "rightful remedy" and is a much more constitutionally sound method of checking federal usurpation. It is quicker and less complicated than an attempt to have the law repealed by Congress or overturned by a future federal bench more respectful of the Constitution.

Furthermore, the Supreme Court's ratification of ObamaCare's individual mandate can be seen as a mandate of another sort. Americans should now turn their attention to removing from office every congressman who voted in favor of the "law" and electing those candidates for state legislature who will commit themselves to boldly asserting the sovereignty of the states and forcing the raging bull of the federal government back within the small and well-defined corral built by our Founding Fathers.

As the multitude of unconstitutional mandates contained within the ObamaCare behemoth are now breathing down the necks of Americans, thankfully, there are a few state legislators proposing bills to protect citizens from being subjected to the healthcare law.

This is more than praiseworthy, however. As this reporter wrote recently:

> It would seem that resisting federal trampling of the Constitution is not only a right of state lawmakers, it is a constitutional obligation.
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> Article VI, Clause 3 reads:
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> > The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several

> states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Simply put, this clause puts all state legislators under a legally binding obligation (assuming they've taken their oath of office) to "support the Constitution." There is no better way, it would seem, for these elected state representatives of the people to show support for the Constitution than by demanding that the officers of the federal government adhere to constitutional limits on their power.

Perhaps more of these state legislators, attorneys general, and judges would be more inclined to perform their Article VI duty if the people that put them in office would sue them and hold them legally accountable for any failures to carry this burden.

Imagine, furthermore, the uproar in state assemblies across the country if every day the legislators were in session process servers showed up at their offices armed with lawsuits charging them with dereliction of their constitutional duty!

State Senator Lamping's bill will be heard by a committee sometime after the legislative session resumes in Jefferson City on January 8.

It is worth noting, as well, that Lamping is not only the sponsor of the anti-ObamaCare bill, but on the same day he proposed that measure, he pre-filed legislation "to halt the implementation of common core in Missouri" (SB 514).

Photos at top: Sen. John Lamping; Missouri State Capitol

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