

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 59

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO STATE SOVEREIGNTY; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 90, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-9005, IDAHO CODE, TO PROVIDE THAT CERTAIN PUBLIC LAWS ARE DECLARED TO BE UNCONSTITUTIONAL AND INVALID IN THE STATE OF IDAHO AND SHALL NOT BE RECOGNIZED BY THE STATE OF IDAHO AND ARE NULL AND VOID AND OF NO EFFECT IN THIS STATE, TO PROVIDE THAT NO DEPARTMENT OR AGENCY OF THE STATE OF IDAHO SHALL ESTABLISH ANY PROGRAM, PROMULGATE ANY RULE, POLICY, GUIDELINE OR PLAN OR MAKE CHANGES TO SUCH TO IMPLEMENT CERTAIN PUBLIC LAWS, TO PROVIDE THAT NO DEPARTMENT, AGENCY, PUBLIC OFFICER OR EMPLOYEE OF THE STATE OF IDAHO SHALL ENTER INTO ANY MEMORANDUM OR AGREEMENT OR UNDERSTANDING OR ANY OTHER SUCH OBLIGATION IN FURTHERANCE OF CERTAIN PUBLIC LAWS, TO PROVIDE THAT NO DEPARTMENT, AGENCY, PUBLIC OFFICER OR EMPLOYEE OF THE STATE OF IDAHO SHALL OFFER ASSISTANCE, GUIDELINES OR RESOURCES TO ANY AGENCY, OFFICIAL, AGENT OR EMPLOYEE OF THE FEDERAL GOVERNMENT IN THE EXECUTION OF CERTAIN PUBLIC LAWS, TO PROVIDE THAT NO DEPARTMENT OR AGENCY OF THE STATE OF IDAHO SHALL ACCEPT OR EXPEND CERTAIN MONEYS FROM THE FEDERAL GOVERNMENT, TO PROVIDE THAT NO PERSON, EMPLOYEE, EMPLOYER, HEALTH CARE PROVIDER OR INSURANCE PROVIDER SHALL BE COMPELLED BY THE STATE OF IDAHO, ITS EMPLOYEES OR CONTRACTORS TO COMPLY WITH CERTAIN PUBLIC LAWS, TO PROVIDE THAT NO OFFICIAL, AGENT OR EMPLOYEE OF THE UNITED STATES GOVERNMENT OR ANY EMPLOYEE OF A CORPORATION PROVIDING SERVICES TO THE UNITED STATES GOVERNMENT SHALL COMPEL ANY IDAHO EMPLOYER TO PURCHASE, OFFER, MAINTAIN OR MODIFY A HEALTH INSURANCE PLAN FOR ITS EMPLOYEES OR REQUIRE ANY IDAHO RESIDENT TO PURCHASE HEALTH INSURANCE, MAINTAIN HEALTH COVERAGE FOR THEIR DEPENDENTS OR PARTICIPATE IN A CERTAIN HEALTH INSURANCE PROGRAM OR PROHIBIT, DELAY OR IN ANY WAY OBSTRUCT THE CONSTRUCTION OR EXPANSION OF A HOSPITAL OR MEDICAL FACILITY IN THE STATE OF IDAHO OR MANDATE THE CONTENT, COVERAGE OR BENEFICIARIES OFFERED BY INSURANCE COMPANIES IN THE STATE OF IDAHO OR DIRECT ANY DEPARTMENT OR AGENCY OF THE STATE OF IDAHO TO IMPLEMENT ANY PORTION OF CERTAIN PUBLIC LAWS, TO PROVIDE THAT NO JUDGE OF AN IDAHO STATE COURT SHALL ISSUE CERTAIN ORDERS, TO PROVIDE THAT NO FEDERAL OR STATE OFFICIAL, AGENT OR EMPLOYEE OF THE UNITED STATES GOVERNMENT OR AGENT OR EMPLOYEE OF THE STATE OF IDAHO SHALL LEVY OR EXECUTE ON CERTAIN PROPERTY, TO PROVIDE FOR A MISDEMEANOR, TO PROVIDE THAT THE IDAHO ATTORNEY GENERAL MAY PROVIDE LEGAL REPRESENTATION, TO PROVIDE FOR A RIGHT TO A CIVIL ACTION; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE INTENT. (1) The several states, including the state of Idaho, are not united, by the Constitution of the United States and of amendments thereto, on the principle of unlimited submission to the federal government. The several states constituted a general government by

compact for special purposes, delegating to that government certain definite powers, reserving, each state to itself, the residuary mass of right to their own self-government. Whenever the federal government assumes undellegated power, its acts are unauthoritative, void, and of no force. Further, the federal government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among powers having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress. It is the duty of the state of Idaho to assure that the federal government conform to said compact.

(2) The Constitution of the United States having delegated to Congress a power to "provide for the ... general welfare of the United States," and separately a power "to regulate commerce ... among the several states," does not extend to forcibly mandating, in any form, citizen participation in a national health plan, nor any mandated Form 1099 reporting contained therein, or any national or federal health scheme. And it being true, as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people," the state of Idaho, therefore, on behalf of the citizens of this state and to secure the rights of said citizens, hereby asserts its legitimate authority to interpose between said citizens and the federal government and declares void and of no effect the act of Congress entitled the "Patient Protection and Affordable Care Act," Public Law 111-148, and Title I, and Subtitle B of Title II of the "Health Care and Education Reconciliation Act of 2010," Public Law 111-152, as well as all other Acts which assume to mandate and punish any citizen of the state of Idaho for choosing not to participate in any federal health care program.

(3) The Idaho Legislature hereby declares that the state of Idaho, on behalf of its citizens, is the final arbiter of whether an act of Congress is unconstitutional and therefore declares that the federal laws known as the "Patient Protection and Affordable Care Act," Public Law 111-148, and the "Health Care and Education Reconciliation Act of 2010," Public Law 111-152, are not authorized by the Constitution of the United States and violate its meaning and intent, and further, are null, void and of no effect regarding any Idaho citizen residing within the borders of the state of Idaho.

SECTION 2. That Chapter 90, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-9005, Idaho Code, and to read as follows:

39-9005. INVALIDITY OF CERTAIN PUBLIC LAWS -- PROHIBITION ON ENFORCEMENT -- PENALTIES -- ATTORNEY GENERAL. (1) The patient protection and affordable care act, P.L. 111-148, and title I, and subtitle B of title II of the health care and education reconciliation act of 2010, P.L. 111-152, are hereby declared to be unconstitutional, beyond the definite powers delegated to the federal government in the United States constitution and invalid in Idaho. Such public laws shall not be recognized by the state of Idaho and are null and void and of no effect in this state.

1 (2) (a) No department or agency of the state of Idaho shall establish any  
2 program, promulgate any rule, policy, guideline or plan or make changes  
3 to any program, rule, policy, guideline or plan in effect at the time of  
4 the passage and approval of this act, to implement the public laws ref-  
5 erenced in subsection (1) of this section;

6 (b) No department or agency of the state of Idaho or public officer or  
7 employee of the state of Idaho shall enter into any memorandum of agree-  
8 ment, memorandum of understanding or any other such obligation in fur-  
9 therance of the public laws referenced in subsection (1) of this sec-  
10 tion;

11 (c) No department or agency of the state of Idaho or public officer  
12 or employee of the state of Idaho shall offer assistance, guidance or  
13 resources of any kind to any agency, official, agent or employee of the  
14 federal government in the execution of the public laws referenced in  
15 subsection (1) of this section;

16 (d) No department or agency of the state of Idaho shall either accept  
17 moneys offered or expend moneys available from the federal government  
18 in furtherance of the public laws referenced in subsection (1) of this  
19 section;

20 (e) No person, employee, employer, health care provider or insurance  
21 provider shall be compelled by the state of Idaho, its employees or con-  
22 tractors to comply with the public laws referenced in subsection (1) of  
23 this section;

24 (f) No official, agent, or employee of the United States government or  
25 any employee of a corporation providing services to the United States  
26 government shall:

27 (i) Compel any Idaho employer to purchase, offer, maintain or  
28 modify a health insurance plan for its employees;

29 (ii) Require any Idaho resident to purchase health insurance,  
30 maintain health coverage for their dependents, including children  
31 twenty-six (26) years of age and younger, or participate in a gov-  
32 ernment health insurance program not authorized by the state of  
33 Idaho;

34 (iii) Prohibit, delay or in any way obstruct the construction or  
35 expansion of a hospital or medical facility of any kind in the  
36 state of Idaho;

37 (iv) Mandate the content, coverage or beneficiaries offered by  
38 insurance companies in the state of Idaho; or

39 (v) Direct any department or agency of the state of Idaho to im-  
40 plement any portion of the public laws referenced in subsection  
41 (1) of this section.

42 (3) No judge of an Idaho state court shall issue any order to levy or ex-  
43 ecute on the property of any Idaho citizen to collect any amounts assessed  
44 against such citizen for failure to comply with any provision of the public  
45 laws referenced in subsection (1) of this section.

46 (4) No federal or state official, agent or employee of the United States  
47 government or agent or employee of the state of Idaho shall levy or execute  
48 on the property of any Idaho citizen to collect any amounts assessed against  
49 such citizen for failure to comply with any provision of the public laws ref-  
50 erenced in subsection (1) of this section. Any person who violates the pro-

1   visions of this subsection shall be guilty of a misdemeanor punishable by im-  
2   prisonment in the county jail not exceeding six (6) months, or by a fine not  
3   exceeding one thousand dollars (\$1,000), or both such fine and imprisonment.

4       (5) The Idaho attorney general may provide legal representation to any  
5   Idaho resident aggrieved by any party who violates the provisions of this  
6   act. Such representation is necessary in order to preserve the rights and  
7   property of the residents of the state of Idaho, and to defend such resi-  
8   dents in the event that any law or regulation violating the public policy  
9   set forth in this act is enacted by any government, subdivision or agency  
10   thereof. Any such legal representation shall be paid for by moneys from the  
11   constitutional defense council fund, subject to available moneys, as estab-  
12   lished in section 67-6301, Idaho Code.

13       (6) Any aggrieved person shall have a right to a civil action against  
14   any person violating the provisions of this section.

15       SECTION 3. An emergency existing therefor, which emergency is hereby  
16   declared to exist, this act shall be in full force and effect on and after its  
17   passage and approval.