

SCR33, As Adopted by Senate, January 14, 2010

Senator Kahn offered the following concurrent resolution:

Senate Concurrent Resolution No. 33.

A concurrent resolution to memorialize the President, the Congress, and the Secretary of the Department of Health and Human Services to remove the so-called "Nebraska Compromise" from the final version of the federal health care reform legislation.

Whereas, Numerous deals were struck to get the necessary votes to pass the U.S. Senate version of H.R. 3590, including insertion of a provision that favored one state, Nebraska, to the detriment of 49 states. Bills passed by the House and Senate virtually ensure a major expansion of the Medicaid program by making all nonelderly people with incomes below at least 133 percent of the poverty level eligible for Medicaid. All states, except Nebraska, will be responsible for covering a share of the expanded program's cost. This arbitrary singling out of one state for a special benefit is fundamentally unfair; and

Whereas, Michigan's multiyear economic crisis has put the citizens of our great state and the state budget under great duress. Almost 1 in 5 Michigan residents are enrolled in Medicaid. Today's enrollment of 1.8 million is 700,000 more than the enrollment 10 years ago. Given the continuing job losses in our state and slow rate of economic recovery, Medicaid enrollment can only be expected to grow; and

Whereas, The state budget is already strained to cover the rising demand for Medicaid services, currently spending approximately \$11.1 billion in gross appropriations, with approximately \$1.6 billion coming from shrinking general funds. The Medicaid portion of the state budget accounts for over 20 percent of gross appropriations and approximately 20 percent of General Fund appropriations; and

Whereas, Aside from being fundamentally unfair, the arbitrary singling out of Nebraska for special treatment is likely unconstitutional and subject to a legal challenge if the special treatment provision remains in the bill signed by the President. The Supreme Court has already admonished Congress that its spending authority does not allow it to demonstrate a "display of arbitrary power"; and

Whereas, The "Nebraska Compromise" provision disadvantages the citizens of 49 states who will see their limited tax dollars diverted from other essential state programs to fund these new federal mandates; and

Whereas, Other provisions in the bill, such as the mandate on individuals to buy insurance and the penalty for not doing so, regulation of the insurance industry, and the excise tax on high-cost health plans, are also subject to constitutional challenges; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the President, the Congress, and the Secretary of the Department of Health and Human Services to remove the so-called "Nebraska Compromise" from the final version of the federal health care reform legislation; and be it further

Resolved, That we request Congress to provide in the final legislation a statement of the constitutional authority for enactment of health care reform and these questionable provisions regarding the mandate on individuals to buy insurance and the penalty for not doing so, regulation of the insurance industry, and the excise tax on high-cost health plans; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the Secretary of the Department of Health and Human Services.