

**SENATE CONCURRENT  
RESOLUTION No. 5**

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DIGEST OF INTRODUCED RESOLUTION

A CONCURRENT RESOLUTION urging Congress to defund planning grants for state insurance exchanges under the Patient Protection and Affordable Care Act.

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January 4, 2012, read first time and referred to Committee on Health and Provider Services.

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A CONCURRENT RESOLUTION urging Congress to defund planning grants for state insurance exchanges under the Patient Protection and Affordable Care Act.

*Whereas, The federal government has enacted the Patient Protection and Affordable Care Act (PPACA) ostensibly for the purpose of making health insurance more affordable for American citizens;*

*Whereas, PPACA includes a provision requiring the creation of health insurance exchanges (exchanges) in each state; at the exchanges, only health insurance policies that meet certain requirements determined by the federal government may be bought and sold;*

*Whereas, Exchanges may be established by each state only subject to approval by appointed federal officials;*

*Whereas, If a state does not establish an exchange, appointed federal officials will establish one in that state;*

*Whereas, State created PPACA exchanges put states in the position of ceding their resources and sovereignty to the service of the federal government, sacrificing their ability to flexibly serve their own citizens;*

*Whereas, 26 states are suing to have PPACA struck down partly due to the arguable unconstitutionality of the individual mandate, and briefs submitted by the federal government in Florida v. U.S. Department of Health and*



*Human Services make clear that exchanges are a key part of the individual mandate;*

*Whereas, The United States Supreme Court states, in part, in its recent ruling in Bond v. United States, "Federalism secures the freedom of the individual. It allows States to respond, through the enactment of positive law, to the initiative of those who seek a voice in shaping the destiny of their own times without having to rely solely upon the political processes that control a remote central power," effectively instructing state leaders that they share in the responsibility to preserve liberty;*

*Whereas, Judge Vinson, in his order of March 3, 2011, staying his original decision in Florida v. U.S. Department of Health and Human Services striking down the PPACA as unconstitutional, stated in footnote 7 that "the severity of that injury [from the PPACA] is undercut by the fact that at least eight of the plaintiff states have represented that they will continue to implement and fully comply with the Act's requirements, in an abundance of caution while this case is on appeal, irrespective of my ruling," clearly implying that as states continue to plan exchanges in preparation for PPACA implementation, the perceived harm to states is reduced, making it less likely the PPACA will ultimately be declared unconstitutional;*

*Whereas, The U.S. Department of Health and Human Services recently released 70 pages of new rules regarding exchanges that required 172 pages to summarize and clarify, including numerous references to future rulemaking, bringing into question the idea that states have significant flexibility in the establishment of exchanges;*

*Whereas, If the PPACA is struck down, states planning PPACA exchanges will have participated in wasting millions of dollars of taxpayer funds in planning defunct exchanges;*

*Whereas, Despite claims by some that states can create PPACA compliant exchanges that enjoy the benefits of market forces, these exchanges would be completely artificial devices offering insurance products regulated in their essential characteristics by the federal government, making*



*exchanges anything but free markets;*

*Whereas, PPACA health insurance exchanges will continue to be subject to the arbitrary whims of the federal bureaucracy which, having extensive ongoing rulemaking authority, can render any plan for a state exchange today, no matter how rational and well-designed, obsolete, and irrelevant at a later date;*

*Whereas, The PPACA does not clearly and unequivocally preempt state law, containing only a vague provision that seems to say that federal law does not preempt state laws preserving free enterprise health care systems; however, the establishment of exchanges necessitates that state laws conform to PPACA, and states establishing exchanges will actively participate in the preemption of their own laws;*

*Whereas, There is no penalty for a state in allowing the federal government to implement an exchange, and doing so puts federal officials in the position of asking a state for permission to operate an exchange rather than states supplicating to appointed federal officials; and*

*Whereas, States can, and should, develop and implement their own state-based health reform solutions that are tailored to the targeted needs of their citizens without the mandates within PPACA: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

- 1           SECTION 1. That the Indiana General Assembly believes it is not  
2 in the best interest of Indiana for any state official to participate in  
3 planning or establishing health insurance exchanges as provided for in  
4 the federal Patient Protection and Affordable Care Act.  
5           SECTION 2. That the Indiana General Assembly urges Congress to  
6 defund planning grants to states for the establishment of PPACA health  
7 insurance exchanges by the states.  
8           SECTION 3. That copies of this resolution be transmitted by the  
9 Secretary of the Senate to the President of the United States, the  
10 appropriate leadership of the United States Congress and the United  
11 States Department of Health and Human Services, and all the members  
12 of the Indiana Congressional delegation.

