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STENEHJEM WILL JOIN LAWSUIT CHALLENGING CONSTITUTIONALITY OF FEDERAL HEALTH CARE LAW

BISMARCK – Attorney General Wayne Stenehjem announced today that he will join a federal lawsuit filed by fourteen state attorneys general challenging the constitutionality of the recently enacted federal health care law.

“Even the supporters of the legislation concede it contains serious flaws. This lawsuit will test the most objectionable of those flaws, the so-called individual mandate,” Stenehjem said.

The individual mandate requires nearly every citizen to purchase a qualified health insurance policy or face a penalty enforced through the Internal Revenue Service. By 2016, an adult who does not have health insurance would be penalized \$695 per year, and a family up to \$2,085, or 2.5 percent of income, whichever is greater. Proponents claim that the Commerce Clause of the US Constitution, which gives Congress authority to regulate commerce among the states, gives the federal government authority to require every citizen to purchase health insurance.

“The US Constitution grants enumerated and limited authority to the federal government. It may only act in areas that are specifically permitted. In enacting this legislation, Congress stretches its authority under the commerce clause beyond the limit,” Stenehjem said.

“The individual mandate in the health care law is unprecedented—a direct federal requirement for an individual to purchase insurance from a private company. Never before has Congress, under the commerce clause, required Americans to purchase any good or service, and it certainly has never claimed the commerce clause regulates citizens who decline to participate in the marketplace by refusing to purchase goods or services,” said Stenehjem.

There are many features of this law with wide support that are not the subject of this lawsuit, for example: insurers will not be able to sell policies with lifetime caps on insurance, exclude children from coverage on the basis of pre-existing conditions, or drop adults when they become sick or have a chronic condition like diabetes or high blood pressure.

Because North Dakota is joining with several other states, with Florida taking the lead in the lawsuit, the out of pocket cost of this litigation to the state of North Dakota will be minimal.

The fourteen states that filed the lawsuit include Florida, Texas, South Carolina, Nebraska, Pennsylvania, Louisiana, Washington, Colorado, Michigan, Utah, Alabama, South Dakota, and Idaho. Indiana announced last week that it also would join. Virginia is pursuing its own lawsuit. The suit was filed in the Federal District Court in the

Northern District of Florida. The legal action specifically challenges the Patient Protection and Affordable Care Act and names the U.S. Departments of Health and Human Services, Treasury and Labor as defendants because those federal agencies are charged with implementing the Act's provisions.

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