



Healthcare Process & Legality An Indictment Of Progressives In Government

Toddy Littman, Tuesday 16 November 2010 - 18:58:13

According to The Hill, Boehner filed a brief in support of the 20 State lawsuit against the healthcare bill, <http://thehill.com/blogs/blog-briefing-room/news/128983-boehner-files-brief-in-favor-of-court-challenge-to-health-reform>.

And apparently Mitch McConnell is planning to do the same, <http://www.politico.com/news/stories/1110/44923.html>.

I hope they both argue the facts of process that make the healthcare law an unconstitutional usurpation.

If you look up HR 3200, which is not the healthcare bill that was passed, you'll find no individual mandate, instead you find a tax of 2.5% of the individual's income under the bill's Section 401 (acrobat pages 167-179), a tax that one can file for exemption from due to hardship--explain how this makes sure you and I aren't paying a hidden tax of \$1000 a year for the uninsured that Obama used to tell us about over and over--as well as religious exemptions, and an subsection on where it's reported on the return.

Lo and behold, in comparison, under section 1501 (acrobat page 125) and 1502 of HR 3590, which is the final compiled bill based on the idea of the House passing HR 3200, supposedly being amended by the Senate, you find a statement that doesn't exist in HR 3200, more than an amendment but an entirely new section with an entirely new idea and meaning:

(a) FINDINGS. Congress makes the following findings:

(1) IN GENERAL. *The individual responsibility requirement provided for in this section (in this subsection referred to as the requirement) is commercial and economic in nature, and substantially affects interstate commerce*, as a result of the effects described in paragraph (2). -- Emphasis mine.

Paragraph 2 is the laundry list of costs, followed by the Title 26, Amendment:

SEC. 5000A. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.

(a) REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.

An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is covered under minimum essential coverage for such month."

And this is, of course, followed again by the poverty exemption:

(e) EXEMPTIONS. No penalty shall be imposed under subsection

(a) with respect to

(1) INDIVIDUALS WHO CANNOT AFFORD COVERAGE. [with subsection definition of such individuals laundry list]...."

(2) TAXPAYERS WITH INCOME UNDER 100 PERCENT OF POVERTY LINE. Any applicable individual for any month during a calendar year if the individual's household income for the taxable year described in section 1412(b)(1)(B) of the Patient Protection and Affordable Care Act is less than 100 percent of the poverty line for the size of the family involved (determined in the same manner as under subsection (b)(4)).



(3) MEMBERS OF INDIAN TRIBES. Any applicable individual for any month during which the individual is a member of an Indian tribe (as defined in section 45A(c)(6)). "[So the impoverished of Indian tribes with or without a casino get the care but don't have to pay even if they had a Casino, and have an income above the poverty line. Can you say, up to \$4,000 increase per person of new unhidden taxes for those who don't have health insurance shall now be paid by each one of us? And this holds true for all Indians, even the casino owners. Sure is looking like healthcare is a form of *reparations law*.]... (Of course, those are Indians who belong to a tribe on a month-to-month basis sorry, I couldn't resist.)

(5) HARDSHIPS. Any applicable individual who for any month is determined by the Secretary of Health and Human Services under section 1311(d)(4)(H) to have suffered a hardship with respect to the capability to obtain coverage under a qualified health plan. [Maybe it's me, but those in subcategories 1 and 2 above appear to also qualify under subsection 5 here. Luckily this isn't a bureaucratic nightmare or we, the hospital, and the States might be beholden to the national government for our unalienable right to Life.] --Commentary mine, and made with a shameless sense of compulsion.

Which brings me back to the question how this is to assure you and I aren't paying a hidden tax of \$1000 a year for the uninsured that Obama used to tell us about over and over to justify the reason we need universal healthcare--government managing what was once our hidden tax, as an actual government imposed tax, collected and distributed with all the palm greasing patronage that goes with government running anything, which now inflates the amount that was once hidden, into a staggering amount in the light of day due to government's greed.

But I digress. Some of the principles between these bills are the same, however their difference is striking.

The House version is the only one applicable due to Article I, Section 7, Clause 1, where all Bills for raising Revenue shall originate in the House according to Our Written Constitution, and here is where this gets to the meat of things:

Though the Senate has advise and consent authority, the substantiation of the tax in the Senate version of the bill requires the House Rules be applied via the House voting on the bill, as that is when the House is proposing by passage of a bill any change to the Internal Revenue code, to which these must go through the Ways and Means Committee, with prohibitions according to House Rule XIII, h1 and h2 (ADDENDUM: Original Link inaccurate, moved, etc. House Rules in effect at time of passing Obamacare:

<http://www.gpo.gov/fdsys/pkg/CDOC-111hdoc157/pdf/CDOC-111hdoc157.pdf> page 646. The following link to be unused but left here as the original posted with this article

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_house_rules_manual&docid=110hruletx-70.pdf) Best read at page 646 of first link:

(h)(1) It shall not be in order to consider a bill or joint resolution reported by the Committee on Ways and Means that proposes to amend the Internal Revenue Code of 1986 unless

(A) the report includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or (B) the chair of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the bill or joint resolution.

[This is a notation] This provision was added by the Internal Revenue Service Restructuring and Reform Act of 1998 as a new clause 2(l)(8) of rule XI, effective January 1, 1999 (sec. 4022, P.L. 105 206). It was transferred to this paragraph when the House recodified its rules in the 106th Congress (H. Res. 5, Jan. 6, 1999, p. 47). A gender-based reference was eliminated in the 111th



Congress (sec. 2(l), H. Res. 5, Jan. 6, 2009, p. l).

(2)(A) It shall not be in order to consider a bill or joint resolution reported by the Committee on Ways and Means that proposes to amend the Internal Revenue Code of 1986 unless

(i) the report includes a macroeconomic impact analysis;

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Rule XIII, clause 4 § 850 RULES OF THE HOUSE OF REPRESENTATIVES

(ii) the report includes a statement from the Joint Committee on Internal Revenue Taxation explaining why a macroeconomic impact analysis is not calculable; or

(iii) the chair of the Committee on Ways and Means causes a macroeconomic impact analysis to be printed in the Congressional Record before consideration of the bill or joint resolution.

(B) In subdivision (A), the term macroeconomic impact analysis means

(i) an estimate prepared by the Joint Committee on Internal Revenue Taxation of the changes in economic output, employment, capital stock, and tax revenues expected to result from enactment of the proposal; and

(ii) a statement from the Joint Committee on Internal Revenue Taxation identifying the critical assumptions and the source of data underlying that estimate.

[This is a notation.] This requirement of a macroeconomic analysis of any tax proposal replaced a provision that authorized the chair of the Committee on Ways and Means to request the Joint Committee on Internal Revenue Taxation to prepare a dynamic estimate of revenue changes proposed in a measure designated by the Majority Leader as major tax legislation (sec. 2(j), H. Res. 5, Jan. 7, 2003, p. 7). The former provision was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121); but, before the House recodified its rules in the 106th Congress, it was found in former clause 7(e) of rule XIII (H. Res. 5, Jan. 6, 1999, p. 47). A gender-based reference was eliminated in the 111th Congress (sec. 2(l), H. Res. 5, Jan. 6, 2009, p. l).

As you can see there are particular safeguards by studies done when a Tax is suggested in legislation before the House, yet, there is also the ability of the Majority Leader to claim a bill isn't major tax legislation, and this is how we got here.

Yet it remains true that, due to the defensive admission by pleading of the Justice Department that the individual mandate is a tax, the entire placement of the healthcare bill before the House was out of order without carrying out the procedures in XIII h1 and h2.

This would be meaningless if not for Obama, speaking as President, During entire course of the healthcare discussion, and telling us over and over that the individual mandate is not a tax. We knew this was the quintessential stuff that sticks to your boots, even hip deep, in that the Title being amended is Title 26! That alone says the healthcare law is affecting taxation.

The House HR 3200 tax made sure to have some gray area but was not out to make the 2.5% increase in taxation to cover healthcare costs into an individual mandate, instead it is collected as the rest of the income taxes are, whether legal or not, the mechanism is silent, hidden, and doesn't involve the individual in some compelled requirement of government to compel them to carry health insurance. If you search for the Senate term minimum essential in HR 3200 you'll find nothing.

This takes us to Max Baucus Senate Committee, originating the tax structure in HR 3590 as the Individual Mandate, or, as to be titled in Title 26, SEC. 5000A. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE, which doesn't exist in HR



3200, and therefore, was never reviewed by the Ways And Means Committee in the House! I submit that this is why Obama kept saying it's not a tax! The goal was to make sure this healthcare bill could pass under the rules of reconciliation, which would not be applicable to a tax! One could say this was the Scott Brown Effect, to make the Progressives carry on even more illegally than before.

The findings in Section 1500 of HR 3590 have no basis as a tax without complete demonstrable review by the House Ways And Means Committee, and thus, the defense argument of the Department of Justice requires, for us to prevail as quickly as possible, that the 21 compel the production of the documents that were reviewed by Ways And Means regarding this tax, that includes all the reports above listed under House Rule XIII h1 and h2. Without these reports the Justice Department's argument it is a tax falls flat, the Senate is revealed for usurping the House's Sole Constitutional authority, and the entire healthcare bill is revealed for the fraud and sham it actually is.

Boehner and McConnell know the rules better than I do, and if anyone can get this to the lawyers of the 20 state lawsuit, and/or Boehner and McConnell, I believe we can unravel the entire government argument rather swiftly and show the absolute corruption of the Progressives in Congress by their clear unambiguous willingness to go along with usurpation of the Constitution by the House, Senate, and President of the United States of America. This will disqualify every single one of those who voted for it, and most importantly, the President who signed it, all through one judicial ruling and how the lawyers of the winning argument frame the public disclosure and discussion of it, as well as our Tea Party discussion and reporting of it.

I have been yelling about this for a while but this is the first time I quoted every aspect of it, and am merely doing so to articulate my hope of what Boehner and McConnell discuss as well as the 20 States suing.

Thank you for reading,

Toddy Littman