

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO. _____

Health litigation fund.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

1 AN ACT relating to the administration of government and
2 national health care reform; providing for a fund to
3 litigate issues relating to federal health care enactments
4 and their implementation; specifying uses of the fund;
5 providing an appropriation; and providing for an effective
6 date.

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8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 9-1-641 is created to read:

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12 **9-6-641. National care reform litigation account;**
13 **account created; use of funds.**

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2 (a) There is created the national health care reform
3 litigation account. The account shall be administered by
4 the attorney general.

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6 (b) Funds in the account shall be used for expenses
7 related to litigation concerning health care reform.

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9 (c) Litigation that may be funded pursuant to this
10 section shall be related to health care reform, including
11 but not limited to:

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13 (i) Defense of the state of Wyoming or its
14 political subdivisions against litigation or regulatory
15 orders brought by the federal government or any other
16 governmental or private party relating to provisions of the
17 federal health care reform or the state's response to it;

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19 (ii) Litigation and activities that may lead to
20 litigation, including legal comments on proposed federal
21 regulations, alleging that a federal agency has exceeded or
22 misused its statutory authority in any regulation, or other

1 activity implementing or not implementing health care
2 reform;

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4 (iii) Litigation alleging the federal government
5 has exceeded its constitutional authority in any provision
6 of these acts;

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8 (iv) Litigation alleging the federal government
9 has violated or will violate the fundamental rights of
10 citizens of Wyoming under the United States constitution,
11 particularly the first, fifth, ninth and fourteenth
12 amendments to the constitution of the United States;

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14 (v) Intervention in health care reform
15 litigation brought by another state or states or a third
16 party in which Wyoming or its citizens have a vital
17 interest;

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19 (vi) The development and submission of amicus
20 curiae briefs in other health care reform cases in which
21 Wyoming or its citizens have an interest.

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1 (d) In determining which litigation to become
2 involved with, the governor and the attorney general shall
3 give first priority to litigation concerning the Patient
4 Protection and Affordable Care Act and the Health Care
5 Education and Reconciliation Act of 2010 and shall
6 consider:

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8 (i) The degree of probable harm that may be done
9 to the people of the state of Wyoming if the state does not
10 enter into the litigation, or the benefits that may accrue
11 to the people or the state if litigation is successful;

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13 (ii) The probability the litigation will be
14 successful;

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16 (iii) The expected cost of the litigation;

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18 (iv) The possibility of a reasonable negotiated
19 settlement to the litigation.

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21 (e) The attorney general may intervene or subsidize
22 litigation brought by private citizens or other states only
23 if in the attorney general's opinion precedents are likely

1 to be established that will be of general utility or harm
2 to the people of the state of Wyoming and if in his opinion
3 Wyoming's intervention will materially aid in obtaining
4 favorable precedents, except that the attorney general may
5 intervene or subsidize litigation to prevent harm to or
6 gain individual benefits for Wyoming citizens whose income
7 for the preceding or current year is not more than two
8 hundred fifty percent (250%) of the federal poverty level.

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10 (f) For purposes of this section, "health care
11 reform" means the Patient Protection and Affordable Care
12 Act, P.L. 111-148, the Health Care Education and
13 Reconciliation Act of 2010, P.L. 111-152, the Children's
14 Health Insurance Program Reauthorization Act of 2009, P.L.
15 111-3, the health provisions of the American Recovery and
16 Reinvestment Act of 2009, P.L. 111-5, the federal Medicare
17 program, 42 U.S.C. 1395 et seq., the federal Medicaid
18 program, 42 U.S.C. 1396 et seq., and federal statutes now
19 enacted or that may be enacted related to any of these acts
20 or programs.

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22 **Section 2.** There is appropriated two million
23 dollars (\$2,000,000.00) from the general fund to the

1 national health care reform litigation account. This
2 appropriation shall be for the period beginning with the
3 effective date of this act and ending June 30, 2012.
4 Notwithstanding any other provision of law, this
5 appropriation shall not be transferred or expended for any
6 purpose other than as provided in W.S. 9-6-641 and any
7 unexpended, unobligated funds remaining in the account from
8 this appropriation shall revert as provided by law on June
9 30, 2012. This appropriation shall not be included in the
10 attorney general's 2013-2014 standard biennial budget
11 request.

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13 **Section 2.** This act is effective immediately upon
14 completion of all acts necessary for a bill to become law
15 as provided by Article 4, Section 8 of the Wyoming
16 Constitution.

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(END)