



# State of Connecticut

**SENATOR JOHN MCKINNEY**

SENATE MINORITY LEADER

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November 15, 2013

The Honorable Dannel P. Malloy  
Governor, State of Connecticut  
Executive Chambers  
State Capitol  
Hartford, CT 06106

Dear Governor Malloy:

I am writing today to call upon you to use your authority under Article III, Section 2 of the Connecticut Constitution to call the general assembly into special session immediately. Legislative action is required to legally implement President Obama's administrative guidance that states allow the continuation of tens-of-thousands of health insurance policies which, without action, will be illegal under Connecticut law on January 1, 2014.

Yesterday, the president announced that he would use his "enforcement discretion" to essentially turn a blind eye to federal law and "allow" millions of health insurance policies that will be illegal under the plain language of the Affordable Care Act to continue to be sold. He readily acknowledged that nothing he said or did actually changed the language of the Affordable Care Act and that, under the terms of the Act, these plans would continue to be "illegal." At the same time, he clearly stated that it would be up to the discretion of the states, as the primary regulators of insurance products, to decide whether to implement this so called "fix."

Putting aside the quite serious question of whether the president has the constitutional authority to simply not enforce the mandatory sections of the Affordable Care Act which render these plans illegal, given his constitutional duty to faithfully execute the laws, it is quite clear that Connecticut law makes these plans illegal regardless of the president's administrative fiat. You and the legislative leaders of our state made an early determination to commit Connecticut to the full adoption and enforcement of the Affordable Care Act. As a result, Section 38a-591 of the Connecticut General Statutes, which was adopted by the Democratic majority and approved by you in 2011, requires all health insurance policies sold in the State of Connecticut to comply with the Affordable Care Act, including those sections which make these plans illegal.

Furthermore, Section 38a-481 of the Connecticut General Statutes *requires* the Insurance Commissioner to disapprove at any time any insurance policy that does not comply with the requirements of law. In other words, the Connecticut Insurance Commissioner *has no discretion* to allow these policies to continue to be offered in Connecticut.

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Therefore, in order to provide a safe harbor for the tens-of-thousands of Connecticut residents who are facing the cancellation of their insurance policies due to the Affordable Care Act and your decision to fully adopt, implement and enforce those provisions of the Act which make these plans illegal, it is imperative that you call the general assembly into special session to immediately repeal Section 38a-591 of the general statutes and thereby repeal the mandates that threaten the insurance policies of so many Connecticut residents. Unfortunately, Connecticut tied its hands and legally committed itself to the failed Obamacare experiment. However, it is not too late to take back some control and offer some relief to those who were promised by you and our president that "if you like your policy, you can keep it."

Thank you for your time and attention, and I look forward to your prompt response.

Sincerely,



JOHN McKINNEY  
State Senator – 28th District  
Senate Minority Leader

cc: Senate President Pro Tempore, Donald E. Williams, Jr.  
Senate Majority Leader, Martin Looney  
Speaker of the House of Representatives, Brendan Sharkey  
House Majority Leader, Joe Aresimowicz  
House Minority Leader, Lawrence Cafero