



Written by [Joe Wolverton, II, J.D.](#) on March 2, 2010

## States Act to Block Federal Healthcare Mandates

James Madison, known to history as the Father of the Constitution, reckoned that “the first and most natural attachment of the people will be to the governments of their respective states.” Lately, the state legislatures for their part are demonstrating their resistance to imposition of federal healthcare mandates that would ostensibly force citizens in the several states to purchase a qualifying medical insurance policy.



To the delight of constitutionalists everywhere, there is hardly a statehouse in the union that isn't abuzz with debate over measures to put the national government on notice that there is still a 10th Amendment, despite congressional and White House attempts to eradicate this important limitation of federal power.

The 10th Amendment states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The states appear determined to shore up and buttress it against the battering ram of federal healthcare legislation.

According to statistics published by the National Conference of State Legislatures, legislators in at least 32 states are using their constitutionally protected power and shepherding bills through the individual assemblies that aim to block, limit, or outright declare unconstitutional any attempt by the federal government to require citizens to purchase health insurance.

These brave representatives of the people stand upon solid political and philosophical ground in their defense of state sovereignty. Nowhere in the Constitution is the federal government empowered to compel the people to enter into private contracts with companies for the purchase of anything, including healthcare. The people and their elected representatives are wary of any federal action that even approaches the barriers placed by the Constitution protecting a state's right to govern itself. There is particular opposition to the relentless push by lawmakers on Capitol Hill to impose their own interpretations of the Commerce Clause, the General Welfare Clause, and Necessary and Proper Clause for use in promulgating the package of measures covered by the umbrella “healthcare reform.” No matter how convincing and how determined, this interpretation is wrong and there is no shortage of state representatives moving quickly to prevent further federal subrogation of the rights of states.

The various bills, constitutional amendments (23 states have proposed constitutional amendments by ballot questions), and other measures (judicial and legislative) being used as weapons in the fight for state sovereignty are being employed in different ways in the different states. What follows is a brief



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survey (current as of March 1) of the measures working their way through the distinct legislative processes in the various states. As you can see, the list is long and as such it is very encouraging.

- Alabama: HB 42 proposes a constitutional amendment that would prohibit anyone from being forced to purchase a health insurance policy or participate in a scheme to provide healthcare.
- Alaska: HJR35 was sponsored by Representative Kelly and if passed it would send to the people for their ratification a constitutional amendment preventing the federal government from compelling purchase of a health insurance policy or from restricting the right of contract in any such fashion.
- Arizona: HCR 2014 is a proposed amendment to the state constitution that would, among other things, forbid passage of any law compelling any person to participate in any health care system. This bill has passed both houses of the state legislature and will now go to the people for ratification on the next ballot.
- Arkansas: Representative Glidewell has sponsored a proposal that would add a state statute protecting the right of all Arkansans to exercise their own judgment in the purchase of health insurance.
- Colorado: HJR 10-1009 is a resolution specifically citing the 10th Amendment's protection of a state's right to govern itself.
- Florida: Joint resolutions in the state assembly are being considered which would propose a constitutional amendment prohibiting the adoption of any law that would compel participation in any healthcare system.
- Georgia: Several House and Senate resolutions propose a constitutional amendment providing that no law can compel participation in a healthcare system. Noticeably, one of the bills provides that no person would be subject to penalties or fines for not having health insurance.
- Idaho: HB 391, known as the "Idaho Health Freedom Act" would prohibit the compulsion of any citizen of that state from purchasing health insurance.
- Indiana: Various measures have been offered which would protect the right of citizens in that state to enter into private contracts for health insurance coverage and from being fined for not participating in any federally mandated scheme.
- Iowa: HJR 2007 proposes a state constitutional amendment protects the freedom of contracting for one's own healthcare concerns.
- Kentucky: HB 307 prohibits by statute any law requiring any citizen to participate in a healthcare plan or from being penalized for any refusal to participate.
- Louisiana: A measure has been drafted that would impose a criminal fine on any local or state official that "attempts to coerce any individual to purchase health insurance."



- Maryland: SB 397 seeks to enact a state constitutional amendment proscribing any law that would compel participation in a healthcare scheme.
- Michigan: Several resolutions have been offered by state legislators affirming the right of citizens to find their own healthcare solutions and protects them from paying fines associated with lack of compliance with federal mandates.
- Minnesota: A bill establishing a constitutional amendment that would protect freedom of choice with regard to contracting for the coverage of medical care.
- Mississippi: HCR 17 was written by Representative Monsour and it would propose a constitutional amendment prohibiting the compelling of participation in a healthcare program.
- Missouri: Joint resolutions in the state assembly would propose a constitutional amendment similar to those in its sister states prohibiting compulsory purchase of health insurance.
- Nebraska: A constitutional amendment has been proposed blocking the interference of the any law with the right of purchasing private health insurance.
- New Mexico: Two resolutions are working their way through the state legislature. Both would protect the right of citizens to work out their own health care solutions.
- North Dakota: HCR 3010 offers the enactment of a constitutional amendment that would protect freedom of choice with regard to healthcare.
- Ohio: Joint resolutions would put a constitutional amendment on the next ballot prohibiting fines for not complying with federal health care mandates and protecting the right of Ohioans to enter into contracts or not as they see fit.
- Oklahoma: The Oklahoma Senate has passed two bills by Senate President Pro Tempore Glenn Coffee expressing opposition to the healthcare legislation currently before the national legislature. "Washington has turned a deaf ear to the people this monstrosity would most directly effect. Our purpose is to make our voices heard from the Heartland to the Washington Beltway," Coffee said. "Turning our health care over to the federal government is a serious problem that deserves serious discussion, even at the state level," Coffee continued.
- Pennsylvania: HB 2053 would enact a statute prohibiting government action in the healthcare arena.
- South Carolina: Several bills have been sponsored that would "preempt any federal law or rule that restricts a person's choice of private health care providers or the right to pay for medical services."
- South Dakota: HJR 1001 offers a constitutional amendment forbidding the legislature from enacting any law restricting the freedom of choice with regard to private health care coverage.



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- Tennessee: The State Senate passed the Tennessee Health Freedom Act by a vote of 26-1. The bill mandates that the state attorney general file a legal challenge if the federal government were to penalize any Tennessean resident for failing to buy health insurance. The bill's chief sponsor, Senator Mae Beavers, told reporters that, "I think we've seen the president is determined to get something done, and we don't want the citizens of Tennessee to be penalized in case they do." The bill must be approved by the House and signed by the governor before it would become law.
- Utah: H67 is a weaker version of similar measures in other states. The resolution in the Beehive State would require any state agency affected by federal health care mandates to report any changes to state policy to the state legislature before implementation.
- Virginia: Bills have passed both the State Senate and the House of Delegates protecting the state from the imposition of federal health care dictates. Virginia legislators on both sides of the aisle joined together in the defense of their state's right to govern itself in all but the very specific areas set out by the Constitution.
- Washington: HB 2669 forbids the state from compelling a person from participating in a health care plan.
- West Virginia: The proposed "Health Care Freedom Act" asserts the right of West Virginians to enter into contracts according to their own desire. Also, the bill prohibits the state legislature from requiring any participation in a healthcare program.
- Wyoming: SJR 3 proposes a constitutional amendment similar to that passed in Arizona.

As the above brief summary illustrates, the protection of state borders against federal encroachment is sweeping the country from sea to shining sea. There is a parturient state sovereignty movement animating the people and their elected representatives, and laws are being written that will thwart Congress and the White House in their never-ending quest to subjugate the states to their erroneous notion of supremacy.

*Photo: Tennessee Statehouse*



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