



Written by [Joe Wolverton, II, J.D.](#) on February 8, 2013

GOP Governors Flip-flop and Embrace ObamaCare Exchanges

The 2014 deadline is approaching for states to establish healthcare exchanges as mandated by ObamaCare.

Last year, [The New American chronicled](#) not only the crescendo of popular opposition to the president's healthcare act, but also the statements of several Republican governors refusing to implement the government-run medical care plan in their states.

State government action to stop ObamaCare at the border is a sound application of the constitutional principle of nullification.

Simply put, nullification is the recognition of the right of states to consider null, void, and of no legal effect any act of the federal government that exceeds the "few and defined" powers granted to it by the states in the Constitution.

Despite the recent opinion of the Supreme Court upholding the constitutionality of ObamaCare, there is little debate as to whether the Constitution provides power to the federal government to require individuals to purchase qualifying healthcare plans or to force states to establish healthcare exchanges.

While many constitutionalists and Republicans took heart at the courage in the defiance of the various state executives, a few of those same governors are now embracing ObamaCare and abandoning their former firm resolve to stand up for the rights of their citizens and the sovereignty of their states.

Governor John Kasich of Ohio is Patient 0 when it comes to the fever of capitulation that is spreading through many Republican-held state houses.

A report [published earlier this week in Politico](#) recounts Kasich's contraction of the disease:

[John Kasich](#), the fiercely conservative governor of Ohio, announced Monday that he's going to expand Medicaid dramatically using federal money — a 180-degree turn from what conservative groups swore their allies in governors' mansions would do when the Supreme Court gave them an out last year.

Kasich's decision to "cave" on the ObamaCare exchange issue and heed the mandate, despite having previously promised to protect Ohio from its economic ravages, is angering some conservatives in the Buckeye State.

Politico quotes a conservative grassroots leader who feels dismayed and betrayed by Governor Kasich:

"I think it's definitely going to weaken him with the conservative base," said Chris Littleton, the Ohio director for American Majority Action. "It's not a good idea to expand your No. 1 budget item in the middle of this kind of instability. The conservative grass roots and average voters are not going to support this in any way, shape or form."

Littleton's not alone.





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As of the time of writing this article, four other Republican governors have “flipped” and decided to play ball with the president and ObamaCare’s mandates on state governments.

Take Governor Gary Herbert of Utah, a Republican and a former foe of ObamaCare and other federal trespasses on state prerogatives.

Herbert’s change of heart seems to have happened after a meeting in Washington, D.C. For about an hour, Herbert met with Health and Human Services Secretary Kathleen Sebelius. According to a report by the [Deseret News of the confab](#), Sebelius laid out chapter and verse of what Utah needed to do to comply with the federal government’s ObamaCare orders.

In announcing his decision to follow the federal command, Herbert told reporters, “We’re united on this effort. We believe this is the way the state of Utah should go forward.”

Forward, closer to the edge of the ObamaCare abyss.

Joining Kasich and Herbert in their reversal is the Republican governor of Arizona, Jan Brewer.

Brewer was once one of the frontline soldiers in the fight against ObamaCare. Arizona was one of the states that sued Sebelius and the Obama administration last year, challenging the constitutionality of ObamaCare.

Brewer’s not complaining anymore. [MSNBC reported](#): “On Monday [January 14] Arizona’s Republican governor announced she would stop fighting Obamacare and actively embrace one of its key provisions: an expansion of Medicaid to cover citizens earning up to 133% of the federal poverty level (\$26,344 for family of three last year).”

“Trust me,” Brewer added.

Thomas Jefferson (the father of nullification) had [something to say about trusting politicians](#):

Free government is founded in jealousy, not confidence. It is jealousy and not confidence which prescribes limited constitutions, to bind those we are obliged to trust with power.... In questions of power, then, let no more be heard of confidence in men, but bind him down from mischief by the chains of the Constitution.

Not only are these governors losing the confidence of conservatives, but they are simultaneously loosening the chains of the Constitution that once bound the federal government.

For the remaining 10 or so governors who still have a backbone, the Supreme Court’s decision placed a powerful weapon against ObamaCare in the states’ arsenal. In the majority opinion, Chief Justice Roberts held that the federal government could not withhold Medicaid funds from states that reject the expansion of the healthcare program as required by the Affordable Care Act.

In fact, states that refuse the expansion may shift the financial burden of funding Medicaid completely back onto the federal government, an act that some estimate could cost the federal government an additional \$230 billion in new exchange-based subsidies for a net added cost of \$100 billion in just the first year under the ObamaCare scheme.

As Americans know all too well, ObamaCare already comes with a price tag of over \$2.5 trillion from 2014 to 2024, a behemoth boondoggle that will add more than \$823 billion to the federal deficit.

Never fear: It’s ObamaCare to the rescue. Relevant provisions in the act authorize the federal government to pinch hit for the recalcitrant states and set up qualifying health insurance exchanges.



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That may sound like a pretty effective squeeze play, but there is no way that Congress can find funds to set up 35 (or more) exchanges in those states where the governors or legislatures assert their sovereignty and refuse to accede to the unconstitutional demands of ObamaCare.

Besides, only those exchanges that are established by the states are eligible for federal subsidies. ObamaCare doesn't provide for subsidies to be paid through an exchange that was set up and managed by the federal government.

If enough state legislators and governors can be convinced by their constituents to fend off the flip-flop flu and refuse to accept either the offer of Medicaid funds or the establishment of qualifying healthcare exchanges, it will be impossible for ObamaCare to accomplish a hefty portion of its new entitlement spending provisions.

States may yet play another important role in gutting ObamaCare. Those federal subsidies that states can essentially nullify by their refusal to set up exchanges are the triggers that impose penalties on employers who don't provide their workers with healthcare benefits. So, by deactivating the triggers, states can simultaneously defuse the "employer mandate" provision of ObamaCare as well.

The employer mandate states that businesses with 50 or more workers have to provide health insurance to their employees or pay a penalty or — as Chief Justice Roberts now calls it, a tax.

Under ObamaCare (as passed by Congress, but not as rewritten by the Supreme Court), that penalty is assessed if at least one of the company's employees qualifies for subsidies under the exchange. However, since those subsidies are made available only through a state-managed exchange, any state that refuses to set one up could effectively nullify the employer mandate completely.

Despite the spread of the capitulation fever, the battle against federal government's mandates is not over. Citizens must keep tabs on their governors and watch for the first tell-tale signs of the spread of the surrender sickness spreading through the state houses.

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