

State Legislation and Actions Opting-out or Opposing Certain Health Reforms

Updated: July 2013

In response to the federal health reform law, the Patient Protection and Affordable Care Act (PPACA or just ACA)*, and separate state reform initiatives, some members of at least 47 state legislatures proposed legislation to limit, alter or oppose selected state or federal actions.

ENACTED AND PASSED: Between 2010 and July of 2013, **21 state legislatures** had enacted laws and measures related to opting out, opposing or seeking to challenge broad provisions of health reform, especially related to mandatory provisions of the Patient Protection and Affordable Care Act (ACA).

2013 SESSIONS - FILED AND PENDING: As of August 1, 2013, there were 81 bills in 32 different states, territories or DC that relate to challenges, opposition or alternatives to health reform. Of these filed measures, only two binding statutes have been enacted, in North Carolina and Utah; both have a specific focus on decision-making by the legislature. Four others were advisory or non-binding – see the list on pp. 3-4. Summaries by state are contained in the [NCSL Health Reform Legislation Database](#) online. These online-listed measures may include formal rejections of Medicaid expansion and prohibitions on running a state-based exchange. This number does not include all measures that may oppose HHS regulations or interpretations of implementation of the PPACA, such as mandated coverage of contraception, or optional steps such as administration and enforcement of insurance regulations. For more complete **Exchange** and **Medicaid** legislation, select those keywords in the database, at www.ncsl.org/?TabId=22123

Table 1: State Legislative Enactments and Ballot Results:

A Post-Supreme Court Ruling Analysis, as of August 1, 2013

State Laws and Constitutional Language Opposing and Opting-out of Insurance Reforms (including any individual or employer health coverage mandate).

These enacted measures generally do not affect federal implementation of required ACA provisions.

STATE Key: ■ = constitutional amendment ■ = state law	No individual mandate; No employer mandate; No fines/penalties (18)	Bar on implementing ACA or exchanges without legislature. (8)	Interstate Health Compact Law (7)	2012 Ballot question adopted by Legislature; required Yes/No by voters
Alabama	■ Constitutional			■ Constitutional
Arizona	■ law ■ Constitutional			
Florida	■			(did not pass)
Georgia	■		■	
Idaho	■			
Indiana	■		■	
Kansas	■			
Louisiana	■			
Missouri	■	■	■	■
Montana	■	■		■
New Hampshire	■	■		
North Carolina		■ (2013)		
North Dakota	■			
Ohio	■ Constitutional			
Oklahoma	■ Constitutional		■	
South Carolina	■		■	
Tennessee	■			
Texas			■	
Utah		■	■	
Virginia	■			
Wyoming	■ Constitutional	■		■ Constitutional

This table does not include federally-authorized state options for or against exchanges and Medicaid expansion, non-binding resolutions or memorials urging actions by federal or state government, nor measures still pending at the state level.

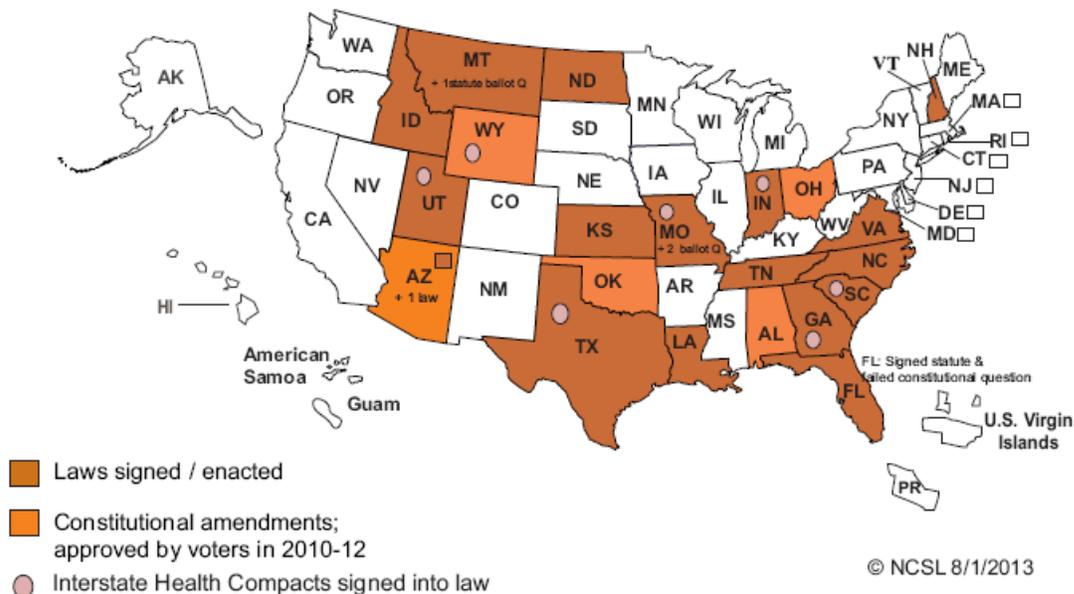
Summary of Enacted Provisions: The **21 state** laws and measures related to challenging or opting out of broad health reform including the Patient Protection and Affordable Care Act (PPACA) vary, using three general approaches:

- **Legislative approval required.** Six states, Missouri, Montana, New Hampshire, North Carolina, Utah and Wyoming, have passed restrictions on further compliance with PPACA unless approved by the legislature.
- **The individual and employer coverage mandate** has been a primary focal point for state opposition. 18 states currently have statutory or state constitutional language providing that state government will not implement or enforce mandates requiring the purchase of insurance by individuals or payments by employers. Because the U.S. Supreme Court upheld the individual coverage mandate, which does not require a state role, the federal law fully applies and any contradictory state laws will have no current effect on PPACA provisions, other than barring state agencies and employees from enforcing it as of 2014. Voters in three other states were asked to say yes or no to this question in November in Alabama, Florida and Wyoming. These actions are distinct from the 26 states that were parties to the federal court challenge ruled on by the Supreme Court on June 28, 2012.
- **“Interstate Health Compacts”**-- Separately, seven states have recently enacted laws intended to create Interstate Health Compacts-- these take a first step toward allowing a group of states to join together to establish broad health care programs that operate outside of the PPACA or other federal law. However, these compacts do not block PPACA implementation, and are not yet binding; they will require congressional approval because they seek to substitute state control where federal law and regulations exist. These states (including Georgia, Indiana, Missouri, Oklahoma, South Carolina, Utah and Texas) aim to obtain “primary responsibility for regulating health care goods and services” within their boundaries.
- The legal language opposing reforms varies from state to state and includes statutes and constitutional amendments, as well as binding and non-binding state resolutions.

At least nine state legislatures adopted some type of non-binding resolution or memorial to the federal government. These are not repeated in these listings.

**2009-2013 State Laws Opposing Insurance Mandates and Implementation of Federal Health Reform
The Post-Supreme Court Decision, Post Election Landscape**

Binding enacted laws & constitutional provisions



Does not include optional state actions on Exchanges or Medicaid. See NCSL report for states with multiple filed legislation.

For full report, see <http://www.ncsl.org/issues-research/health/state-laws-and-actions-challenging-ppaca.aspx>

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2013 Enacted State Legislation Opting-out or Opposing Specific Provisions of the ACA. NEW

For 2013 there were 81 bills and resolutions filed in 32 states. Of those, as of late July, 2013, enacted or adopted measures include 7 bills in 5 different states, territories or DC

Georgia

GA SR 228 **Affordable Care Acts Federal Sales Tax**
2013 **Status:** Adopted - Adopted
Date of Last Action: 03/28/2013 - Enacted*
Author: Shafer (R) **Additional Authors:** Hill Ju (R);McKoon (R)
Topics: Challenging and Alternatives
Summary: Non-binding, Senate-only resolution, urges the repeal of the annual fee on health insurance companies and providers (set at 0-2% for 2014, described in SR 228 as a "\$100 billion federal sales tax") imposed by the Affordable Care Act and contained in sec. 9010. Also see HR 389.

Louisiana

LA HCR 53 **Insurance and Health**
2013 **Status:** Adopted - Adopted
Date of Last Action: 05/27/2013 - Enacted*
Author: Cromer (R)
Topics: Challenging and Alternatives
Summary: Non-binding resolution, urges and memorializes the U.S. Congress to repeal that portion of the federal health care reform legislation which imposes a tax on health insurance issuers.

North Carolina

NC S 4 **Partnership Health Benefit Exchange**
2013 **Status:** Enacted - Session Law Number 2013-5
Date of Last Action: 03/06/2013 - Enacted*
Author: Apodaca (R) **Additional Authors:** Rucho (R);Brown H (R);Allran (R);Hise (R), et al.
Topics: Challenging and Alternatives | Health Insurance Exchanges | Medicaid and CHIP
Associated Bills: NC H 16 - Same as
Summary: By state law, specifies the state's intent not to operate a state-run or "partnership" health benefit exchange, providing that future Medicaid eligibility determinations would be made by the state rather than the federally facilitated exchange, also rejects the Affordable Care Act's optional Medicaid expansion. It does permit use of federal grants for premium rate review.

Oklahoma

OK SJR 8 **President Vice President and Congress To Eliminate or R**
2013 **Status:** Enacted - Signed by Governor
Date of Last Action: 04/16/2013 - Enacted*
Author: Bingman (R)
Topics: Challenging and Alternatives | Health Insurance Reform
Summary: Non-binding resolution memorializes the President, vice-president and Congress to "work to eliminate or reform the Affordable Care Act's health insurance tax (2% tax on insurers) and other

Utah

UT H 131

Constitutional Defense

2013 **Status:** Enacted - Chaptered. Chapter No. 101
Date of Last Action: 03/26/2013 - Enacted*
Author: Ivory (R)
Topics: Challenging and Alternatives
Summary: Renames the Constitutional Defense Council and creates the Commission on Federalism, provides for the repeal of the State Health Compact by July 1, 2014, and subjects these provisions to a 10-point sunset review prior to repeal.

UT H 391

Governor Programs Related to Health System Reform

2013 **Status:** Enacted - Chaptered. Chapter No. 477
Date of Last Action: 04/03/2013 - Enacted*
Author: Perry (R)
Topics: Challenging and Alternatives | Medicaid and CHIP
Summary: Amends the Health Code related to the state Medicaid program by prohibiting the expansion of the Medicaid program under certain circumstances, prohibits the Department of Health or the Governor from expanding the program to optional expansion populations unless the Health Reform Task Force completes a review of a statewide charity care system, the department completes a thorough analysis of the impact of Medicaid expansion in the state and makes the analysis available to the public.

UT HR 3

Legislative Resolution

2013 **Status:** Adopted - Adopted
Date of Last Action: 03/01/2013 - Enacted*
Author: Anderegg (R)
Topics: Challenging and Alternatives | Health Insurance Reform
Summary: Non-binding House resolution, urges the United States Congress to repeal portions of the PPACA, strongly urges the United States Congress to enact legislation to repeal the health insurance tax, sections 9010 and 10905 of the Patient Protection and Affordable Care Act, and section 1406 of the Health Care and Education Reconciliation Act, to make health care more affordable.