

TENTH

Amendment Center



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ACA NULLIFICATION TOOLKIT

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1. MODEL LEGISLATION RESOURCES

Tenth Amendment Center's Model Legislation, Federal Health Care Nullification Act, available here:

<http://tenthamendmentcenter.com/legislation/federal-health-care-nullification-act/>

Downloadable, Printable Brochure on nullification, available here:

<http://tenthamendment.wpengine.com/wp-content/uploads/documents/talkingpoints/Nullification-Brochure.pdf>

Documentary Film, Nullification: The Rightful Remedy, available:

<http://www.tenthamendmentcenter.com/movie/>

Health Care Freedom Act (as introduced, passed in Arizona)

<http://www.azsos.gov/election/2010/Info/PubPamphlet/english/Prop106.htm>

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2. INTRODUCTION

On June 28, 2012, the Supreme Court ruled that an unconstitutional expansion of federal power was “constitutional.” States around the country immediately began taking action to reject the ruling.

The TAC goal is to leverage such actions, build upon them, and grow a movement to fully nullify the act – no matter what the Federal Government does or decides.

There is no one formula or model that will yield a successful state nullification effort. Many of the organizing ideas and solutions contained here may be practiced by any campaign anywhere anytime.

And many of them will fit best only under particular circumstances. Your campaign will not necessarily look like anyone else’s campaign. Your group may have difficulty building a state coalition, while grassroots organizers in another state easily form alliances.

We’ve developed this toolkit to help you with your state nullification campaign. Not all tools or recommendations here will work for every state, so study your state’s political climate and plan accordingly.

Our message is straightforward – when enough people say NO to the federal government, and enough states pass laws backing those people up, it’s nearly impossible for the federal government to force their unconstitutional laws, regulations...and mandates down our throats.

The road may be difficult, but our cause is just!

Concordia res parvae crescent,
(small things grow great by concord)

Michael Boldin
Founder, Executive Director
Tenth Amendment Center

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3. NULLIFICATION: STEPS

Here at the Tenth Amendment Center, we define nullification as “any act or set of actions which has as its end result a law being rendered null, void, or unenforceable.”

With that definition in mind, we see nullification of Obamacare as a multi-step puzzle across the country. Each state and each area will take a step that works best for them, but each action is a piece of that puzzle.

1. **Education - awareness.** This is where you come into play, heavily. Teaching people that they do not need to rely on the federal government to fix problems created by the federal government is the most important hurdle. Once people accept that the states have a role – and a duty – in this effort, then action items can come to larger prominence and effect
2. **Non-compliance: Exchanges.** States can take various steps to refuse compliance with the federal act. They can pass a law refusing to set up an exchange. In some states, the executive can take this action on its own.

In June of 2012, New Hampshire became the first state in the country to have a law with this level of non-compliance. Democratic Governor John Lynch signed HB1297. It declares, “No New Hampshire state agency, department, or political subdivision shall plan, create, participate in or enable a state-based exchange for health insurance under the Act, or contract with any private entity to do so.”

While the ACA includes provisions for the federal government to implement exchanges if the states do not, we acknowledge that it becomes far more difficult to implement without cooperation and resources from the states. In fact, our research indicates that the federal government likely does not have the

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resources or the manpower to fully implement without widespread cooperation from the states.

3. **Health Care Freedom Act.** Passed in 10 states as of June, 2012, the act or state constitutional amendment bans health insurance mandates on a state level.

In November of 2011, Ohio voters passed Issue 3 by a wide margin. It states, in part, that "In Ohio, no law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in a health care system."

4. **Nullification Legislation.** The Tenth Amendment Center's Federal Health Care Nullification Act is written to first make state law that the ACA is unconstitutional, and therefore illegal. And second, to establish that federal violations of the new state law will carry criminal sanctions.

Since 2010, a number of legislators around the country have already introduced the nullification act. This indicates that even before the Court ruled against the Constitution in June 2012, there was state legislative support to see such actions considered. Now that the federal options – voting in 2010, and the court in 2012 – have failed, openness to a nullification of the ACA should be much greater.

The key sections of the Act:

A. The Legislature of the State of _____ declares that the federal law known as the "Patient Protection and Affordable Care Act," ...is not authorized by the Constitution of the United States and violates its true meaning and intent... and is hereby declared to be invalid in this state, shall not be recognized by this state, is specifically rejected by this state, and shall be considered null and void and of no effect in this state.

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B. It shall be the duty of the legislature of this State to adopt and enact any and all measures as may be necessary to prevent the enforcement of the "Patient Protection and Affordable Care Act" within the limits of this State.

4. RESEARCH AND PLANNING

Find out when your legislature is in session

[View the calendar of your state legislature.](#) Plan your campaign timeline accord to the legislative session.

Most state legislatures operate from January to Spring. Some states are year round. Others have very short sessions that last 60 days or less. And, some states have most of their bills pre-filed in the fall before the legislative session. These facts make it extremely important for you to be aware of what the process is in your state.

When to Act

The time to contact your state legislators is right now. Not when the next legislative session starts, and not after the next election. Not next month or next week. Today, not tomorrow. Right now. Often times it takes quite a bit of follow up and education to convince, and starting a conversation today is essential to making this effort effective.

Anticipate and plan for obstacles

Moving your legislation through the state legislature may also be subject to a number of other factors that you will need to overcome, or to which you must adapt:

Competing with other important issues

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Your state may have burning issues that grip the public focus so hard that there is little or no room for activists in your state to consider an ACA nullification effort. Things to think about:

- Could legislators be hoping for some breath of fresh air like your resolution to end the constant thud of budget, budget, budget?
- Can your issue dovetail with the burning issue in a way that draws from activists championing both issues?

Available grassroots resources

Assess the current level of grassroots involvement throughout the state. How can it be increased?

Partisanship in the legislature

Determine the amount of bi-partisan support currently in the legislature, and throughout the state.

Can this support be increased? A friendly experienced legislator, seasoned legislative-beat reporter, or sympathetic lobbyist might be able to give you some insights into who are your best potential allies.

Public awareness

Measure the current level of public education and awareness throughout the state about the ACA, and more specifically, about Nullification of the act.

Would a few rousing public rallies or public forums in various communities begin to agitate people to support such steps? Do you have reliable contacts and experienced speakers in those locations?

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Reaching across the whole state

Take the pulse of your coalition's connectedness with the communities in your state. Ask yourself these questions:

- Can you call for a rally and expect hundreds to show up?
- Can you ask for testimony at a legislative hearing and expect hundreds to attend?
- Can you make a call for an immediate rush of letters to the editor throughout the state?
- Can you make a call for an immediate rush of opinion editorials to be published throughout the state?

Become familiar with your state's process for passing legislation.

Each legislature has its own list of possible measures that can be passed. From bills which create law, to resolutions, which are non-binding, to voter referendums, which alter state constitutions, there are many methods to achieve our goals.

In most states, a legislative bill is best suited to Tenth Amendment Center nullification work.

Other Methods for Taking Statewide Action

A. Initiative. Provides a means by which a petition signed by a certain minimum number of registered voters can force a public vote on a proposed statute, constitutional amendment, charter amendment, or ordinance.

How the initiative process works

Eight states (Maine, Massachusetts, Michigan, Mississippi, Nevada, Ohio, Utah, Washington) have what is called the "indirect initiative process," which refers a bill to the legislature after a number of signatures are gathered.

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Different states have different petition circulation periods. Some give you as long as a year to circulate a petition. Florida allows 4 years; Arizona, Illinois, Oregon and Nebraska allow 2 years. Others limit you to a few months.

Grassroots groups can also put initiatives on the ballot in their communities. Ask your City Recorder for more information on how many petition signatures are needed etc.

5. COALITION BUILDING

Find likeminded groups

Constitution-minded groups already exist in your state. The key is to find them, connect with them and work together with them on common cause. Look up their contact information as you'll want to organize a meeting to build a working relationship, either in person or via conference call.

Develop a list of natural allies

The following groups are just some of the likely allies for an Obamacare Nullification Campaign:

Local free market groups

Constitution-education groups

College liberty groups

Veterans groups

Booksellers

Professional associations

Small business owners

Meetup groups

Gun rights groups

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Specific local and state groups that might be a good place to start:

Campaign for Liberty

Young Americans for Liberty

Tea Party Groups

9-12 Groups

Americans for Prosperity

Republican Liberty Caucus

Local political groups or parties - Libertarians, Republicans, Constitution Party, Independents and others are often great allies in a nullification effort. You can often get individual Democrats on board in your effort, but cultivating a good relationship with the institutional party itself is much more difficult.

Determine how administrative tasks will be handled

Decide whether the coalition has the energy to keep up a website, and start a bank account, or whether each local group should continue those activities separately. It's a lot of work to keep a website current. And if you truly don't have someone who's willing to devote the energy, then you're better off with local group websites broadcasting statewide news themselves.

Seek out endorsements

Using email and phone, contact likely supportive groups to begin to get endorsements. A local member of the Campaign for Liberty can learn how to contact the state C4L for an endorsement. The RLC is a good contact for endorsement and support in the legislature.

Develop a core group

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Make sure there is a core group vetting all information from citizen lobbyists who have talked to their legislators, and making modifications in the plan. There may be times when this group needs to make modifications in the resolution or rouse the email and phone lists for calls to the legislature or to a specific legislator

Meet, Regularly

The core group should meet, and meet often. This is most effective by conference call, but if all are local, it could even be better to meet in a local coffee shop. Building personal relationships with others working alongside you builds trust – and far more effective campaigns.

Use a Petition as an Organizing Tool

A petition can be a way of accomplishing many parts of your campaign at once:

1. Outreach into the community to draw people together who have a similar grievance
2. A way for individuals in the core group to learn how to speak about nullifying the ACA with others
3. A measure of your effect on the community – a healthy number of signatures can be impressive to elected officials.

Use petitions collected in various communities or around the state to contact people who will be supportive of your cause. Create a phone tree, and begin to call or email supporters. Create a basic message. You may not have your resolution written yet, but you can ask people to sign a simple petition like this:

We, the undersigned (your state) voters, strongly support the passage of a nullification act in response to the recent Affordable Care Act ruling. We believe in Thomas Jefferson and James Madison's advice - when all three branches of the federal government violate the constitution – it's the DUTY of the state to stand up and say no. We ask our Legislators to quickly pass this legislation, putting our state on record defending our United States

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and our state Constitutions, including our Bill of Rights. We also urge our Governor to sign the bill and enact the Executive Orders necessary to strengthen this statement of our state's commitment to protect its residents from the excess of our federal government.

If your group decides not to do a petition drive, then either each community can be responsible for spreading the word in their own area – or the statewide group can figure out how to cover other areas of the state.

6. Build Support for Passage

Get endorsements

Take a look at the list of allies you previously collected. Now, get busy asking those groups to endorse the work you're doing to pass a resolution.

Call up the local reps of each of these groups, though, and ask if you can make a presentation at their next meeting.

Send them a fact sheet and endorsement form ahead of time.

Ask them if the group will vote that evening to endorse, or if they'll vote at a later meeting.

Take literature with you and buttons. You are formally becoming allies with this group – you want them to begin to identify with your cause. You want people within that group to begin to help with your resolution.

Endorsing groups can help the campaign in various ways:

- They can send out email announcements of your events and educational resources
- They can contribute cash or check to your statewide coalition.
- They can give you the group's endorsement, which you can then use to show the level of community and statewide support your effort has.

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- Impresses legislators when they see not only you standing in front of them, but realize the thousands of people represented by your endorsers who are also standing with you.

Get sponsors in House and Senate

In some cases, you may want to work the house and senate separately. That's a strategy piece that depends on your particular situation, and how many citizen lobbyists you have available to you.

Do research on legislators.

The first part of your work at the legislature might be shopping the legislation around to see if you can find a Democrat co-sponsor. Depending on how much time you have to work with, you might want to start with a strong bill, with the willingness to drop back to a less intimidating one if you don't immediately get some Democratic support. If you can get a strong Democrat supporter (someone with tenure, respect, and standing in the legislature), then you're on your way.

AFP, RLC, C4L and other ally groups who deal with legislation on a regular basis will typically have a lobbyist who is experienced in the ways of the legislature. If an ally group is willing to help by allowing their lobbyist to work with your grassroots, it can be immensely beneficial in many ways. A lobbyist can work with grassroots groups to target more libertarian minded Democrats, to make the effort truly bi-partisan.

Often groups will begin trying to get Democratic support, knowing they can likely get Republican support after winning Democratic allies.

Find out which legislators are on which committees. If your legislation is sent to the Judiciary Committee, you want to know who heads the committee. The head of the committee may make your life easy by holding a hearing, or make your life hell by refusing to bring the bill before the committee for a hearing. It's good to know in advance which committee your memorial is likely to be heard by, and who's the

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chairperson of that committee, so you can begin to convince that chair of the worthiness of your legislation.

Work with sponsors on a bill

When the bill has a hearing before its committee in either the House or Senate, it's a great opportunity for filling the committee room with grassroots supporters from around the state. A GREAT opportunity for a rally ahead of time.

How long to testify – strategies, such as only having 3 people testify to allowing people from around the state to testify.

This is a good time to bring forth the 6" thick pile of petitions you've collected. It makes an impressive stack as you give testimony to show that you have widespread support from throughout the state. And it is a document that will be filed. Though the petitions are unofficial (meaning they aren't subject to any state-sanctioned collection method, which makes them truly impeachable), they will impress legislators.

It's also a good time to bring forth your list of endorsing groups. It's a good idea to let legislators know the memberships of each group. That way you are not actually standing up there alone, giving testimony. You have hundreds or thousands or hundreds of thousands of people behind you, listed on your endorsement sheet.

Citizen lobbyists at the legislature—crucial to building a state nullification campaigns

There is just no substitute for working directly, face to face, with legislators. It is the constant and continual work with those people, day in and day out at the legislature that will win for you. Pages and papers are all fine as subsidiary measures: straight talk and passion for the justice and validity of the cause are the means of victory. We can never let up. Never.

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Take good notes when you talk to your legislator – or at least write up some notes just after the meeting, so you can keep track of legislators' opinions about the ACA and nullifying the act.

District Maps – find out which legislators are from which district, and pair that information with which grassroots supporters can cover those districts. Each state website has district maps available.

Develop materials to present to legislators. Use the Nullifying Mandates brochure above or build additional materials with that as an example.

7. Effective Lobbying Techniques

Here are some things to keep in mind when communicating with legislators – they'll help you be more effective in getting results:

- **Be RESPECTFUL BUT ASSERTIVE** when dealing with legislators and their staff. They are incredibly busy; on average 3000 bills will be introduced in a session, and that's a lot to deal with on top of their other responsibilities
- **PERSEVERANCE FURTHERS.** Nothing earns the respect of legislators like determined, consistent effort. 90% of the battle is to just keep showing up and showing your face, hounding them with emails, phone calls, literature, and the like. Sometimes they give you what you want just to get rid of you.
- **DO YOUR HOMEWORK.** You don't need to know everything about the constitution and nullification to do lobbying, but you should know very well the basics about our bill and the most egregious aspects of the ACA. Use the legislature website to read thru each legislator's background (they're short) and make some flashcards to review just before you go in to see them. This helps a lot in making a personal connection if you can find some piece of legislation they introduced that you liked, or help you avoid talking about a subject that you strongly disagree on
- **COMMUNICATE COMMUNICATE COMMUNICATE.** This a true People's movement, and it takes the involvement of all of us to

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make it work. Misunderstandings happen when assumptions get made, feelings get hurt, inaccurate information gets passed on, rumors fly, and bad decisions can happen if we don't communicate enough. Run up the cell phone bill, send lots of emails and text, whatever it takes, but keep everyone in the loop as much as humanly possible. Besides, this part is half the fun!

- **SIMPLIFY THE MESSAGE.** Take a page from Karl Rove's playbook - keep the message simple, and pound away on it relentlessly. When you go in to talk with a legislator, know 5 hardhitting aspects of the ACA and nullification that you can hit them with, but only use 3 in the initial conversation.

Don't overwhelm them with information, they won't assimilate it and will forget it as soon as you're out the door. Of course, give them a great packet of information that they can read if they are truly interested, and to show that we did our homework, but it's much more important to hit them over the head with 3 things they can remember.

- **COME FROM A PLACE OF STRENGTH.** We have great history and tradition in this movement. Supporting free speech, resisting slavery, and more. As of this writing, ten states have already passed health care freedom acts, and 10 others have considered nullification acts. The issue is deeply implanted in the public mind, and the politicians know it. **GO AT THIS TASK WITH THE ATTITUDE AND THE KNOWLEDGE THAT WE ARE GOING TO WIN**, and if they don't go along they're going to miss the train. We **WILL** win, and they know that. Remember that, when things get to feeling a little tough.

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8. THREE CAMPAIGN TRACKS

Depending on the political conditions in your state, choose one of the following tracks for a state resolution campaign:

Optimum Conditions

- Regular schedule of citizen lobbyists at the legislature with individuals personally meeting legislators, testifying on the floor of the legislature (where authorized), and the like.
- Two to three Lobby Days (days of mass activist lobbying at the same time)
- Major endorsements from labor, religious, library, school, political parties, and other groups.
- Group of grassroots representatives from various parts of the state who can organize day to day
- Endorsing groups let you use their email lists to contact people throughout the state for various events
- Well-organized Phone Tree
- Statewide petition with thousands of signatures
- Statewide coalition made up of representatives from each part of the state, who have met at least once in person to begin to build trust.
- Whenever possible, get video recordings of your face to face efforts. Post to YouTube, Facebook, Blogs
- Write 1-2 blog posts per week. Update people on every step that's taken. And when there are no actions, write blog posts talking about the basic principles in order to educate others about the end result you're working towards. Recruit multiple people to contribute as bloggers and writers.
- Weekly email updates to supporters and subscribers. You can craft specific email messages or use excerpts from your blog posts and link email recipients to those blog posts – asking them to interact, leave comments, make suggestions, and the like.

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Good Conditions

- Modest schedule of citizen lobbyists at the legislature with individuals personally meeting legislators, testifying on the floor of the legislature (where authorized), and the like.
- At least one or two Lobby Days.
- Major endorsements from a handful of civic, religious, and political groups
- A core of grassroots organizers teamed with professional lobbyist allies who can organize day to day
- Endorsing groups will forward your messages to their lists on a regular basis
- Basic Phone Tree
- Statewide petition coupled with local petitions from various communities with hundreds of signatures
- A core of grassroots activists from various parts of the state meeting by conference call
- Whenever possible, get video recordings of your face to face efforts. Post to YouTube, Facebook, Blogs
- Write 1 blog post per week. Update people on every step that's taken. And when there are no actions, write blog posts talking about the basic principles in order to educate others about the end result you're working towards. Recruit multiple people to contribute as bloggers and writers.
- Bi-weekly email updates to supporters and subscribers. You can craft specific email messages or use excerpts from your blog posts and link email recipients to those blog posts – asking them to interact, leave comments, make suggestions, and the like.

Basic Conditions

- Occasional schedule of citizen lobbyists at the legislature with individuals personally meeting legislators, testifying on the floor of the legislature (where authorized), and the like.
- At least one Lobby Day

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- A few endorsements from a few statewide groups
- A few volunteers, with a connection to a lobbyist at the Legislature, with consistent, but not daily organization
- Endorsing groups will occasionally make an announcement for an important event
- A few volunteers willing to make calls when really necessary
- An alternate of showing support from the state's populace – either abundant emails and phone calls and visits from around the state to legislators or good attendance at lobby days and committee hearings.
- A few grassroots activists from one or two major cities, checking in through email and phone calls.
- Whenever possible, get video recordings of your face to face efforts. Post to YouTube, Facebook, Blogs
- Write 2 blog posts per month. Update people on every step that's taken. And when there are no actions, write blog posts talking about the basic principles in order to educate others about the end result you're working towards. Recruit multiple people to contribute as bloggers and writers.
- Monthly email updates to supporters and subscribers. You can craft specific email messages or use excerpts from your blog posts and link email recipients to those blog posts – asking them to interact, leave comments, make suggestions, and the like.