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South Carolina House of Reps Passes ObamaCare Nullification Bill

Just before three o'clock Eastern Daylight Time Wednesday, the South Carolina House of Representatives passed a nullification bill to block enforcement of ObamaCare in the Palmetto State.

By a vote of 65-39, state representatives placed South Carolina on a collision course with the Obama administration with their approval of HB 3101, a bill prohibiting state officers and agents from carrying out the myriad mandates contained in President Obama's medical care morass.

Since the opening of the 120th session of the South Carolina state legislature, a broad coalition of South Carolinians and liberty-minded organizations have urged the state House of Representatives to stand up to the federal healthcare tyranny by passing the South Carolina Freedom of Health Care Protection Act.

In fact, John Birch Society South Carolina Coordinator Jesse Graston attributes the bill's passage by the House to a "groundswell of grassroots activity."

"There was an unprecedented amount of cooperation between all the different groups that most certainly do not agree on every issue, but all decided to row in the same direction with this issue," Graston told *The New American*.

In a comment to the *Greenville (South Carolina) Post,* another key supporter of the bill sponsored by state Representative William Chumley echoed Graston's opinion.

"This kind of victory occurs when the grassroots across the State come together and coalesce. I could not be prouder!" said Chris Lawton of the Greenville Tea Party.

Michael Boldin, executive director of the influential Tenth Amendment Center, provided critical services to the effort to pass the ObamaCare-busting bill, and he likewise praised the courage of the South Carolina House of Representatives.

"The Supreme Court may have an opinion on the Affordable Care Act. But they're going to have a hard time enforcing it if the People of the states feel differently. The congratulation goes out to all the hard working people in South Carolina," said Boldin, as quoted in the *Post* article.

All that hard work was almost for naught, however. Wednesday (May 1) was the final day bills could be transmitted from the state House to the state Senate, and in the House opponents of the bill from both sides of the aisle fought fiercely to prevent the measure from beating the statutory deadline.

"The Democrats were trying to kill this bill, last week, and even to get this third reading before the cross-over deadline … was a fight. The Republican leadership was delaying the reading, and it looked close, but with a tremendous amount of pressure from [members of the John Birch Society], the speaker was forced to give … the bill a third reading at the last minute," reports Graston.

Although passage of the bill by the South Carolina state legislature is laudable and is a positive move toward resisting the tyranny of the federal government, the bill as passed Wednesday is markedly weaker than the bill as originally drafted.

For example, while the original bill was an outright nullification of ObamaCare, imposing criminal penalties on anyone who attempted to enforce its provisions within the sovereign borders of South Carolina, the bill as passed by the House voids only those parts of the ObamaCare act that the state deems "unconstitutional."

Furthermore, rather than allowing state officials to hold anyone — including federal agents — accountable for participating in the application of the ObamaCare mandates to citizens of South Carolina, in its present form, the prohibitions apply only to state employees.

Section 1-7-180 of the bill does empower the state Attorney General to protect the state from any attempt to harm the state by enforcing ObamaCare. The section reads:

> Whenever the Attorney General has reasonable cause to believe that a person or business is being harmed by implementation of the Patient Protection and Affordable Care Act and that proceedings would be in the public interest, the Attorney General may bring an action in the name of the State against such person or entity causing the harm to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such method, act, or practice.

The bill goes further in protecting South Carolinians from the financial impact of ObamaCare by giving a dollar-for-dollar tax deduction to anyone assessed a federal tax penalty for failure to conform to the ObamaCare mandates.

Healthcare exchanges — government run insurance marketplaces — are outlawed in the South Carolina bill, as well. Section 38-71-44 of the bill forbids the state or any political subdivision thereof from established an ObamaCare exchange.

Additionally, state, county, and municipal agencies are prohibited from purchasing insurance from any exchange set up by a nonprofit organization.

Moreover, any health insurance polity purchased in violation of the provisions of the South Carolina bill is declared void and unenforceable in state courts.

Despite attempts to weaken the bill, it remains a forceful and formidable nullification of the federal healthcare act soon to be imposed on states, despite its obvious unconstitutionality.

Opponents of South Carolina's effort to thwart the president's tyrannical carrying out of the mandates of his pet project (and of nullification in general) point to the so-called Supremacy Clause of Article VI of the Constitution to portray the state's tack as an example of illegal aggression toward federal law.

This argument is easily dismissed.

The Supremacy Clause does not declare that all laws passed by the federal government are the supreme law of the land, period. What it says is that the "laws of the United States made in pursuance" of the Constitution are the supreme law of the land.

In PURSUANCE thereof, not in VIOLATION thereof. None of the provisions of ObamaCare are permissible under any enumerated power given to Congress in the Constitution; therefore, they were not made in pursuance of the Constitution, and they are NOT the supreme law of the land.

Alexander Hamilton promoted this interpretation of Article VI when he wrote in *The Federalist*, No. 33:

> If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers intrusted [sic] to it by its constitution, must necessarily be supreme over those societies and the individuals of whom they are composed…. But it will not follow from this doctrine that acts of the larger society which are *not pursuant* to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. [Emphasis in original.]

Supporters of Representative Chumley's Obamacare nullification bill understand that the states retain numerous rights under the Constitution, including the obligation to block unconstitutional federal usurpation of state sovereignty.

Chumley and his colleagues in the South Carolina state legislature and their legion of liberty-minded grassroots activists stand on firm constitutional and legal ground in their opposition to acts of the federal government that exceed its constitutional authority.

All state legislatures have an obligation to liberty and to their citizens to follow the example of South Carolina (and Oklahoma) by exercising their rights protected by the 10th Amendment and their natural right to rule as sovereign entities and stopping ObamaCare at the state borders by enacting state statutes nullifying the healthcare law.

Nullification is a concept of constitutional law that recognizes the right of each state to nullify, or invalidate, any federal measure that exceeds the few and defined powers allowed the federal government as enumerated in the Constitution.

This power is founded on the assertion that the sovereign states formed the union, and as creators of the compact, they hold ultimate authority as to the limits of the power of the central government to enact laws that are applicable to the states and the citizens thereof.

In the wake of the Supreme Court's ObamaCare decision, supporters of American federalism are encouraged to see state legislators boldly asserting their right to restrain the federal government through application of the very powerful and very constitutional principle of nullification.

The John Birch Society's Jesse Graston believes the forces of freedom will continue to successfully resist federal overreaching by focusing on education.

"The good thing is that we have the historical, moral, and constitutional high ground. When the truth was articulated in love, we have been winning the battle of education," Graston said. "We still have a long road to go, but we are much further than any of us thought we would be at this point of time."

Thanks to the tireless efforts of involved and informed citizens like Graston, South Carolina's ObamaCare nullification bill will likely be heard by the state senate later this week.

Photo: South Carolina State House

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