

June 15, 2010

Health Care Nullification Ballot Measures

To: Progressive Partners & Allies
From: BISC

National right wing groups spearheaded by the American Legislative Exchange Council (ALEC), are organizing state legislators to introduce bills intended to nullify certain provisions of proposed health insurance reform. The groups organizing these nullification campaigns are attempting to do so by moving measures through legislative referral to the ballot, or through gathering signatures in a state. Of these efforts, those that are of most immediate concern to Ballot Initiative Strategy Center (BISC) are the referrals and initiatives that are being proposed for the November 2010 ballot.

Motivation

As always, the right wing is using the issue of health reform to galvanize their base in the hopes of defeating Democrats on the November 2010 ballot. At the same time, it comes as no surprise that Blue Cross Blue Shield sits on the Health and Human Services committee of ALEC, no doubt leading the way behind the scenes in a concerted attempt to roll back health reform. They are most certainly invested in changing the dialogue around health reform in its crucial stages of implementation, while they hope that their money will result in more pro-industry candidates being sworn into office later this year.

Landscape

Initiative filings and active 2010 legislative referrals are proposed in eight states. In fifteen states, legislative referrals for 2010 are inactive. ALEC-backed legislators in six additional states have announced plans to push for referrals in either 2010 or 2012. To date four states – Arizona, Florida, Missouri and Oklahoma – have referred a constitutional amendment to the ballot. (See map, below.) The so-called Arizona Health Care Freedom Act is virtually identical to one narrowly rejected by Arizona voters in 2008

Threats

These initiatives and referenda could be used as soft-money vehicles for attacking progressive candidates and elected officials, regardless of the shaky legal or policy merits of the proposals. The recent *Citizens United* decision brings this prospect even farther to the forefront. Of the six states where the threat of a nullification measure is most imminent, four states have both competitive Gubernatorial and U.S. Senate races, with two states facing just one or another. A multi-state coordinated strategy around these measures will affect the messaging environment in the election, and it will provide organizing opportunities for right wing groups and provide a testing ground for elections beyond 2010, as conservatives seek to use the historic passage of health reform as a weapon against Democrats, both in federal races and in state legislatures across the country.

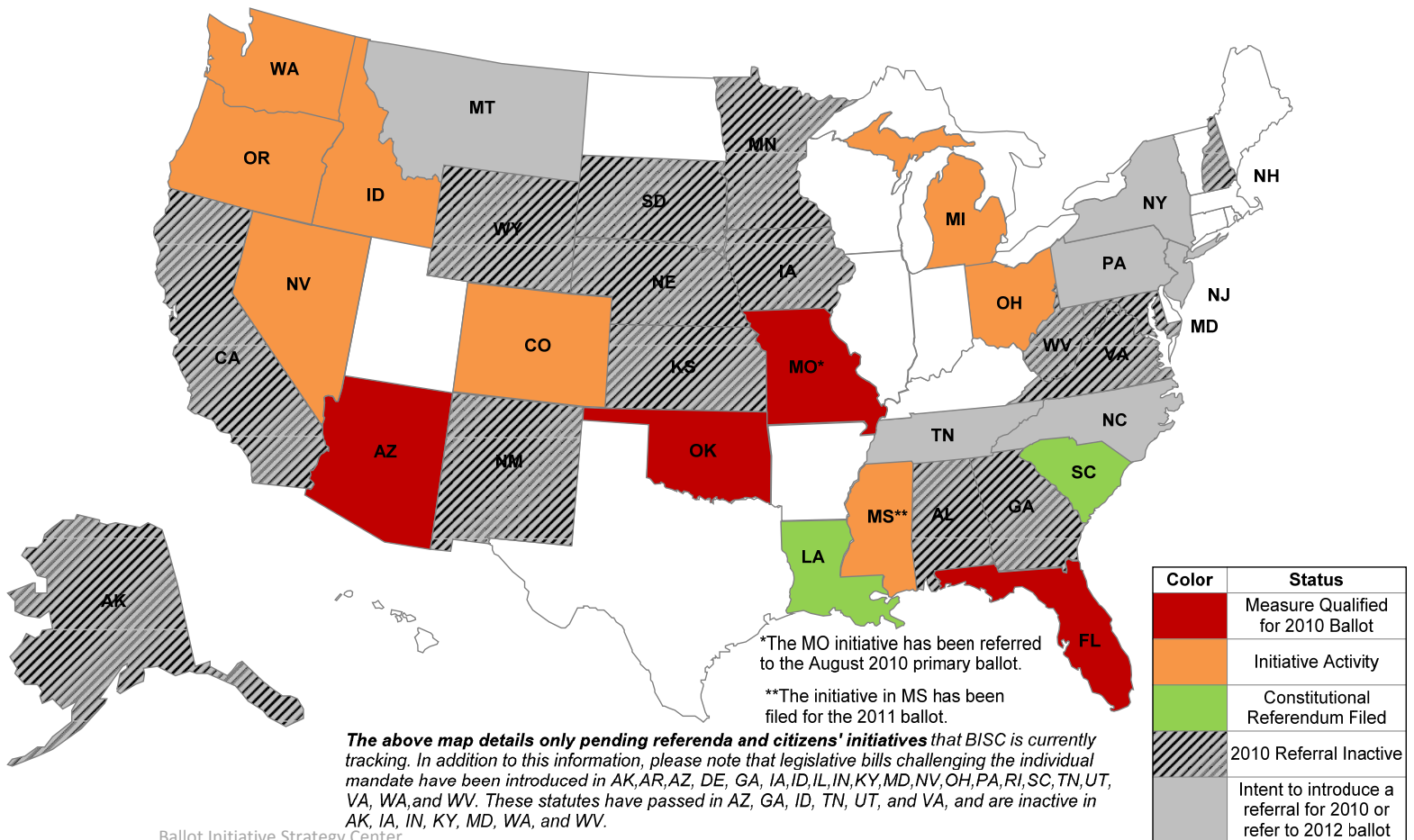
Moving Forward

This landscape is shifting rapidly. BISC is prepared to take the lead, in coordination with partners at state and national levels, in a variety of capacities to set up early work on potential measures:

- (1) Coordinate with stakeholders for information and resource sharing.
- (2) Track ongoing health care referral legislation with partners. Ongoing monitoring and research is needed to assess the actual threat level that our opponents' strategy poses to progressive interests, and whether or not it has the 'legs' to make it to the November ballot in key states.
- (3) Advise on state-specific processes to challenge initiative petition language, assist in prequalification evaluations, advise of challenges to signature submission, and more, though the Ballot Integrity Project. Early reports suggest that perennial bad actors in the petitioning world are beginning to move into key states to coordinate signature gathering efforts.
- (4) Follow campaign finance reporting to draw connections between cross-state actors claiming to be part of 'grassroots movements' while actually raising and spending funneled money from national right wing sources.
- (5) Work with coalition partners to develop state-specific research into health care nullification measures. Quantitative and qualitative research should help interested allies understand the effects these measures would have on voters (motivation, turnout), candidate impact, effective early messaging, and more.
- (6) Coordinate additional efforts if referrals and/or initiatives are placed on November 2010 ballots.

Health Reform Nullification Efforts

Updated June 15, 2010



2010 Threat Assessment: Significant Ballot Measure Threats

Potential to Qualify	State	Electoral Overlap	Notes
Qualified	Arizona	<ul style="list-style-type: none"> Gubernatorial: Brewer (R) Senate: McCain (R) 	N/A
	Florida	<ul style="list-style-type: none"> Gubernatorial: Open Seat Senate: Open Seat 	This referendum must be passed with 60% of the vote to take effect.
	Missouri	<ul style="list-style-type: none"> Senate: Open Seat 	This measure has been referred to the August, 2010 primary ballot.
	Oklahoma	<ul style="list-style-type: none"> Gubernatorial: Open Seat Senate: Coburn (R) 	While Gov. Henry vetoed the legislature's initial statutory nullification bill, the legislature has since reconciled and referred an amendment to the November ballot. As a referred amendment, it cannot be vetoed by the governor.
High	Ohio	<ul style="list-style-type: none"> Gubernatorial: Strickland (D) Senate: Open Seat 	The effort is well funded and capable of hiring significant numbers of paid signature gatherers. Currently circulating. *Signatures due June 30 th
Moderate	Colorado	<ul style="list-style-type: none"> Gubernatorial: Open Seat Senate: M. Bennet (D) 	Volunteer signature gatherers, but enough time to qualify with effort. Currently circulating. *Signatures due August 2 nd
	Michigan	<ul style="list-style-type: none"> Gubernatorial: Open Seat 	Volunteer signature gatherers, but enough time to qualify with effort. Currently circulating. * Signatures due July 5 th
Low	Nevada	<ul style="list-style-type: none"> Gubernatorial: Gibbons (R) Senate: Reid (D) 	The citizens' initiative is stuck in court following a challenge by the Nevada AFL-CIO. With just over one week until signatures are due, qualification seems unlikely. *Signatures are due June 17 th