

State takes a stand against federal government, but will it stand?

Politics » Lawmakers want to assert its independence even if it leads to costly court fights.

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The Salt Lake Tribune

Salt Lake Tribune
Updated:

Fueled by a deep resentment of the federal government and Tea Party fervor, lawmakers advanced a pair of bills Tuesday aimed at enabling Utah to opt out of national health-reform efforts and federal firearms laws.

Sen. Margaret Dayton, R-Orem, would exempt firearms manufactured and sold entirely within Utah from any federal regulations, including criminal background checks and bans on certain types of weapons and ammunition.

Her bill won preliminary approval from the Senate, despite a rare warning from legislative attorneys that it is probably unconstitutional and concerns from Democrats over the wisdom of potentially committing tens of thousands of dollars to a Quixotic court fight.

A House committee, meanwhile, approved Rep. Carl Wimmer's bill that would require the Legislature to approve and enact any changes required under health reform being considered by Congress. It buys the state at least a year, he said, to decide if Utah should amend its Constitution "to protect people and their health care rights."

Opponents warned it could cost the state millions of dollars in lost federal health care funds.

The measures are just two of 13 bills Dayton said have been introduced or are in the works where lawmakers are loudly declaring Utah's independence from the encroachment of federal government. One introduced Tuesday would exempt the state from observing daylight savings time.

Dayton argued her proposal is not a gun bill, but is about states' rights. Montana and Tennessee have enacted nearly identical laws and, she said, 20 other states are considering their own legislation.

"States have a duty to enact legislation that challenges the courts when there has been legislation that infringes or hurts the rights of the citizen," she said.

Two weeks ago, the U.S. Department of Justice sued to invalidate the Montana law, arguing that federal statutes have regulated firearms for 75 years.

"As an attorney with 33 years of practice, to uphold my oath of office to sustain and defend the Constitution, I cannot vote for something that I believe is clearly unconstitutional," said Sen. John Valentine, R-Orem, one of two Republicans to vote against Dayton's bill.

He said if the state wants to push the issue, it could file a brief supporting Montana in its lawsuit.

Senate Minority Leader Pat Jones, D-Holladay, warned of the cost of defending the legislation.

"This year in particular our budget is so very tight we're looking for every single penny we can possibly scrape up to pay for people with disabilities and public education ... I'm concerned about the cost to our state in defending a bill like this," she said.

The Senate gave tentative approval to the measure on a 19-10 vote, with all eight Democrats joining Valentine and Sen. Lyle Hillyard, R-Logan, who is also an attorney, voting against the bill.

If Dayton's bill passes, she conceded Utah doesn't currently have regulations regarding the manufacture and sale of guns or to verify that guns stamped "Made In Utah," really are. Her bill would outlaw automatic weapons, exploding ammunition and weapons that require more than one person to carry.

She said a law could be passed to impose further regulation, but she does not plan to introduce such a measure.

Wimmer, R-Herriman, said his bill is intended to stop Congress from infringing on states' rights and undoing Utah's health care efforts.

Wimmer's bill, which cleared the House Health and Human Services Committee on a 5-1 vote, would require the Legislature to pass a law enacting any piece of health reform adopted by Congress. He said it buys the state at least a year to decide if Utah needs to amend its Constitution "to protect people and their health care rights."

Originally, he only sought a report from state agencies on the enactment of health reform, but called that measure "excruciatingly weak."

He said 30 other states are considering similar legislation, including some trying to amend their state constitutions.

But Judi Hillman, executive director of the Utah Health Policy Project, called it an "irresponsible and very destructive bill" that could cost the state all of the Medicaid money it receives from the federal government.

"When you lose all of your Medicaid dollars, you will see a complete unraveling of our health care safety net," she said. "We're playing with fire here."

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