Why States Should Not Create An Obamacare Exchange

LEGISLATORS' SUMMARY

Obamacare depends on states creating “Health Benefits Exchanges,” which are tightly-controlled bureaucracies the federal government uses to monitor, limit, require, and control the sales and mandatory purchases of Obamacare insurance, report citizens to the IRS, and more.

An Obamacare exchange is an implement of the federal government, penetrating deep into a state's heart.

Cato Institute health-care policy experts explain that Obamacare exchanges are voluntary–states are not required to create them, however, states that voluntarily create these exchanges *have to pay for them*, and thereby *expose their employers to Obamacare penalties*.

Michael Tanner, also from Cato, adds that thanks to the SCOTUS decision, states can also refuse to expand their (very expensive) Medicaid programs. If both measures are taken, Obamacare's most harmful effects are mostly avoided.

ACTION

We ask legislators to ***decline*** to create a state Obamacare exchange. Many states have already done this. Obamacare is complicated but the action is simple: Just say “no.” Voting for a state exchange is *voting for Obamacare*.

We also ask legislators not to expand Medicaid under Obamacare, as this creates a permanently larger, budget-busting program we can't control. Obamacare promises to fund most of the cost, but this promise comes from a federal government that can't pay its bills, and which ultimately gets its money from our pockets anyhow.

States are far better off reforming health care as needed--doing whatever they want to do at home, with their own money--rather than sending that money to Washington, then begging for a portion of it back.

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Frequently Asked Questions

Q: Doesn't making our own exchange give us more control?	**A:** No. Every detail of a state exchange is controlled by the federal government and must be approved by the Secretary of HHS, from design to certification to operation. It's a total federal takeover.[1]
Q: What happens if we do nothing?	**A:** We get to keep what we have. And, we can build on it, and make it better. More people will have insurance, medical care, and jobs.
Q: Won't the federal government create an exchange for us if we don't create our own?	**A:** Possibly, but if so, under conditions that are more favorable to us. For example, TN wouldn't have to pay to create and run such an exchange.
Q: What states have already decided to *not* create an exchange?	**A:** As of 9/29/12, AK, ME, NH, FL, OK, KS, LA, TX, SC, SD, and WI have opted out. Many more states have not yet decided.

ADVANTAGES to DECLINING A STATE EXCHANGE and NOT EXPANDING MEDICAID

- *More Coverage:* employers would be able to continue covering more workers, since employers could still offer traditional, less-expensive policies that are not Obamacare-compliant.
- *More Jobs:* Obamacare raises the cost to employ someone. By not participating, a state avoids the associated loss of jobs. This has a secondary advantage: when more people are employed, fewer people need other programs.
- *Saves Money:* If a state creates an exchange, the state is responsible for the considerable expense of running it. Declining avoids this cost.
- *Removes Obstacles to Growth:* Obamacare creates a strong incentive for companies to remain below 50 employees, or to reduce employees, or re-organize to avoid the 50-employee threshold. This would be avoided.
- *Medicaid:* Avoids a large, federal expansion of Medicaid.
- *Attracts Employers:* Creates a large incentive for employers from Obamacare states to start or relocate in non-Obamacare states.
- *Preserves Rights:* A state's employers will currently have standing to sue in federal court for relief from certain provisions of Obamacare. This right is lost where states implement exchanges voluntarily.
- *Privacy* State exchanges are required to monitor a state's private citizens, and report their health insurance and employment status to the IRS.

1 See the attached copy of §1311 of H.R. 3590–the applicable section of Obamacare. It's commented and highlighted to illustrate the intrusive, absolute ways in which the feds control a state exchange's design, content, and on-going operations. A state exchange is in fact a purpose-built federal bureaucracy, not an independent local operation.

SUPPORTING DETAIL

Articles containing the analysis of Cato Institute health policy experts are attached, as well as a marked-up copy of the Obamacare law governing state-created health benefits exchanges.

Here are some convenient internet sources of the same information:

(article)

http://www.cato.org/publications/commentary/will-christie-volunteer-you-obamacares-tax-hikes

> *"If employers fail to offer a government-defined package of health benefits, Obamacare whacks them with a tax of up to $3,000 per employee. When you tax hiring, you get fewer jobs.*
>
> *Due to an odd quirk in Obamacare, however, that tax is only enforceable if a state creates an exchange itself. It disappears in states that don't create exchanges."*

(3 minute video)

http://www.cato-at-liberty.org/obamacares-unconstitutional-lets-implement-no-wait-were-not-implementing-yes-we-are/

Cato's Michael Tanner, writing on exchanges and the Medicaid expansion:

http://www.cato.org/publications/commentary/states-resist-obamacare

FEDERAL SUPREMACY

There is a myth that creating an Obamacare exchange voluntarily will give a state more control over the result.

> §1311(k) CONFLICT.—An Exchange may not establish rules that conflict with or prevent the application of regulations promulgated by the Secretary under this subtitle.

State exchanges are not independent entities controlled by states. A state exchange answers to the federal Health and Human Services' Secretary, who has virtually absolute control of it, from design, to content, to on-going operations. State exchanges are intrusive —they're required to monitor virtually all of their citizens, and report their health insurance and employment status to the IRS. Please see attachments for details.

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