

# No Obamacare Exchanges



by Michael F. Cannon

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**O**amacare had a bad couple of days before the Supreme Court — so bad that President Obama made some ill-considered comments about the Court from which he still hasn't totally backpedaled. Though the oral arguments over the individual mandate and severability were encouraging, we cannot count on the Supremes to kill Obamacare. Opponents must keep fighting it on all fronts.

The most important front right now is to ensure that states do not create the health-insurance exchanges Obamacare needs in order to operate. Refusing to create exchanges is the most powerful thing states can do to take Obamacare down. Think of it as an insurance policy in case the Supreme Court whiffs.

Exchanges are the new government bureaucracies through which millions of Americans will be compelled to purchase Obamacare's overpriced and overregulated health insurance. Through these bureaucracies, insurance companies will receive hundreds of billions of dollars in taxpayer subsidies. Without these bureaucracies, Obamacare cannot work.

Here are just a few reasons why states should refuse to create them.

**Jobs.** Refusing to create an exchange will block Obamacare from imposing a tax on employers whose health benefits do not meet the federal government's definition of "essential" coverage. That tax can run as high as \$3,000 per employee. A state that refuses to create an exchange will spare its employers from that tax, and will therefore enable them to create more jobs.

**Religious freedom.** In blocking that employer tax, state officials would likewise block Obamacare's effort to force religious employers to provide coverage for services they find immoral — like contraception, pharmaceutical abortions, and sterilization.

**The federal debt.** Refusing to create exchanges would also reduce the federal debt, because it would prevent the Obama administration from doling out billions of dollars in subsidies to private insurance companies.

**The U.S. Constitution.** The Obama administration has indicated that it might try to tax employers and hand out those subsidies anyway — even in states that don't create an exchange, and even though neither Obamacare nor any other federal law gives it the power to do so. If that happens, the fact that a state has refused to create an exchange would give every large employer in the state — including the state government itself — the ability to go to court to block the administration's attempt to usurp Congress's legislative powers.

**A lower state tax burden.** States that opt to create an exchange can expect to pay anywhere from \$10 million to \$100 million per year to run it. But if states refuse, Obamacare says the federal government

must pay to create one. Why should states pay for something that the federal government is giving away?

**Bye-bye, Obamacare.** That is, if the feds can create an exchange at all. The Obama administration has admitted it doesn't have the money — and good luck getting any such funding through the GOP-controlled House. Moreover, without state-run exchanges, the feds can't subsidize private insurance companies. That by itself could cause Obamacare to collapse.

Unfortunately, ever since Obamacare became law, **lobbyists for the insurance companies** and others who would financially benefit from it have been wooing state officials with the **false promise that a state-run exchange would preserve state control over health care**. If the Supreme Court fails to strike down the entire law, they'll say, "Aw, shucks. Now you have to create an exchange."

**Nonsense. Obamacare does not and cannot mandate that states create exchanges. Moreover, state-run exchanges do not preserve local control. They will do Washington's bidding, or else they will be commandeered or swept aside.**

Even if we assume the Obama administration figures out a way to impose a federal exchange on states, are there any atrocities a federal exchange might inflict that federal regulations could not require state-run exchanges to inflict? Of course not.

That's why every conservative and free-market group, including the Heritage Foundation and the American Legislative Exchange Council, has advised states to **refuse to create an exchange** and to send all related grants back to Washington. **Florida, Louisiana, Oklahoma, Kansas, and Wisconsin have already done so.** (9/4/12 also: [Texas, Alaska, New Hampshire, Maine, S. Carolina](#))

If the Court strikes Obamacare down, state officials who refused to create an exchange will look prescient. If not, they will be positioned to drive a stake through its heart.