

LEGISLATIVE BRIEF

## Key Points on Health Insurance Exchanges

**The exchange will be Arizona-funded, not Arizona-run.** The federal government will be in complete control of the exchange—from who can participate to what plans they can offer and prices they can charge. The federal legislation clearly states, “An Exchange may not establish rules that conflict with or prevent the application of regulations promulgated by the Secretary [of Health and Human Services].” The only part Arizona will play is picking up the tab. While we don’t know exactly how much the exchange will cost, estimates show it will likely cost Arizona \$60-70 million a year.

**The exchange will facilitate huge fines on Arizona companies who do not offer insurance to every employee.** There are 500 businesses in Arizona who will be subject to fines of at least \$2,000 per employee per year if they don’t offer health insurance to every employee. Arizona should do nothing to help the federal government make it more costly to do business in this state. If the state declines to set up an exchange, there is no authority in the law for the federal government to assess these fines on businesses.

**The exchange will funnel millions of dollars in taxpayer subsidies to insurance companies.** The state should not facilitate taxpayer subsidies to private companies. As with the fines on businesses, there is no authority in the law for the federal government to offer the subsidies if a state declines to establish an exchange.

**Exchanges violate the Health Care Freedom Act.** The Health Care Freedom Act passed by voters in 2010 prevents the state government from doing anything to coerce participation in any health care system, either directly or indirectly through penalties, fines or taxation. By setting up an exchange, states trigger direct penalties against employers who do not provide government-sanctioned health insurance and indirect penalties against individuals who choose not to purchase government-sanctioned health insurance. Because of these penalties, setting up an exchange will violate the Health Care Freedom Act and the Goldwater Institute has pledged to file a lawsuit.

### QUICK FACTS

Each state government that sets up an insurance exchange will have to use taxpayer dollars to subsidize private health insurance companies.

State insurance exchanges will be required to report to the IRS individuals who do not possess health insurance now required by the federal health care law.

Each business that does not offer health insurance to every one of its employees must pay a fine of at least \$2,000 per employee.

**Exchanges will force taxpayers to share private medical information with the government.** States that create exchanges will report to the IRS sensitive information about citizens' health care choices, including when people seek, change or drop insurance coverage. The government will also have access to medical history information of any person who buys insurance through the exchange.

**There's no rush to create an exchange.** This is one of the few times that Arizona shouldn't be on the vanguard of a new policy. Arizona was the last state to join Medicaid and it worked well for us. We learned from other states' mistakes and were able to create a relatively efficient program. Arizona should follow that same pattern in this case. We have time to let other states experiment with exchanges, make mistakes, and then determine how best to move forward. The December 14, 2012 "deadline" is not a deadline at all—it's simply the date by which states must notify the Obama administration if they want to receive a response by January 1, 2013 regarding whether they'll have permission to run their own exchange. By waiting beyond December 14, Arizona does not give up its right to set up a state insurance exchange in the future, or even give up its ability to receive federal start-up money. The federal health care law makes clear that states may wait and decide to set up state insurance exchanges in future years. Federal start-up funds will be available to states until the end of 2014, no matter when they make a decision about an exchange.

**There is no obligation to create an exchange.** The federal law makes clear that states do not have to establish an exchange. Between the fines on businesses, subsidies to insurance companies, and costs that Arizona will incur, there just isn't any reason to do it. This is a costly federal mandate that Arizona has no obligation to fund. This is a federal law and the federal government should shoulder the cost of implementing it.

## Establishment of Health Insurance Exchanges by State

