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PERSONAL RESPONSIBILITY AND LIMITED GOVERNMENT IN NEBRASKA.

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Yesterday, the Platte Institute, in partnership with the Nebraska chapter of Americans for Prosperity and the Cato Institute sponsored an event with Michael Tanner to discuss the future of health care after the Supreme Court's ruling. Mr. Tanner is a senior fellow with the Cato Institute and an expert on health care, welfare, and Social Security policy and co-author of the book *Healthy Competition: What's Holding Back Health Care and How to Free It*. This article by Mr. Tanner originally appeared in the [National Review](#) and summarizes the presentation he gave.

The States Resist Obamacare by Michael Tanner

One of the few bright spots in the Supreme Court's ruling on Obamacare was its 7-2 decision striking down the Obama administration's attempt to blackmail states into going along with a massive and costly expansion of Medicaid. Barely a day later, Florida governor Rick Scott announced that his state would not expand Medicaid eligibility to 133 percent of the poverty level, which comes out to roughly \$30,000 per year for a family of four, or allow single, childless men to participate in the program. Earlier, Scott had rejected another key component of Obamacare, refusing to establish a state insurance exchange. He had even returned grants and other funding that the previous governor had received to help implement the legislation.

Scott was quickly joined by at least six other [GOP](#) governors in rejecting the Medicaid expansion, including governors Branstad (Iowa), Brownback (Kansas), Haley (South Carolina), Heineman (Nebraska), Jindal (Louisiana), and, not surprisingly, Scott Walker (Wisconsin). At least seven other governors, including Bentley (Alabama), Bryant (Mississippi), Daniels (Indiana), Deal (Georgia), Fallin (Oklahoma), McDonnell (Virginia), Perry (Texas), and Jay Nixon (Missouri), a Democrat, had previously made statements suggesting that they were unlikely to expand their programs. Nevada had earlier passed regulations paving the way to participate in the expansion, but Governor Sandoval has since indicated he may reconsider.

In rejecting Obamacare's Medicaid expansion, these governors will be saving their state taxpayers billions of dollars. Initially, the federal government would have provided additional funding to cover the expansion, but those additional funds would have been phased down, starting in 2017. Eventually state taxpayers would have had to pick up much of the extra cost. For example, over ten years, the Medicaid expansion would have cost taxpayers in states such as Florida, Kansas, and Texas more than \$20 billion each, while in New Jersey, for example, the expansion could cost as much as \$35 billion. (In

fairness, a few states such as California do emerge as net winners under the expansion formula, but they are clearly the exception, and there are plenty of other reasons why they should resist participating.)

On the other hand, if a state does not expand its Medicaid program, most of those who would have been eligible for Medicaid will now become eligible for subsidies through Obamacare's health-insurance exchanges. Those subsidies are paid in full by the federal government. That much should be an easy call for any fiscally responsible governor, although the reasons to forgo the exchanges and the subsidies they entail are strong as well.

Beyond the Medicaid expansion, at least four governors have joined [Governor Scott](#) in explicitly refusing to set up a state-based insurance exchange: Jindal, Perry, and Walker, as well as Democratic New Hampshire governor John Lynch. Perhaps as many as 35 other states have simply not taken the actions necessary to establish exchanges. That may be less explicit a revolt, but it has the same result.

Of course, if states refuse to set up an exchange, Obamacare gives the federal government the authority to step in and operate an exchange itself in those states. But there is reason to doubt that the federal government has either the ability or the money to do so. Congress has not appropriated any funding for this purpose and seems unlikely to do so.

More important, as my colleague Michael Cannon has discovered, a little-discussed provision of Obamacare makes federal subsidies for insurance available *only* through those exchanges that the states set up themselves. So, while the federal government does have the power to create exchanges in states that refuse to do so, it cannot offer subsidies through those federally run exchanges.

Moreover, it is those subsidies that actually trigger the penalty under Obamacare for employers who fail to provide workers with insurance. Obamacare requires employers with 50 or more workers to provide health insurance or pay a tax, but only if at least one employee qualifies for subsidies under the exchange. Therefore, if subsidies can be provided only through a state-authorized exchange, a state could potentially block the employer mandate altogether, simply by refusing to establish an exchange.

The Obama administration and the IRS, unsurprisingly, have claimed that they have the right to unilaterally rewrite the law, yet again, to close this loophole. But, at the very least, this would be open to legal challenge. And perhaps next time the Supreme Court will get it right.

So, by refusing to go along with Obamacare's Medicaid expansion and by blocking state-run exchanges, governors are not just saving state taxpayers money. They are potentially reducing future [federal spending](#) by as much as \$1.5 trillion over the next ten years.

While congressional Republicans have been reduced to taking symbolic repeal votes,

and Mitt [Romney](#) struggles to determine whether or not the individual mandate is a tax, governors - and state legislators - have become the real heroes of the fight against Obamacare.



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