



Minnesota and the Health Insurance Exchange

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The PPACA is Federal Law

Congress passed the Patient Protection and Affordable Care Act in March, 2010. Part 3, Section 1321(c) of the law states with regard to Exchanges:

FAILURE TO ESTABLISH EXCHANGE OR IMPLEMENT REQUIREMENTS" If—
(A) a State is not an electing State under subsection (b); or ... the Secretary shall (directly or through agreement with a notforprofit entity) establish and operate such Exchange within the State and the Secretary shall take such actions as are necessary to implement such other requirements.

Federal Takeover Possible without Action

This section (above) of the bill specifically empowers the Federal Secretary of Health and Human Services to establish a Federal Exchange unless the Secretary has determined "on or before January 1, 2013..." (Sec. 1321(c)(1)(B)) that the state has progressed toward the January 1, 2014

deadline to implement a federally-approved, state-based exchange.

In implementing a federal exchange in Minnesota, the Secretary can:

- Virtually takeover the entire Minnesota insurance market leaving the state with no power to innovate and create new solutions.
- Implement a public option that would be unavailable under an exchange passed by the legislature.
- The above will threaten tens of thousands of jobs in the insurance industry, and replaces them with taxpayer paid bureaucrats.

The United States Supreme Court may overturn the ACA, few legal observers predict they will go much further than overturning the individual mandate. In fact, only one district court decision to date has tossed the Exchange because that lone decision rejected the entire law. Although one appeals court has rejected the individual mandate, it did NOT overturn the Exchange.

The only other source of relief would be the election of a new President and a supermajority in the Senate, assuming control of the House does not change. Most consider this a long-shot.

Conclusion:

Unless either the Supreme Court rules against the law or the election brings a new majority to Washington D.C., the ACA is the law of the land. The choice is not between whether to pass a Minnesota Exchange or not to have any Exchange, but rather whether to pass a Minnesota Exchange to control our own market or to cede control of our entire market to the Federal government.