

# TPPF forum explores Obamacare alternatives

by **William Lutz**

Any doubts that the Tenth Amendment and opposition to ObamaCare would be major conservative themes during the upcoming legislative session tended to flutter away May 21.

At a Texas Public Policy Foundation forum, health care experts picked apart the regulatory approach to providing health insurance, Texas' chief legal officer touted his war against the federal healthcare takeover, and TPPF itself rolled out plans for a new center to affirm local constitutional rights.

## ***Are there alternatives to ObamaCare?***

The venerable Austin think tank brought in Utah House Speaker **David Clark** to discuss his state's approach to health insurance. Clark noted that Utah has a young, healthy population and a much higher proportion of small businesses than other states.

Of the 50 states, only Utah and Massachusetts have set up health insurance exchanges. (ObamaCare will result in all 50 states having such exchanges.) The similarities end there.

Clark noted that whereas the Massachusetts model is full of mandates, Utah's model makes state government the facilitator, not the regulator. He noted one of the goals of the exchange was to move health insurance to a defined contribution market — e.g., a 401(k) — and away from a defined benefit package, such as a pension). He also noted that the main concerns in Utah were firms dropping coverage and consumer dissatisfaction.

Clark noted that the health care exchange had a very small cost to taxpayers. It opened last year and will expand to big businesses later this year.

Fellow panel member **Michael Cannon** of the Washington, D.C.-based Cato Institute argued that government regulation and price controls do more harm than good. His solution to the health care problem: reduce government regulation and address the tax code's affinity for employer-purchased health care. Cannon took a skeptical view of whether state-administered health exchanges do any good.

Heritage Foundation expert **Edward Haislmeier**, a proponent of health insurance exchanges, wrote a paper April 9 praising the Utah reforms. He stressed the importance of moving from a provider-centered health care system, under which the interest of the local health care providers dominates, to a patient-centered system that lets patients make choices best for them.

Haislmeier said it is appropriate for the government to set some basic, consumer-friendly rules and then allow consumers and businesses to make the choices best for them. He noted that policies like those of the Utah Health Exchange show how states can use their traditional insurance regulatory powers to address concerns with availability and affordability of health care.

The Utah system does have some basic rules, and a framework set by government. Insurers must charge the same prices to renewal customers as those who switch from the traditional market to the exchange. The state also has a risk-adjustment mechanism, which functions in part as

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of directors' to have any sort of input into the decision of whether to put major resources in a project like this."

"Behind closed doors," Fraser said.

Dollar also acknowledged that the decision to sue the PUC was made in City Council executive session. Dollar cited attorney-client privilege.

"It was an opportunity to mitigate our costs," Dollar said. "It's extremely important, given our situation."

"I've run my traps among the other members of the [Texas] Public Power Association," Fraser retorted. "I think they not only disagree with what you did, they said, 'We're not going to participate in this, we're not going there.' And they don't think that that was a good use of public funds."

Dollar said they looked on it not as a way to gain an advantage, but rather as an effort to "operate and manage our utility, and keep our rates as low as they could possibly be."

**Fraser's fix**

Fraser said he never intended to allow municipally owned utilities not regulated by the PUC to compete with companies that are — a "loop-hole" he wants now to correct through legislation.

Fraser said he wants to make the decision-making processes of cities more public and more transparent as well as obliging cities and municipalities to forfeit their existing advantages if they want to compete with other utilities.

"If someone wants to compete with the private market, they should have the right to do it, but they have to operate under the same rules," Fraser told LSR while the committee was in recess. "It's that simple." ☐

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a reinsurance pool and is an attempt to address concerns about adverse selection (i.e., only the sickest buy health insurance). It also prevents the price variation due to age from being more than five to one.

Clark emphasized that stakeholder consultation is key to making the health insurance exchange work. The risk adjustment system is largely run by insurers. Cannon, however, described the five to one limit and the reinsurance pool as a form of price controls.

Both Cannon and Haislmeier blasted ObamaCare and called for its repeal.

**TPPF founds 10th Amendment Center**

TPPF President **Brooke Rollins** used the occasion to announce formation of the organization's Center for Tenth Amendment studies. Quoting former President **Ronald Reagan**, Rollins said, "The federal government did not create the states. The states created the federal government." The center will look at the relationship between the state and federal government and what the state can do to preserve freedom and liberty.

Rollins also announced that former Solicitor General of Texas **Ted Cruz** and former Supreme Court Justice **Scott Brister** will join the Foundation as senior fellows.

TPPF executive director **Arlene Wohlgemuth** mentioned ObamaCare, new federal unemployment law, and federal environmental regulations as examples of the current administration's assault on the 10th Amendment. "The people in our state have joined with the rest of the nation in saying, stop the spending," Wohlgemuth said. "Stop this

mad growth in government."

"...TPPF's Center for Tenth Amendment Studies," she explained, "seeks to answer fundamental questions of how we can protect our freedoms and roll back the encroachment of increasingly voracious federal government. Our research will include an examination of the spending and commerce clauses; a look at Texas laws, programs, and spending funded in part by the federal government; and analyze which of those contain options, how we can do without them, and the economic impact of federal spending in Texas."

**Abbott slams ObamaCare, defends lawsuit**

Atty. Gen. **Greg Abbott's** distaste for ObamaCare is common knowledge, but in his keynote address to the TPPF forum he reiterated his concerns and discussed the legal basis for his lawsuit.

Abbott called ObamaCare's individual mandate "unprecedented intrusion into our liberty." He said the lawsuit is well within the legal mainstream, noting that both the Congressional Budget Office and the Congressional Research Service warned of possible legal challenges. He noted that the commerce clause of the U.S. Constitution doesn't allow Congress to force people to buy things they don't want, and noted that auto insurance is an action of the states but also that — unlike Obama's health insurance mandate — driving is optional.

Abbott noted that the U.S. Supreme Court has previously struck down two laws as overstepping Congress's bounds under the commerce clause of the constitution. He estimated the state would pay minimal cost — around \$5,000 plus a few phone calls — for the suit. ☐

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