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Committee still undecided on health care exchange

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OKLAHOMA CITY - Oklahoma needs to build a health insurance exchange - a key element in complying with the federal health care law - a majority of the members of the legislative panel studying the issue say.

The Joint Committee on Federal Health Care Law adjourned its final hearing last week without taking a position on the key issue. Committee leaders said they were going to survey members and come up with recommendations to legislative leaders and the governor by mid-December.

The Tulsa World polled the members by telephone last week and found that at least 10 of the 12 favor a state exchange of some sort.

The majority favor an exchange that will comply with federal requirements.

Two other members said they were undecided on the issue.

"I do know that we're going to do some sort of an exchange," said Sen. Bill Brown, R-Broken Arrow. "We would be irresponsible if we didn't do something."

The Oklahoma Legislature tried three times to pass exchange legislation last year, but internal division within the Republican Party killed the process each time.

Under the federal health care law - currently being challenged before the U.S. Supreme Court - every state has to build an exchange or have one imposed on it by the federal government.

Sen. Gary Stanislawski, R-Tulsa, one of the co-chairmen of the committee, said he is ready for the state to build an exchange for small businesses, but he doesn't want the state to build an exchange to deal with individual health insurance purchasers or Medicaid patients.

Without an individual exchange, there would be no state-operated place for

Oklahomans to take advantage of federal tax credits to underwrite health insurance costs.

Stanislawski said federal officials have said they are willing to be flexible on the issue and he would like to test that position.

His preference is for the state to set up the legal framework for an exchange and wait in hopes that the U.S. Supreme Court or the national elections of 2012 solve the issue by overturning the federal health care law.

If the federal government imposes an exchange on the state, Stanislawski said the state's laws would restrict key issues of how it would operate.

Rep. Glen Mulready, R-Tulsa, the committee's other chairman, said he largely agrees with Stanislawski, especially in hoping that the Supreme Court or the election of 2012 will make the issue moot.

However, he said he is "still wavering" on whether the state can afford not to set up an exchange for individuals and Medicaid patients for fear of a federal takeover of the process.

The Supreme Court case centers around one part of the federal law - the so-called individual mandate, which requires people to have health insurance.

Even if the individual mandate is declared unconstitutional, chances are the rest of the law, including the exchange requirement, will survive, said Rep. Doug Cox, R-Grove, one of two physicians in the Oklahoma Legislature.

"We have to be prepared to move forward," Cox said.

"I'd rather see Oklahoma form an exchange, rather than allowing the federal government to come in and do it," he said.

"At least we'll have some input into it and have some ownership of it."

Cox said it will be difficult to get an exchange passed through the Legislature because many people, especially conservative Republicans, equate building an exchange with agreeing to "Obama-care," the derisive term used by opponents to refer to the health care law.

The state faces a realistic deadline of having legislation in place by April to avoid a federal exchange, meaning that a bill not only would have to pass the Legislature but also do so by a supermajority needed to pass an emergency clause - a daunting challenge for a proposition that divides the majority party.

Cox said his odds are running 10-to-1 against an exchange.

Sen. Brian Crain, R-Tulsa, said a transitional period in legislative leadership will also make passing an exchange bill more difficult this year, but it is still necessary.

"If we do not as Oklahomans put together a policy that fits for Oklahoma then we're going to be left with something that the federal government forces upon us and will make us less competitive than our sister states that try to be proactive about it," Crain said.

Brown, rated as the third-most-conservative member of the Senate by one group, said legislators need to do what is needed, despite opposition from tea party groups.

"You have to do what's right for the people of Oklahoma, and you can't look at a certain group that's fighting you tooth and toenail and saying if you do this we're going to campaign against you, and we're going to put somebody else in your job," he said.

"My response is: I wasn't looking for a job when I found this one."

U.S. Sen. Tom Coburn's apparent support for an Oklahoma exchange will be helpful in the fight, Brown said.

The committee's chairmen, Mulready and Stanislawski, met with Coburn for an hour last week on the issue, and Mulready said Coburn encouraged the state to build a small business exchange.

"Dr. Coburn may be the most conservative senator in the Congress," Brown said. "If he's coming out and saying that, we'll be able to handle any pushback that we get."

Rep. Jeannie McDaniel, D-Tulsa, said members of the committee have been bombarded with emails from business leaders in recent days urging them to build an Oklahoma-style exchange.

McDaniel, who has always favored a state exchange, said the business leaders might give lawmakers enough political cover to get an exchange passed this year.

Rep. Jason Nelson, R-Oklahoma City, also says the Legislature will have to pass some sort of free market-based health insurance exchange.

Nelson said he despises the federal health care law, thinks it is unconstitutional and unworkable and hopes that it is killed by the Supreme Court or Congress; but until it is, Oklahoma must comply, he acknowledged.

"Nullifying it doesn't work. You can ask the Southern states about that. You can't just go your own way," he said.

Sen. Cliff Aldridge, R-Midwest City, sounded a similar note.

"I think we have no choice but to do it," he said. "It's not an option: Either establish (an exchange) or the feds will."

Sen. Sean Burrage, D-Claremore, the incoming Senate minority leader, said the state needs to build its own exchange, but he is frustrated by the time the

Legislature lost last year and that Gov. Mary Fallin rejected a \$54 million federal grant to build an exchange after initially accepting the money.

"I hate the time that was lost," Burrage said. "It is \$54 million that we don't have now. So the way I see it, we are \$54 million in the hole as we start out."

Rep. Danny Morgan, D-Prague, said he favors a state exchange.

"I am very much in favor of developing our own exchange versus allowing the federal government come figure out what's best for Oklahoma," Morgan said.

A staff member for Sen. John Sparks, D-Norman, said he had missed several of the committee's meetings and he would defer comment to Burrage.

Rep. Randy Grau, R-Edmond, said he also is undecided on the issue.

Grau said he can see the logic of the state's wanting to control its own destiny in designing an exchange, if there must be one, but Oklahoma voters have made it clear that they don't want anything to do with "Obamacare."

"My preference at this point is that every single part of the federal health care law go away," Grau said.

"I want to know what all of the options are," he said. "We have by no means identified or explored all of the options."

What is a health insurance exchange?

A health insurance exchange is a computer-based system for consumers to find and purchase health insurance. Under the federal health-care law, only insurance purchased from a state exchange is eligible for the tax credits that are the federal law's means of subsidizing health insurance. The federal law sets up minimum standards for what kinds of insurance are eligible.

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