



Written by [Michael Tennant](#) on March 8, 2017

## House Republicans Release ObamaCare Replacement Bill

Republican leaders in the House of Representatives on Monday unveiled their ObamaCare replacement bill, the American Health Care Act (AHCA). True to form, instead of staking out a bold position in favor of the Constitution and free markets, the GOP has chosen to offer up, in the words of Congressman Justin Amash (R-Mich.), “ObamaCare 2.0.”



The bill does repeal the individual and employer mandates, along with many of the Affordable Care Act’s (ACA) taxes, and it attempts to repeal the ACA’s Medicaid expansion and reform the program. However, it makes repeal effective years from now, retains most of the ACA’s regulations, imposes its own mandates, and is likely to exacerbate the very problems that Republicans have spent seven years rightly blaming on ObamaCare.

“This is not the Obamacare repeal bill we’ve been waiting for. It is a missed opportunity and a step in the wrong direction,” Senator Mike Lee (R-Utah) said in a [statement](#). “We promised the American people we would drain the swamp and end business as usual in Washington. This bill does not do that.”

In a further parallel to ObamaCare, the bill was drawn up in closed-door committee sessions — Senator Rand Paul (R-Ky.) made much [political hay](#) over his exclusion from the process — and House and Senate leaders want to rush it through their respective chambers as quickly as possible without even giving the Congressional Budget Office (CBO) a chance to assess its likely impact on future budgets.

“This is exactly the type of back-room dealing and rushed process that we criticized Democrats for and it is not what we promised the American people,” said Lee.

The AHCA leaves some of ObamaCare’s worst features in place. It retains the regulations requiring insurers to accept all comers and charge them the same rates regardless of pre-existing conditions (known as community rating), although it does allow insurers to charge more actuarially sound premiums to older people. It also prohibits caps on lifetime coverage. It keeps the provision allowing children to remain on their parents’ policies until age 26. It even preserves the “Cadillac tax” on generous employer-sponsored health plans, albeit delayed until 2024.

Community rating is the primary cause of the [death spiral](#) that health insurance is entering under the ACA because it encourages the sick to buy coverage right away and the healthy to forgo it until they need it. ObamaCare tried to prevent this with the individual mandate, but its penalty turned out to be insufficient to induce many people to enroll, in large part because community rating and ACA-mandated benefits drove premiums sky-high.



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Republicans, who decried the individual mandate, are trying to replicate its effects in their bill by imposing a continuous-coverage mandate. If an individual tries to buy insurance after not having coverage the previous year, he will be assessed a one-time penalty equal to 30 percent of his premium; the penalty will be paid to the insurance company, not the government.

As ineffective as the individual mandate was, this is likely to be even more so. Unlike the ACA, which at least had defined (if rather lax) enrollment periods, the AHCA would allow people to remain uninsured until they get sick, at which point that penalty is going to look trivial compared to the benefits they are likely to receive.

“Obamacare is so poorly constructed it is literally an anti-selection machine,” wrote healthcare expert [Robert Laszewski](#). “The Republican proposal is worse.”

The GOP bill also retains the ACA’s refundable tax credits for the purchase of insurance, changing them in 2020 to be age-based rather than income-based, although there is some means testing at higher incomes. “Though they sound like tax cuts, ObamaCare’s tax credits are actually 94 percent government outlays and only 6 percent tax reduction,” penned the Cato Institute’s [Michael Cannon](#). “The House leadership’s tax credits are likely to be similarly lopsided.”

Moreover, he noted:

To the extent the bill’s modified tax credits are tax reduction, however, they are the functional equivalent of ObamaCare’s individual mandate. The flip side of tax credits that are available solely to those who purchase health insurance is that those who do not purchase insurance must pay more to the IRS than those who do. Just like a mandate. And since the effective penalty is just an increase in the taxpayer’s income-tax liability, tax credits for health insurance are actually *more* coercive than ObamaCare’s individual mandate, because the IRS has many more tools it can use to collect the penalty. [Emphasis in original.]

The AHCA provides \$100 billion over nine years in the form of matching grants to states to do things that Republicans have been denouncing and obstructing since 2010, such as subsidizing exchange coverage, bailing out insurers, and maybe even creating a “public option.” The Centers for Medicare and Medicaid Services can spend any unused funds on insurer bailouts.

The bill repeals ObamaCare’s Medicaid expansion, but it only begins to do so in 2020. In the meantime, states will have an incentive to enroll as many people as possible because, under the GOP proposal, the federal government will cover these new enrollees at the ACA’s higher rates in perpetuity.

The bill supposedly reforms Medicaid by paying states a fixed amount of money per enrollee, adjusted for those with more costly conditions. This, too, differs little from ObamaCare’s expansion of the program and, since states are on the hook for costs over and above those paid by Washington, creates the same perverse incentives to enroll the healthy rather than those who need coverage.

One of the bill’s few triumphs is a defunding of Planned Parenthood, but that provision is unlikely to survive the Senate, where Republicans enjoy a slim majority.

Indeed, the entire bill seems headed for an uphill battle, as the [New York Times](#) observed:

In essence, House Republicans may have backed themselves into a political corner. They accomplished too little in shrinking the size of the government’s role in the health sector to pull the most conservative members their way, yet they may not have done enough to allay the concerns of some Republican senators who are skeptical of elements like rolling back the Medicaid expansion



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and defunding Planned Parenthood.

Even if the bill were to pass as is, it would just create further political headaches down the road. ObamaCare's subsidies and Medicaid expansion would continue until 2020, building up an even larger constituency for their retention. Republicans, argued the *Washington Examiner's* [Philip Klein](#), "would be setting themselves up so that the brunt of any disruption would be happening in January of an election year in which they'd be defending the Senate seats they won in ... 2014." President Donald Trump will also be up for reelection that year. "A long-time proponent of single-payer healthcare who has vowed to cover everybody, he may decide he doesn't want to go into his reelection year explaining away cuts to healthcare subsidies and Medicaid spending," noted Klein. More than one observer has warned that the disaster the AHCA is likely to bring about by virtue of its failure to repeal ObamaCare might well set Democrats up for electoral victory followed by passage of a single-payer healthcare plan.

The good news is that the AHCA is far from becoming law. Trump, [tweeting](#) his support for the bill, nevertheless remarked that it is "out for review and negotiation," suggesting that major modifications could lie ahead. The president later [tweeted](#), "I feel sure that my friend @RandPaul will come along with the new and great health care program because he knows Obamacare is a disaster!" But Paul, who called the AHCA "ObamaCare Lite," previously introduced his own [ObamaCare replacement bill](#), which is far superior to the House leadership's proposal. It, not the AHCA, should be the starting point for negotiation.



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