

Capitol Hill Report



A Publication of CNP Action, Inc.

May 3, 2010

Repeal and Replace!

On March 23, 2010, President Obama signed into law the most expansive and intrusive piece of legislation in recent history. The Patient Protection and Affordable Care Act (ObamaCare) requires a massive and determined effort to repeal the law at the national level. A full repeal is the only way to protect American liberties, and high-quality healthcare, from the negative unintended consequences of this law. This *Capitol Hill Report* outlines why the law must die and provides action-items to get you involved in this effort.

WILDLY UNCONSTITUTIONAL

Nineteen states have filed lawsuits against ObamaCare: Alabama, Arizona, Colorado, Florida, Idaho, Indiana, Louisiana, Michigan, Mississippi, Nebraska, Nevada, North Dakota, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, and Washington.¹

These lawsuits provide key opportunities to educate Americans about the law's unconstitutionality: namely the individual mandate and the Federal government's requirement that state governments share Medicaid costs.²

The Supremacy Clause of the Constitution states that Federal law trumps State law. However, when Federal law exceeds the limited scope of authority provided to it by the Constitution, then Federal law cannot trump State law. The Obama Administration asserts that the Commerce Clause gives Congress the power to regulate health insurance. However, many State attorneys general disagree and have filed suit against the law, arguing that the Medicaid mandates place an undue burden upon their governments and also make them a functionary of the Federal government, a clear violation of the Tenth Amendment.

The Commonwealth of Virginia's lawsuit argues that the individual mandate violates a Virginia law protecting its citizens from Federal fines if they choose to remain without insurance. Attorney General Ken Cuccinelli makes the following arguments in his lawsuit:

¹ Patten, David A. "Massive State-Level Revolt Brewing Against ObamaCare". *Newsmax*. 18 March 2010. <http://www.newsmax.com/InsideCover/states-lawsuits-health-care/2010/03/18/id/353220>.

² Fletcher, Pascal. "Florida says challenge to healthcare reform widens". *Reuters*. 7 April 2010. <http://www.reuters.com/article/idUSTRE6363NL201004>.

- The Commerce Clause allows Congress to regulate existing commerce, not force citizens to participate in a specific type of commerce.
- The mandate amounts to income redistribution.
- The bill violates the Tenth Amendment and Virginia’s law protecting its citizens from abiding by the Federal health insurance mandate.³

TAX INCREASES

ObamaCare institutes numerous tax increases, not to balance the budget, but to keep the legislation’s price tag under the mythical \$1 trillion benchmark. Below are three notable taxes:

- Surtax on Investment Income: 3.8% surtax on investment income earned in households making at least \$200,000 (single) or \$250,000 (married).⁴ This tax is not indexed for inflation.
- HSA Tax: 10% tax increase on non-medical, early withdrawals.
- Tax Hike on “Cadillac” Plans: This tax begins in 2018 and levies a 40 percent tax on insurance plans costing \$10,200 per year for singles and \$27,500 per year for families. The tax is not indexed for inflation.⁵

The above list only scratches the surface of all of the tax increases. For more detailed information and a more comprehensive listing of the taxes in ObamaCare, visit the following link:

<http://atr.org/obamacare-taxes-final-tab-a4744>.

DEFICIT EXPANSION

Democrats managed to officially keep the cost of this legislation under \$1 trillion for the first 10 years, assuming their cost estimates remain stable.⁶ However, the second 10 years and beyond literally break the bank. The Congressional Budget Office (CBO), which calculates the cost of every piece of legislation passed by Congress, only reports on the impact of legislation over the first 10 years.

Liberals took the lessons learned during the HillaryCare battles and crafted this legislation to be “affordable” over the first 10 years in order to get the CBO score they desired. They traded our nation’s long-term solvency for presumed political gain. The law collects taxes beginning in 2011 while most of the benefits start in 2014. In fact, before 2014, the cost of ObamaCare is only \$17 billion. If the costs are calculated from 2014-2023, the ten year period when the legislation actually produces substantial costs for the government, the tab rises to \$2 trillion.⁷

³ Cuccinelli, Kenneth T. “Unconstitutional Mandate”. National Review Online. 9 April 2010.

<http://article.nationalreview.com/430829/unconstitutional-mandate/kenneth-t-cuccinelli-ii>.

⁴ “ObamaCare and Taxes: The Final Tab”. Americans for Tax Reform. 5 April 2010.

<http://www.atr.org/obamacare-taxes-final-tab-a4744>.

⁵ Ibid.

⁶ Pipes, Sally C. “Life’s certainties: Death and health reform’s taxes”. Pacific Research Institute. 6 April 2010.

<http://www.pacificresearch.org/press/lifes-certainties-death-and-health-reforms-taxes>.

⁷ Anderson, Jeffrey H. “CBO: Obamacare Would Cost Over \$2 Trillion”. WeeklyStandard.com. 18 March 2010.

<http://www.weeklystandard.com/print/blogs/cbo-obamacare-would-cost-over-2-trillion>.

PREMIUM HIKES

Unlike the 3,000 percent drop in health insurance premiums promised by President Obama, the *Indianapolis Star* reported that health insurers are raising rates by 8 to 21 percent this year, exceeding the 5 percent predicted by the Kaiser Foundation in 2009.⁸

PRO-DEATH

The law funds abortions by appropriating money to community health centers, high-risk health insurance pools, and Office of Personnel Management-administered insurance plans, all of which provide the option of abortion. Furthermore, it creates Federally-subsidized insurance plans that require every enrollee who uses them to pay into an abortion pool. If they refuse to do so, they cannot use the plan. In addition, the law contains provisions that allow Federal officials to mandate private insurers to include abortion as a “preventive service”, fails to prohibit abortion funding within Indian health programs, and lacks conscience protections for medical workers.⁹

In addition to funding abortions, the law gives an Independent Payment Advisory Board the authority to recommend and the Secretary of Health and Human Services the authority to limit the right to use one’s own money to save one’s own life (also known as rationing).¹⁰

HURTS BUSINESS

Due to a previous instance of government expansion, namely the Medicare Prescription Drug Entitlement that was passed in 2003, American businesses used to be able to receive a tax break if they provided prescription drug coverage to their employees. However, ObamaCare has discarded the tax break, costing companies hundreds of millions of dollars per year. Furthermore, it may even entice companies to drop their drug benefits, throwing more Americans into government “care”.¹¹

PUBLIC OPINION

Rasmussen Reports finds that 58% of Americans support repealing ObamaCare.¹² Therefore, conservatives must continue to communicate the need to repeal this law and push those numbers even higher. In place of ObamaCare, we must provide bipartisan and realistic solutions that begin to heal our broken health system without destroying our liberties.

⁸ Nix, Kathryn. “Side Effects: ObamaCare Fueling Higher Insurance Costs”. *The Heritage Foundation*. 5 April 2010. <http://blog.heritage.org/2010/04/05/side-effects-obamacare-fueling-higher-insurance-costs/>.

⁹ National Right to Life Committee. 19 March 2010. <http://www.nrlc.org/AHC/NRLCToHouseOnHealthBill.pdf>.

¹⁰ “How the New Health Care Law Limits Senior Citizens’ Right to Use Their Own Money to Save Their Own Lives”. *The Robert Powell Center for Medical Ethics*. 25 March 2010. <http://powellcenterformedicalethics.blogspot.com/>.

¹¹ York, Byron. “Democrats threaten companies hit hard by health care bill”. *The Washington Examiner*. 28 March 2010. <http://www.washingtonexaminer.com/politics/Democrats-threaten-companies-hit-hard-by-health-care-bill-89347127.html>.

¹² “Health Care Law: Support for Repeal of Health Care Plan Up to 58%”. *Rasmussen Reports*. 12 April 2010. http://www.rasmussenreports.com/public_content/politics/current_events/healthcare/march_2010/health_care_law.

SOLUTIONS TO FIGHT FOR

Instead of a broad law with countless negative consequences, conservatives must push to repeal the law and replace it with smaller-scale solutions that actually improve, not just change, our system. Below are a few proposals worth fighting for:

- Offer tax credits for individuals to buy insurance.¹³
- Increase access to Health Savings Accounts.^{14 15}
- Implement tort reform.¹⁶
- Provide transparency in prices and outcomes.¹⁷
- Mandate conscience protections for medical professionals.¹⁸
- Allow insurance to be sold across state lines.¹⁹

FIRST STEPS

In order to repeal ObamaCare, we must replace members of Congress who voted for it with individuals who care about liberty and the Constitution. Furthermore, we must replace President Obama with a President who believes in limiting the size of government like our Founding Fathers.

The first step is to channel your resources into the upcoming 2010 elections for the United States House of Representatives and the United States Senate. To this end, I encourage you to look into the following Political Action Committees led by organizations that fought ObamaCare, and I urge you to donate your time and money to supporting the candidates they endorse. You may also contact Shaun Waymire at the CNP Action, Inc. office (202-207-0171) for more information on how lawmakers of interest to you voted.

Campaign for Working Families	Concerned Women for America PAC
Eagle Forum PAC	Faith and Freedom PAC
Family Research Council Action PAC	Government Is Not God PAC
National Right to Life PAC	Susan B. Anthony List

¹³ "Issues: Tax Credits for the Uninsured". [Council for Affordable Health Insurance](http://www.cahi.org/cahi_content/issues/article.asp?id=486). http://www.cahi.org/cahi_content/issues/article.asp?id=486.

¹⁴ "Answering Your Questions about Health Savings Accounts". [Council for Affordable Health Insurance](http://www.cahi.org/cahi_content/resources/pdf/n125HSAQuestionsJanuary2010.pdf). http://www.cahi.org/cahi_content/resources/pdf/n125HSAQuestionsJanuary2010.pdf.

¹⁵ Daniels, Mitch. "Hoosiers and Health Savings Accounts". [The Wall Street Journal](http://online.wsj.com/article/SB10001424052748704231304575091600470293066.html). 1 March 2010. <http://online.wsj.com/article/SB10001424052748704231304575091600470293066.html>.

¹⁶ Murphy, Patricia. "Tort Reform Could Save Health Care \$54 Billions, Says CBO". [Politics Daily](http://www.politicsdaily.com/2009/10/12/tort-reform-could-save-health-care-54-billion-says-cbo/). 12 October 2009. <http://www.politicsdaily.com/2009/10/12/tort-reform-could-save-health-care-54-billion-says-cbo/>.

¹⁷ Schatz, Erica. "Texas Legislates Medical Price Transparency". [The Heartland Institute](http://www.heartland.org/policybot/results/22135/Texas_Legislates_Medical_Price_Transparency.html). 1 November 2007. http://www.heartland.org/policybot/results/22135/Texas_Legislates_Medical_Price_Transparency.html.

¹⁸ "Obamacare: Impact on the Family". [FixHealthCarePolicy](http://fixhealthcarepolicy.com/in-the-news/obamacare-impact-on-the-family-2/). 16 April 2010. <http://fixhealthcarepolicy.com/in-the-news/obamacare-impact-on-the-family-2/>.

¹⁹ Cannon, Michael. "Break Local Monopolies by Letting Insurers Compete across State Lines". [Cato Institute](http://www.cato.org/pub_display.php?pub_id=10553). 16 September 2009. http://www.cato.org/pub_display.php?pub_id=10553.

I also encourage you to put your time and resources behind individual candidates in your communities. Knock on doors, write op-eds and editorials, host fundraisers, and make phone calls for candidates who will vote to repeal ObamaCare.

ACTION ITEMS

- 1) Volunteer your time and resources to candidates who pledge to work to repeal ObamaCare and limit the size and scope of government.
- 2) Write opinion pieces in local and national publications to educate Americans on the negative consequences stemming from this legislation.
- 3) Send weekly emails to your networks to highlight a negative component of ObamaCare.
- 4) Participate in media opportunities that highlight this issue.

CNP Action, Inc. is the section 501(c)(4) sister organization of the Council for National Policy, an educational organization founded in 1981. CNP Action, Inc. does not support candidates or political parties, but it may promote issues or specific pieces of legislation.

1411 K STREET, N.W. · SUITE 601 · WASHINGTON, D.C. 20005
TEL 202.207.0171 · FAX 202.207.0173 · EMAIL INFO@CFNPACTION.ORG

Written by Shaun Waymire

A special thanks to Grover Norquist for edits and input.

