

ATR Supports H.R. 3762, the "Restoring Americans' Healthcare Freedom Reconciliation Act of 2015"

This week, the U.S. House of Representatives will consider [H.R. 3762, the "Restoring Americans' Healthcare Freedom Reconciliation Act of 2015."](#) This bill would gut the major provisions of Obamacare and essentially make it unworkable. It's a bill that conservative House Members should support. H.R. 3762 is a net spending cut, a net tax cut, and would reduce the national debt.

What the bill is not. H.R. 3762 is not a full repeal of Obamacare. The House already voted on a full repeal of Obamacare back on February 3rd. It's been languishing ever since. The House has voted to repeal Obamacare in full several times, and no doubt will do so again.

H.R. 3762 is a reconciliation bill. This type of bill is possible because the House and Senate passed a budget resolution earlier this year. The budget resolution allows for a reconciliation bill to proceed under two basic special rules: first, a reconciliation bill only needs 51 votes to pass the Senate—no 60 vote filibuster to worry about. Second, a reconciliation bill can only deal with budgetary matters.

Much of Obamacare is not fiscal in nature—it's regulatory. Under the consensus expert opinion here, that means only the tax and spending provisions of Obamacare are on the table.

What does the bill repeal? H.R. 3762 repeals most of the heart of Obamacare. The individual and employer mandates and their attendant tax penalties are gone. The medical device tax is repealed. The "Cadillac plan" excise tax is prevented from coming into effect (more on that later).

On the spending side, H.R. 3762 repeals some unaccountable Obamacare slush funds, shuts IPAB (the Medicare rationing board that Sarah Palin called a "death panel"), and ends Obamacare auto-enrollment. Importantly, it also defunds Planned Parenthood for the fiscal year.

At a markup for the bill, liberal Congressmen went apoplectic at the effect H.R. 3762 would have on Obamacare. Top House Ways and Means Democrat Sandy Levin (D-Mich.) said that the bill "effectively guts [Obamacare]." Congressman John Lewis (D-Ga.) said, "this bill really is pulling the legs from under [Obamacare]. It is a deliberate, systematic attempt, not just to repeal, but to destroy [Obamacare]."

What the Senate will bear. There are several fiscal provisions of Obamacare not repealed by H.R. 3762.

The first is that only a few of the twenty new or higher taxes in Obamacare are struck down. The reasoning here is that to include these tax increase repeals would deepen the tax cut aspect of H.R. 3762, but would swing the bill's score toward a deficit increase instead of a deficit decrease. That matters for Senate viability of the bill. Without getting 51 votes in the Senate, this bill is meaningless. The whole point is to send the bill to the president's desk so he can own these provisions all over again by vetoing their repeal. The most painful tax hike repeals were chosen especially for this reason.

The second major fiscal omission in H.R. 3762 concerns coverage provisions. It does not repeal the Medicaid expansion under Obamacare, nor does it repeal the refundable tax credit regime for the purchase of private sector Obamacare exchange plans. Again, it's what the Senate can bear. To repeal these provisions without a replacement mechanism would mean essentially kicking 20 million people off their current health insurance. Doing that would create enough pressure on the Senate that odds of getting to 51 votes would be endangered, to say the least.

Don't get BTU'd, or Capandtaxed. Some would argue that this is too hesitant, and that these coverage provisions

should be repealed. There's the good news. When the Senate receives H.R. 3762, senators will have a chance to offer up or down floor amendments. There is little doubt that a senator or senators will offer an amendment to include repeal of the Medicaid expansion and/or the exchange tax credits. If this attracts majority support in the Senate, all the better. The more of Obamacare that can be repealed and gotten through the Senate the merrier.

But there's no reason for the House to include politically difficult provisions only to see them stripped by the Senate later on in the process. That's happened twice in the past two decades, and House Members have paid a price for it each time.

Back in 1993, the House included an energy tax on all sources of energy as measured by British Thermal Units, or BTU. This was stripped out in the Senate, and it absolutely killed energy state Democrats in 1994. The same thing happened in 2009 when Nancy Pelosi forced her caucus to vote on "cap and trade" energy regulations and taxes, only to see it die in the Senate.

Let the Senate show they can handle it first.

Keeping promises. When the Republicans took the Senate in the 2014 elections, there was a lot of talk about moving bills from Capitol Hill to the President's desk to force showdowns with the White House. That hasn't happened, largely because Senator Harry Reid (D-Nev.) has bottled up the Senate in 60 vote purgatory.

The one area he cannot do that is on a privileged budget reconciliation bill like H.R. 3762. For the first time, the President will have to put his money where his mouth is on the individual mandate, the employer mandate, Planned Parenthood, the Medicare rationing panel, the medical device tax, and the Cadillac plan tax. That's huge, as Donald Trump might say.

But we can't send him all of Obamacare to veto. Because Reid will filibuster, we need the reconciliation bill's procedure, with all its advantages and disadvantages. Reconciliation is for fiscal items only, and it can only be a permanent change if it doesn't increase the deficit. We also can only send Obama those parts of Obamacare which can garner 51 votes to repeal.

Why Cadillac plan tax repeal? Some have objected to the inclusion of the Cadillac plan excise tax repeal in H.R. 3762. The reasons vary. Some like the idea of a backdoor cap on employer provided health insurance's tax benefit, even if it's not what they might have themselves designed. Others wonder why we're giving away a provision whose chief opponents are Big Labor.

The answer to the first objection is that conservatives are for repealing Obamacare. That means all of it, including the Cadillac plan tax. Certainly most replace plans have alternative ways to cap the employer exclusion, but that doesn't stop us from repealing this one.

The second objection gets to the heart of the matter—we're forcing the president to veto Cadillac plan excise tax repeal, a top lobbying target of his biggest allies in organized labor. This is what smart majorities do—drive wedges into the heart of the other team's coalition.

The bottom line. H.R. 3762 is a net tax cut. It is a net spending cut. It is a net cut in the deficit and debt. It repeals the most essential parts of Obamacare. It cannot be filibustered by Harry Reid. It causes heartburn in the other team. And it will force President Obama to double down on the most unpopular parts of his healthcare law. It's a bill House conservatives can and should enthusiastically support.