

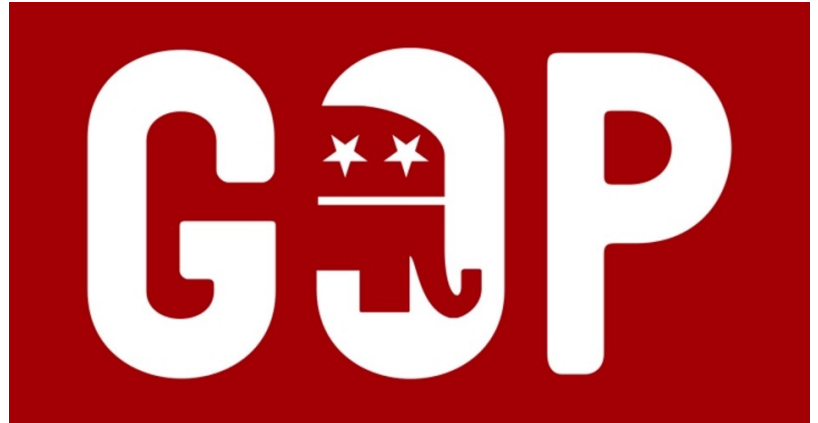


Written by [Joe Wolverton, II, J.D.](#) on June 19, 2015

House GOP Leadership Proposes Alternative to ObamaCare Subsidies

On June 17, Republican leadership in the House of Representatives presented the rank and file party members with a plan that would replace federal subsidies for ObamaCare should those subsidies be deemed unconstitutional in a forthcoming Supreme Court ruling.

A decision is expected to be handed down by the highest court in June in *King v. Burwell* on whether the the IRS broke the law by subsidizing ObamaCare plans for consumers in states with federally-established exchanges.



The House GOP plan would replace the federal healthcare insurance exchange subsidies with so-called block grants to states, as reported by lawmakers who attended the June 17 meeting.

The proposed ObamaCare subsidy substitution would grant state governments the authority to determine how the money from the grants would be spent. The grants would reportedly continue for two years, then it would be up to the new president — whom Republican representatives believe will be a member of their party — to sign some future “alternative to ObamaCare.”

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In the blog *The Hill*, statements from several supporters of the plan were quoted:

The plan, which was presented by Rep. Paul Ryan (R-Wis.) and other leaders, would also repeal ObamaCare’s individual and employer mandates. Ryan declined to comment on the details of the proposal while coming out of the meeting.

“It block grants the money to states that opt-in to our state program, and then they can set up their own exchange, they can give tax credits, they can set up health savings accounts, they can do whatever they want,” said Rep. John Fleming (R-La.).

Rep. Phil Roe (R-Tenn.) said the amount of the block grants to each state would be equal to the amount of money people in the state are currently getting in ObamaCare subsidies.

Rep. Charles Boustany (R-La.) said the plan could include a “safe harbor” to allow people to keep their current ObamaCare subsidies until the end of the year, when the block grants would kick in.

Remarkably, these Republicans seem determined not to “preserve, protect, and defend the Constitution,” as they swore an oath to do, but rather to create their own unconstitutional healthcare program.

The *Hill* article does mention the potential of “conservative” opposition, quoting a statement by Representative John Fleming.

“Some feel we shouldn’t do anything; if the subsidies fail they fail,” he said. He said he did not know



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how many feel that way, and that he himself is keeping “an open mind.”

So should we keep an “open mind” about turning a blind eye to the unconstitutional acts and oath-breaking by congressmen because this time, the congressmen committing the violation are Republicans?

There a couple of very simple facts not addressed by any of the GOP House leadership mentioned in the article.

First, there is no enumeration in the Constitution of power in the federal government to legislate in the arena of healthcare. Therefore, that authority is retained by the states and the people, as explicitly set out in the 10th Amendment.

Second, why should the states be forced to accede to the will of the federal government as if they were the creature rather than the creator?

Understanding that *the states created the federal government* will help state legislators and citizens appreciate the constitutional propriety and potency of the principles of the Virginia and Kentucky Resolutions of 1798.

Because the states created the federal government, they reserve the right to resist the exercise by Congress of any powers not specifically granted to it by the states in the Constitution. For too long, Congresses, presidents, judges, and bureaucrats have “worshipped and served the creature [the government] more than the creator [the states and the people].”

The ratifying conventions called throughout the 13 states understood that the delegates sent to Philadelphia in the summer of 1787 created a general government of limited power, retaining for themselves nearly the full panoply of powers they had exercised successfully for over a century.

If nullification — the holding by a state any unconstitutional act of the federal government as null and void — is to be successfully deployed and defended, state lawmakers must remember that *the Constitution is a creature of the states* and that the federal government was given very few and very limited powers over objects of national importance. Any act of Congress, the courts, or the president that exceeds that small scope is null, void, and of no legal effect. No exceptions.

James Madison said it best in *Federalist 45*: “The powers delegated by the proposed Constitution to the federal government, are few and defined. Those which are to remain in the State governments are numerous and indefinite.”

The states created the federal government, set the boundaries of its power, and reserved to themselves all other rights not specifically delegated to the new national authority. The contract containing the rights and responsibilities of the parties to this contract that created the federal government is called the Constitution. This act of collective consenting is called a compact.

This element of the creation of the union is precisely where the states derive their power to negate acts of the federal government that exceed its constitutional authority. It is a thread woven inextricably in every strand of sovereignty. It was the sovereign states that ceded the territory of authority occupied by the federal government.

The federal government might be stronger, richer, better armed, and possessed of monopolistic control of the press that prints all the money, but it nevertheless has no delegated authority to impose its will on the states and the people, particularly when that will is set on aggrandizing itself to the detriment of those that gave it life.



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With regard to the Republican proposal and promise to someday replace ObamaCare with something better, nullification is the “rightful remedy” and is a much more constitutionally sound method of checking federal usurpation and is quicker and less complicated than an attempt to have the law repealed by Congress or overturned by a future federal bench more respectful of the Constitution.

That said, there is no reason that concerned citizens should not use every weapon in the constitutional arsenal, including working to convince Congress to repeal this offensive act.

It is instructive, though, for those conservatives who cling to the view that Republicans in Congress are constitutionalists, that rather than standing as sentinels of limited government and being faithful to their oaths of office, Republican leaders in the House of Representatives have decided to replace the tyrants rather than reject the tyranny.



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