A few days before the vote, Cruz amendment remains confusing

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The fate of the Senate's health care bill might rest on a debate that hardly anyone seems to fully understand. It's all centered on a provision Sen. Ted Cruz added to the bill, which would let insurance companies sell plans that don't comply with the Affordable Care Act's insurance rules, as long as they also sell plans that do meet those requirements.

Cruz's amendment requires insurance companies to pool both sets of plans together when setting the premiums for each one. But that could be a deal-breaker for Sen. Mike Lee — he's not sure he can support the bill unless this single risk pool is broken up. Policy experts, meanwhile, aren't sure whether that would make much of a difference, or how all this would even work.

Why this matters: This is why complicated healthy policy ideas are generally publicly scrutinized for weeks — if not months — before they have a shot at becoming law. If the GOP health bill passes the Senate next week, there's a good chance no one will fully understand its effects until they begin to happen.

What the Cruz amendment does: It would allow insurers offering ACA-compliant plans to also offer plans that don't comply with the law's insurance regulations — including the rules dealing with pre-existing conditions and essential health benefits. Because of a compromise with Sen. Bill Cassidy, both sets of plans would be part of the same risk pool. At least in theory, that means the healthier people in the non-compliant plans and the sicker people in compliant plans would balance out each other's premiums.

But that subsidy from the healthy to the sick is exactly what the GOP bill, including the Cruz amendment, is trying to roll back. So some conservatives, like Lee, want to separate the two sets of consumers. Moderates, meanwhile, seem to have been placated by the single risk pool without any great reasons to be: The Cruz amendment would still chip away at the ACA"s protections for pre-existing conditions, which, once upon a time, moderates said they'd firmly oppose.

Making this even more complicated, most of the policy experts I talked to said there wouldn't be much practical difference between a single risk pool or separate risk pools for each type of plan. They're largely avoiding definitive predictions, though, because the policy is so confusing.

- Michael Cannon of the Cato Institute is the main voice saying a single risk pool is bad, because premiums for both compliant and noncompliant plans would rise together.

- "I don't think it's exactly rise together, but the rise [in premiums] of the ACA-compliant plans would impact the rise of the skinny plans," said Dave Dillon, a fellow of the Society of Actuaries.
- But Larry Levitt, vice president of the Kaiser Family Foundation, told me that "there are all kinds of ways around this."
- Chris Jacobs, another conservative policy wonk, said chaining the two types of plans could create a situation that is the worst of both worlds: It would segment the individual market, but if the sicker segment's insurance plans slip into a death spiral, they could pull the skimpier plans down with them.
- Levitt and other experts told me that because there is no risk adjustment under the bill — which would transfer funds from plans with cheap, healthy enrollees to those with sick, expensive ones — there's no real mechanism to enforce the requirement for a single risk pool. "I think it creates a single risk pool in name only. In practice, there would be segregated pools," Levitt said.

Yes, but: Doug Holtz-Eakin, a former director of the Congressional Budget Office, said he thinks that under the Cruz amendment, "you'll have a legal single risk pool that'll have within it two economically separate sub-pools." But that isn't necessarily a bad thing, he said: "You might end up in a relatively stable world where you've got this off-exchange world and essentially a de facto high-risk pool as the exchange."

Then again, maybe it would be bad: Here's the American Academy of Actuaries: "Rather than having a single risk pool, in which costs are spread broadly, there would be in effect two risk pools—one for ACA-compliant coverage and one for noncompliant coverage. As a result, average premiums for ACA-compliant coverage could far exceed those of noncompliant coverage, thereby destabilizing the market for compliant coverage. "