

# Paradigms and Demographics

## In my Fantasies, Here's How Donald Trump Wins on Obamacare

Dan Mitchell

August 10, 2017

In the eight years of writing this column, I've periodically confessed to certain fantasies. But you'll notice that these fantasies don't involve supermodels from Victoria's Secret (though they did make a cameo appearance in one column).

Instead, either because I'm getting old or because I'm a dorky libertarian, my fantasies involve public policy. Here are imaginary things that have caused my pulse to quicken.

- George H.W. Bush telling someone to grow up and not expect the government to be his mommy and daddy.
- The private sector replacing the government in the business of building and operating roads.
- A public sector that is so small that the income tax can be totally abolished and not replaced with anything.
- Though I paradoxically confess that I'm troubled that this no-income-tax fantasy is partially happening.
- A Texas governor mocking U.N. bureaucrats who are trying to erode American sovereignty.
- When I'm not fantasizing about no income tax, I indulge in the more modest fantasy of a flat tax.

I now have a new fantasy. It involves Donald Trump. But the fantasy doesn't involve the size of his hands, or any other body part.

Instead, I want President Trump to use his existing power to create irresistible pressure for Obamacare repeal.

Simply stated, I'm fantasizing that this tweet becomes reality.

“If a new HealthCare Bill is not approved quickly, BAILOUTS for Insurance Companies and BAILOUTS for Members of Congress will end very soon!”

- @realDonaldTrump

Michael Cannon, my prescient colleague at the Cato Institute, has been urging this approach since the beginning of the year.

Here's some of what he wrote for *National Review*.

Trump...can restore the Constitution's limits on executive power, provide relief to Americans suffering under Obamacare, and hasten repeal.

Michael has a 14-point list, but here are the ones that matter for our purposes today.

First, put pressure on Congress.

1. End Congress's illegal Obamacare exemption. Obamacare threw members of Congress and congressional staff out of their health plans and in effect cut their pay by up to \$12,000 per year. Obama ignored the law and made illegal payments to private insurance companies on behalf of members of Congress and their staff for six years — all to prevent Congress from reopening the law. Trump should announce that he will end those illegal payments immediately, and that he will veto any bill restoring the pay cut that Obamacare dealt Congress, until Congress earns that money by repealing and replacing the law. Congress shouldn't get an exemption from Obamacare until the American people do. Democrats who actually voted for Obamacare especially should have to live under it.

Second, put pressure on insurance companies.

2. End Obamacare's unconstitutional cost-sharing subsidies. In *House v. Burwell*, a federal judge ruled that the Obama administration "violate[d] the Constitution" by paying billions of dollars in "cost-sharing" subsidies to private insurance companies without a congressional appropriation. Trump should immediately drop the Obama administration's appeal of that decision, stop the unconstitutional payments, and prevent insurers from canceling Obamacare plans until 2018.

3. End Obamacare's illegal "reinsurance" payments. The Government Accountability Office found that the Obama administration illegally diverted additional billions of dollars in "reinsurance" payments from the Treasury to private insurance companies. Trump should immediately stop the diversion of those funds and demand that insurers repay the more than \$3 billion in unlawful payments they have received.

4. Block Big Insurance's "risk-corridor" raid on the Treasury. The Obama administration tried to circumvent a statutory cap on "risk-corridor" payments to private insurance companies by offering to settle lawsuits filed by the insurers. Trump should immediately announce that his administration will not settle but will instead vigorously defend taxpayers' interests in all such lawsuits.

Needless to say, the combination of angst-ridden folks on Capitol Hill and angst-ridden bigwigs from insurance companies would probably be more than enough to get weak-kneed Republicans to climb on board for repeal.

Indeed, in my fantasy, Trump uses his bully pulpit (and Twitter account) to specifically pressure those callow Republicans who voted for major repeal in 2015 and then flip-flopped and voted against various (usually partial) repeal proposals earlier this month.

Various media sources certainly agree that Trump has a huge amount of leverage.

Here are excerpts from a *Bloomberg* [story](#).

Ending the CSR subsidies, paid monthly to insurers, is one way that Trump could hasten Obamacare's demise without legislation, by prompting more companies to raise premiums in the individual market or stop offering coverage. ...health-care analyst Spencer Perlman at Veda Partners LLC said in a research note that there's a 30 percent chance Trump will end CSR payments, which may "immediately destabilize the exchanges, perhaps fatally." ...Many insurers have already dropped out of Obamacare markets in the face of mounting losses, and blamed the uncertainty over the future of the cost-sharing subsidies and the individual mandate as one of the reasons behind this year's premium increases.

The *Blaze* has a similar [report](#).

President Donald Trump announced on Saturday that if Congress doesn't act soon on health care, he could end federal "BAILOUTS" for insurance companies, which could effectively force Congress to act or else put health insurance companies in the difficult position of having to raise rates on people who can't afford to pay them or to leave Obamacare exchanges entirely. ...The "BAILOUTS" to insurance companies Trump referred to in his tweet are "cost sharing reduction" payments... If Trump were to withhold these funds from health insurance companies, it would likely result in many insurers choosing to leave the Obamacare health insurance exchanges... If health insurance companies choose to leave the insurance exchanges, which is the most likely response, it could catalyze the collapse of the Obamacare exchange system, making it more difficult for members of Congress to wait on implementing a repeal and replace bill.

And here are passages from a *Wall Street Journal* [story](#).

President Donald Trump made one of his most explicit threats to cut off payments to insurance companies to force senators and lobbyists back to the bargaining table for a GOP health-care bill, and saying, for the first time, that he was also willing to cancel some of lawmakers' health-care benefits. ...Those payments have been challenged in court by House Republicans, who argue the funds were never authorized by Congress. A federal judge has sided with the House but allowed the payments to continue until the litigation concludes. Democrats have said that cutting off the payments would be tantamount to sabotaging the insurance markets... Mr. Trump's Saturday tweet...also the first to mention that he was open to another idea proposed by conservative activists to pull lawmakers back to the task of a health-care bill: cutting off their existing health benefits. ...some lawmakers contending that it is an end-run around a provision in the 2010 health law that requires members of Congress to get their health coverage like other Americans.

Keep in mind, by the way, that this isn't just a matter of political brinksmanship. The various payments to insurance companies are either not authorized by the law, or they were authorized

and Congress has declined to appropriate funds. In other words, these payments make a mockery of the rule of law. They are illegal and/or unconstitutional.

Moreover, my former Heritage colleague Mike Needham has a good explanation of how the Obama Administration preposterously decided to classify Congress as a small business in order to enable subsidies that were not part of the Obamacare legislation. Once again, throwing the rule of law overboard for political convenience (which was a pattern with the previous Administration).

So even if Trump didn't want to get rid of Obamacare, these payments should end.

But we may as well make a policy virtue out of legal necessity by getting rid of these payments as part of a campaign to pressure Capitol Hill to do what's right and get rid of the disastrous Obamacare legislation.

P.S. Never forget that we wouldn't be in this mess if John Roberts had upheld his oath and ruled that Obamacare was unconstitutional.

P.P.S. From the moment he emerged on the national stage, I've been worried that Donald Trump would preside over an expansion in the burden of government. But if there's a libertarian bone in his body, it becomes apparent when he tweets. Not only did he tweet a very appropriate and effective threat against Obamacare yesterday, he also tweeted a very appropriate and effective threat about a government shutdown back in May.

P.P.S. It wasn't one of my fantasies, but here's something from 2013 about a libertarian fantasy dealing with ammo and sex.

*Daniel J. Mitchell is a senior fellow at the Cato Institute who specializes in fiscal policy, particularly tax reform, international tax competition, and the economic burden of government spending.*