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Architect of New Obamacare SCOTUS Challenge Not Quite Convinced by Trent Lott

The former Senate Republican leader might want to save the ACA.

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By David Weigel

Former Senator Trent Lott, who long ago graduated to the status of super-lobbyist, jawed with reporters today and indulged them in some speculation about the Affordable Care Act. If the Supreme Court were to rule that the ACA technically disallowed subsidies for states that lacked their own health care exchanges -- something the Democrats who passed the law say, quite credibly, they did not intend -- Lott [would like the Congress](#) to swoop in. "There was always, on a major bill, we'd have technical corrections, right?" he said.

This is true -- but how relevant? Democrats failed to foresee a lawsuit against some wording in the law that the IRS quickly chose to work around. (They failed to take the first challenge seriously until it was granted cert -- and some failed to see the immediate impact of a decision that allowed states to opt out of Medicaid expansion.) When they had the Congress, they failed to pass a clarifying bill. Incoming Majority Leader Mitch McConnell, whom Lott worked under (briefly) as whip, has already speculated that the subsidies lawsuit, [King v. Burwell](#), might take the onus of "Obamacare" repeal away from Congress. These were not the ruminations of a man inclined to rescue the ACA.

Seeking further expertise, I asked the Cato Institute's Michael Cannon what he made of the Lott comments. Cannon, who had traveled the country preaching to state legislators about the virtues of not building exchanges, had helped get the *King* lawsuit through the courts. So, what about Lott?

"He really has his finger on the pulse, doesn't he?" wrote Cannon in an email. "Tyrannis delenda est."