



## An Appropriate Conservative Response to Victory in *King v. Burwell*

For conservatives, the expected June Supreme Court decision in *King v. Burwell* is laden with opportunity and peril. In the event of a favorable *King* decision, a proper conservative response should **focus on repeal**, and needs to keep Republicans from succumbing to the temptation to fix or expand Obamacare.

### What Conservatives Should Do:

- **Support a Bold Repeal-and-Replace Plan in 37 States**
  - **Repeal Obamacare** in the 37 affected states, giving states the choice to escape the mandates, regulations and other red tape of Obamacare.
  - **Replace the Obamacare subsidies with a refundable tax credit.** The *right* tax credit should:
    - **Be non-income-tested**, keeping the IRS at arm's length and helping the middle class.
    - **Go directly to individuals and families as a tax cut** to purchase the insurance of their choice, and not be paid as a subsidy to insurance companies like under Obamacare.
    - **Be age-based and simple to understand.** Individuals aged 18-34 would receive \$1200, those 35-49 would receive \$2000, and those 50-64 would receive \$3000, with \$900 per dependent child. These credits would be large enough, according to a 2013 GAO study, to buy insurance in nearly every state.
- **Have a Winning Fallback Position**
  - Knowing President Obama is unlikely to sign a bill that guts his signature law, **conservatives should be prepared to fall back to a position that holds the ground gained**, still advances the cause of repeal, and leaves them to fight another day.
  - **Sen. Ben Sasse's COBRA-like proposal**, for example, helps the newly uninsured and is easy to understand in concept, while not using Obamacare's subsidy formula or allowing Obamacare's enrollment to expand beyond current levels at taxpayers' expense.
- **Prepare for the Obamacare Fights Ahead**
  - **By proposing an innovative alternative to Obamacare**, even if eventually falling back to other short-term solutions, conservatives would be drawing a sharp contrast between the two political parties as the 2016 presidential race begins to take shape, thereby forcing the issue, exciting the base, and winning over those in the center who do not like Obamacare but also do not want to return to the pre-Obamacare days.

### What Conservatives Should Not Do:

- **Nothing**
  - The let-it-burn approach may feel cathartic, but it will hurt the cause of repeal by showing the public that conservatives have no solutions on health care, and playing into the false idea that conservatives don't care about people who lose their insurance.
- **Negotiate Fixes to Obamacare**
  - This would be the worst of all worlds, taking a victory in the Court and using it to strengthen Obamacare by fixing some parts of the law around the edges, but ultimately leading to Republicans sharing responsibility for the law, while weakening the coalition for repeal.
- **Block-Grant Money to the States, Letting Them Figure It Out**
  - Again, this approach shows the public that though Republicans have complained about Obamacare for six years, they still have no new ideas or solutions. Republicans would quickly fold in the face of their vague state response to a federal law. Though having the patina of federalism, this is actually faux federalism, as the states would be spending other people's money, not money they raised.