There's a ton of questions about the future efficacy of the Inflation Reduction Act. But whether the law will be reversed before it can get going is not one of those questions. That's the most basic takeaway from the April 12 policy symposium convened by the UCLA Emmett Institute about the new federal laws to address climate change.

It's not overly paranoid to consider that possibility of repeal, of course. "We've all now lived through several pendulum swings across administrations that significantly affected climate policy," said Cara Horowitz, executive director of the UCLA Emmett Institute at the outset of the symposium. (And House Republicans did just push an energy package to reverse course, calling it their top priority.) But unlike the Obama administration's Clean Power Plan or even the Affordable Care Act, the landmark legislation that is the Inflation Reduction Act is designed in such a way that it is virtually untouchable by a future administration or Congress. Here's why.

The Inflation Reduction Act is all carrots, and very few sticks. For better or worse, it's an incentives-based law that moves away from the reliance on traditional regulation and enforcement. That’s a major departure from the environmental legislation of the 1970s—NEPA, the Clean Air Act, the Endangered Species Act, to name a few. Now, the federal government is dangling a whole lot of carrots in the form of tax incentives and funding grants to “de-risk” private industry’s investment in decarbonizing, said David J. Hayes, who served in the Biden administration as Special Assistant to the President for Climate Policy. “The beneficiaries are the pillars of American industry, and they love it,” Hayes said during a Q&A following his keynote address to the symposium. These incentives are already spurring huge investment in decarbonizing transportation, industrial manufacturing, and construction while also building out the power sector to satisfy the growing needs for renewable energy to slash emissions. “This is not a regulation that you can turn on and turn off. This is a financial spigot upon which long-range financial decisions are being made by the private sector. They are not going to let a future congress undermine their long-term financial commitments and undermine the future that they see,” Hayes said.

A carrot may not even be the most fitting metaphor. Think of something a little more enticing.

“It’s a giant candy shop,” said Kimberly Clausing, who served in the Treasury Department. “We’re handing out a lot of money to people who are very powerful, and that will build a sort of a constituency for those industries that are expanding,” said Clausing, who is the Eric M. Zolt Chair in Tax Law and Policy at the UCLA School of Law. “There’s a lot of things to like about these tax credits,” she said during the symposium’s first panel. “They’re broad, they’re longer lived than prior tax credits, and they don’t phase out as quickly. They’re more flexible than prior tax credits. They’re more transferable and refundable, and that enables them to be ultimately more effective.”

OK, so think about a candy that’s super stretchy. Easter Peeps, anyone? The federal government is handing out ten years’ worth of Easter Peeps as we speak and there’s no shutting that down.

The IRA “is a giant candy shop.” Peeps by Mike Mozart (CC BY 2.0)

There are obvious challenges to this approach. These challenges will be the focus of future work by staff and faculty at the Emmett Institute as we connect the dots from the policy symposium to identify where policymakers should focus their energy if they want to successfully—and equitably—implement the IRA as well as the Bipartisan Infrastructure Law. For now, let’s consider two:

First, there are justifiable concerns about equity. The same incentives-based structure that makes the IRA politically unassailable risks is going to benefit the wealthiest the most. “The vast majority of these tax credits will not benefit low-income people,” Sylvia Chi, an attorney at Just Solutions, told the audience. “About 40 percent of households pay no Federal income tax, because they’re essentially too poor. So, no tax liability, no credits. And then approximately one third of American households are renters, so they can’t take advantage of a lot of these same credits in terms of energy efficiency and putting solar panels on their roof.” In other words, most of the candy’s going to the top one percent. Chi said one particular IRA program shows a lot of promise when it comes to equity: [the Low-Income Communities Bonus Credit.]

Secondly, the IRA could end up costing far more than the projected $369 billion. “Other estimates are suggesting this might cost more like $1 trillion,” said Clausing. “On the plus side, that means take-up was really high, and that means we’re going to be doing even more—fabulous,” Clausing said. “But, on the other hand, that could lead to a lot of fiscal pressure,” Clausing said. And that kind of fiscal pressure could attract louder calls for fiscal oversight. So even if the IRA can’t be repealed, it could certainly be the subject of a whole lot of congressional hearings. Grab some bon bons.