



The Jon Gruber controversy and what it means for Obamacare, explained

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Over the past three days, conservative news outlets have posted multiple videos of Jonathan Gruber, an MIT health economist who worked on Romneycare and [Obamacare](#), crediting the "[stupidity](#)" of American voters as one reason that the health law passed.

The videos have not been flattering for Gruber. And, perhaps more consequentially, they have breathed new life into the Obamacare opposition effort. Republican legislators are exploring the possibility of hearings about Gruber, the Washington Post reported Wednesday. As Sen. John McCain (R-Ariz.) [put it](#), "This gives us ammunition to make fundamental changes to the law."

This all comes at a moment when the Affordable Care Act is once again vulnerable. Republicans have regained control of Congress, and while President Obama isn't going to sign off on repeal, they do have a bit more leverage to demand change. There is a new and potentially devastating case headed to the Supreme Court, [King v. Burwell](#). The Gruber videos are arguably the best ammo critics have right now to paint the law as ambiguous, sloppy, and passed under false pretenses — and they're trying to make the most of that.

Here's a quick guide to who Jonathan Gruber is, why he's at the center of this controversy, and what it means for the future of Obamacare.

1) Who is Jonathan Gruber?

Jonathan Gruber is a big deal in health economics for two reasons. First, he was an architect of Massachusetts' universal coverage expansion in 2006 — the law that, four years later, Obamacare would closely mimic. Gruber was so key in Massachusetts' reform efforts that Gov. Mitt Romney [thanked him by name](#) in the speech he gave when the law passed.

Gruber has also designed the gold standard in modeling software to game out the effect of different health insurance reforms. The model software can project what will happen, for example, if you pull the individual mandate out of the Affordable Care Act — or what happens as you make the penalty for not buying insurance bigger or smaller.

There's agreement across the political spectrum that Gruber's econometric modeling work is top tier. The conservative Wall Street Journal editorial board has described it as "[well-regarded](#)." As Catherine Rampell [wrote](#) in a 2012 profile of Gruber, he has "nearly cornered the market on the technical science behind these sorts of predictions. Other models exist — built by nonprofits like

the RAND Corporation or private consultancies like the Lewin Group — but they all use Mr. Gruber's work as a benchmark."

2) What role did he play in developing the Affordable Care Act?

Mostly number-crunching. In 2009 Health and Human Services awarded Gruber a [\\$297,000](#) contract to consult on "options for national health reform." The contract — [which you can read in full here](#) — was for "technical assistance" in estimating "changes in health insurance coverage and associated costs and impacts to the government under alternative specifications of health system reform."

Gruber received \$400,000 in federal grants to work on Obamacare

In short, the White House wanted to use Gruber's econometric model, and paid him about \$400,000 (there was later an additional \$95,000 grant) to do so. From everything we know, Gruber was not officially advising the administration on which policy was best. But he was providing some of the numbers that Obama administration officials could use — data on how many people would be covered under different policies, for example — to choose what they saw as the best option.

This funding would later become a small controversy in itself, as Gruber did not initially disclose the fact he received the grant when he spoke and wrote positively about the health reform effort. The grant only came to light when Gruber wrote an article for the *New England Journal of Medicine*, which has strict disclosure requirements. At the time, Gruber told Politico that his public opinions were those he'd held for a long time as a health economist — he didn't change his views because of the grant funding. "I have been completely consistent," [he wrote in an email](#), "with my academic track record."

Gruber was, throughout this time, a high-profile advocate of Obamacare, and a leading interpreter of the law. This would continue after Obamacare's passage. Gruber even wrote [a comic book](#) explaining — and touting — the reforms.

3) Why is he back in the spotlight now?

Over the past few months, Obamacare opponents have surfaced multiple video clips that fall into two categories: Gruber lending support to the new Supreme Court case against Obamacare and Gruber saying that the "stupidity of the American voter" helped the law pass.

The Supreme Court videos

These videos aren't about the Supreme Court, but they do lend some support to the [King v. Burwell](#) case that it recently agreed to hear. They show Gruber making some version of the argument that the plaintiffs in *King* make: that the subsidies in Obamacare were meant to be an incentive for states to set up exchanges. There are two videos from January 2012 with some version of this statement.

"What's important to remember politically about this, is if you're a state and you don't set up an Exchange, that means your citizens don't get their tax credits," Gruber says in one of the clips.

Gruber's remarks can be seen as evidence for the plaintiffs in *King*: a supporter of the law making the case that these subsidies could be lost in states that defaulted to healthcare.gov. It cuts against [what the congressional aides who drafted the law say](#), that it was always the intent of Congress to provide subsidies in all states regardless of who ran the marketplace.

Gruber has since said he spoke "off-the-cuff" and made a mistake. And there's reason to believe him: Gruber spoke regularly to dozens of reporters during this period, and never mentioned this idea to any of them, and his modeling software always assumed that federal exchanges could use subsidies. So these comments are at odds with the bulk of his work on this issue.

But *King* supporters have still used it, albeit somewhat gingerly, as proof of their argument. "Gruber acknowledging this feature of the law is not direct evidence of congressional intent," Cato Institute's Michael Cannon, a key architect of the *King* case [writes](#). "But Gruber is probably the most influential private citizen/government contractor involved in that legislative process."

The "stupidity of the American voters" videos

On Monday, the Competitive Enterprise Institute [posted](#) a clip where Gruber suggested that the "stupidity of the American voter" helped Obamacare pass.

Gruber was making a larger point that that the health law was written in a "tortured" way for the sake of politics. And that's common. Gruber picks out the example of legislators calling the individual mandate a fine, rather than a tax just to make the idea more politically palatable.

Gruber's comments, though expressed poorly, speak to something very real. "Here's the dirty little secret," wrote Neil Irwin at [the New York Times](#). "Mr. Gruber was exposing something sordid yet completely commonplace about how Congress makes policy of all types: Legislators frequently game policy to fit the sometimes arbitrary conventions by which the Congressional Budget Office evaluates laws and the public debates them."

The Affordable Care Act is replete with policies drafted to avoid political controversy. It's true of the decision to call the mandate a fine, and the commitment to keeping the price tag of the law under \$1 trillion. This led to weird policy decisions, like waiting three years until after the law passed to start the coverage expansion.

[Another similar video](#), posted Wednesday, showed Gruber saying that Obamacare's so-called [Cadillac tax](#) passed because voters were "too stupid to understand it." A third [video](#) Wednesday that showed a similar comment on the same issue.

Gruber has since called the first video [inappropriate](#); he hasn't commented on the other two.

4) Who keeps finding all these clips?

Rich Weinstein, a forty-something investment advisor whose insurance policy was canceled under Obamacare, has surfaced the last three videos. Dave Weigel has written [a great profile of him](#), including this part where Weinstein describes how he got started:

"When Obama said 'If you like your plan, you can keep your plan, period'-frankly, I believed him," says Weinstein. "He very often speaks with qualifiers. When he said 'period,' there were no qualifiers. You can understand that when I lost my own plan, and the replacement cost twice as much, I wasn't happy."

So Weinstein, new plan in hand, started watching the news. "These people were showing up on the shows, calling themselves architects of the law," he recalls. "I saw David Cutler, Zeke Emanuel, Jonathan Gruber, people like that. I wondered if these guys had some type of paper trail. So I looked into what Dr. Cutler had said and written, and it was generally all about cost control. After I finished with Cutler, I went to Dr. Gruber. I assume I went through every video, every radio interview, every podcast. Every everything."

5) Does this matter for Obamacare's future?

Maybe. Since those last three clips were posted, there have been some rumblings from House Republicans about using them to mount a new campaign against the health law. This is what the Washington Post's Robert Costa tweeted Wednesday afternoon:

But the real danger to the law isn't congressional hearings. It's the Supreme Court. And there, it's really Gruber's first group of comments — the ones about whether subsidies can flow through federal exchanges — that might matter.

As of yet, no one who wrote the law or even who voted to pass it has backed that interpretation of the legislation. None of the reporters who covered the legislation at the time, myself included, ever heard that interpretation. But the Supreme Court's conservative bloc could choose to use Gruber's comments as evidence that the plaintiff's interpretation is correct and the subsidies that 36 states are currently offering are illegal until Congress clarifies the law — which congressional Republicans will not do, at least not unless clarifying the law means repealing it.

The broader context of Gruber's arguments is that they seem to confirm a lot of what conservatives already believe about Obamacare: that it was sloppily drafted by out-of-touch technocrats who view the American people with contempt. And so, if nothing else, this controversy is reenergizing their war against the law at a time when Democrats hoped it would finally be quieting down.

What is the individual mandate?

The individual mandate is the provision of Obamacare that requires most Americans to purchase health insurance coverage. It exists to encourage people who are unlikely to buy coverage — mostly healthy people who think premiums are a waste of money — to go ahead and do so. This is necessary, many health economists believe, in order to keep premiums low.

Some people do get an exemption from the individual mandate, because they can't find an affordable plan, for example, or have a religious objection to health coverage. But, by and large, most Americans are now required to carry health coverage or pay a penalty.

The penalty for not carrying coverage in 2014 is \$95 or 1 percent of income, whichever is larger, and it goes up the next year and year after. The federal government recoups this penalty via the tax filing process. So someone who decided to go uninsured would file that information with the Internal Revenue Service, along with their income. They could have the penalty deducted from their 2014 tax return — the one that they file in the spring of 2015.

Though the individual mandate was originally a conservative idea pushed in response to Bill Clinton's 1994 health care plan, it became the subject of [a lawsuit](#) Republican attorneys general mounted against Obamacare's constitutionality. The Supreme Court ultimately [ruled in June 2012](#) that the mandate was constitutional under the federal government's taxing powers. You can read the decision [here](#).