

**THE POLITICO MAG PROFILE****Will Jonathan Gruber Topple Obamacare?**

The health economist's controversial remarks could undo him and the law he worked so hard to create.

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Why the hell did Jonathan Gruber say that? And that? And *that*? And (sigh) the other thing? Those are the questions on the minds of virtually everyone in the health care world—especially the people who worked the hardest on Obamacare. Ever since the videos started popping up, one after another, America has come to know Gruber—the MIT economist who worked closely on both Obamacare and Romneycare—as the guy who thinks voters are “stupid.” And the guy who thinks Obamacare was passed because of trickery. And who says, ha-ha, voters don’t understand economics. For a while, Fox News didn’t have to bother running anything else.

Now America is about to see Gruber in a new role: congressional witness. He’s going to Capitol Hill on Tuesday to testify before Darrell Issa’s committee, where he’ll be forced to answer a ton of questions, if he can, about all those things he said. For some Republicans, Gruber is a dream witness: All they have to do is play the videos that

confirm their worst suspicions about President Barack Obama's signature health care law—especially the one where Gruber boasts that “lack of transparency [about the law] is a huge political advantage”—and watch him squirm. Better yet, they can ask him about the video that presents the biggest danger of all to the White House: the one where he undermines the Obama administration's case in the upcoming Supreme Court lawsuit that could bring a screeching halt to subsidies for millions of Obamacare customers.

For just about everyone else who has dealt with Gruber, though—Democrats, academics, policy wonks, and the health care reporters who used to call him regularly for catchy quotes about what the latest Obamacare development really means—the videos are just head-scratchers. He's a smart guy, everyone says, and he has been a hugely successful economist who clearly knows his health care policy. So they're all coming back to the same question: Why the hell would he say that? Does he really believe it?

The answer, according to the people who know Gruber best, is that he has always been someone who is two seconds away from putting his foot in his mouth. Yes, he has had an astonishing rise in the world of health care policy—and it's completely deserved, in their view, because of his groundbreaking work on predicting the cost impact of different kinds of health care legislation. Gruber is the man who developed an economic model that could basically work like a faster Congressional Budget Office—a huge help to congressional staffers as they drafted the Affordable Care Act, as well as the Massachusetts policymakers who wrote Mitt Romney's health care reform law that preceded it.

But politically savvy? No, no, no. Gruber is a chatty, affable guy, but he's also a man with no filter—and he knows it. It's always when he drifts away from economics, and tries to talk about politics, that he gets into trouble, colleagues say. That's where Gruber stepped on so many land mines in those videos—claiming there was a strategy to hide uncomfortable details from voters, as if he knew the political strategy and not just the economics, and that the “stupidity of the American voter” allowed them to get away with it.

“This is the repetition of a pattern,” said Harvard's John McDonough, a former Ted Kennedy aide who worked on both Obamacare and the Massachusetts law.

“Whenever he would get outside of the areas he knows best, it was like he was sticking a needle into his knee or something.”

McDonough recalls one meeting of the Massachusetts exchange board where, in the middle of an argument about how much low-income people can afford to pay for their health care—a debate where Gruber thought they could afford more than most of the other board members did—“he told a joke that we all thought was completely tone-deaf.” Afterwards, he says, he took Gruber aside and scolded him for the remark. Gruber’s response, according to McDonough: “Every time I talk about politics, I get into trouble.”

Most people, however, say Gruber usually isn’t insulting. He’s just blunt—to a fault. Jon Kingsdale, who served as the first executive director of the Massachusetts health insurance exchange while Gruber served on the board, puts it more diplomatically: “He’s not a Washington person who carefully crafts what he says before an audience the way you would polish it if you thought it was being recorded and distributed broadly.”

That’s a huge problem for the Obama administration, though, because Gruber has now become known as an “architect” of Obamacare—a phrase that has been used by many news organizations, including POLITICO, and implies that he was in the room drafting the legislation. It’s not, though, precise enough. His real contribution, according to most former congressional staffers who actually drafted the legislation, was to provide the economic models to figure out what the impact of different choices would be—like what different levels of subsidies would cost, and especially what would happen to the mix of healthy and sick people if there was no individual mandate. That’s not nothing, though. Top Democrats are running away from Gruber now—Nancy Pelosi tried to pretend she had never heard of him, and former Health and Human Services Secretary Kathleen Sebelius says she never met with him. But of course they all knew him; just because he wasn’t an “architect” doesn’t mean his work wasn’t important.

What really infuriates the Obama administration and congressional Democrats at the moment, however, is what Gruber said about the central issue in the latest Obamacare lawsuit to go before the Supreme Court: whether the law actually allows subsidies for people who get their health insurance through the federal marketplace

that covers 37 states, not just people who get it from state-based marketplaces. If the justices decide that it doesn't—thanks to the way one section of the law is worded—it can gut most of the law.

Just about every staffer who worked on the legislation says, no, that's not what we meant—of course the law allows subsidies for everyone. But that's not what Gruber said. In yet another video, from January 2012, he appears to make the exact same argument that the plaintiffs in the Supreme Court lawsuit are making: "If you're a state and you don't set up an exchange, that means your citizens don't get their tax credits." Naturally, the quote from that video is right there in the petition to the Supreme Court—which calls Gruber "one of the Act's architects"—and it's a good bet that it will come up in the oral arguments. Michael Carvin, the lead attorney in the case, sums it up: "Gruber is Exhibit A that any English-speaking person knows what the subsidies language says."

Gruber, who declined to comment on the record for this article, has backed away from those remarks, telling the *New Republic's* Jonathan Cohn that at the time of his speech—January 2012—it wasn't clear that the federal exchange would even be ready in time for the start of enrollment. Gruber also apologized once, on MSNBC, but otherwise has been lying low ever since the videos surfaced, watching himself so his words don't get him into trouble again. That caution will have to end Tuesday, when he's expected to give an opening statement and then answer questions about his comments. After that, don't expect to see him surface again for a while—unless he gets called to another hearing.

So how did Gruber become such a sought-after speaker, and a quotable source for health care reporters, in the first place? Because, unlike many academics, Gruber is not a jargon-spouting numbers cruncher: He's a good "explainer-in-chief," too, always ready with a plain-English translation of some wildly complicated effect of the health care law. There were plenty of reporters who turned to him as an authority not just on health economics, but on all things Obamacare. Full disclosure: I was one of them. Whenever a new set of enrollment figures came out during the bumpy rollout, Gruber was one of the first people I would call, because he would always have a clear and reasonable take on what they meant—always from the perspective of an Obamacare supporter, but if the numbers weren't spectacular, he would tell you that. And he could compare the developments to the same stage of the launch of

Romneycare, which didn't hurt either.

Now, at age 49, he's watching his high-profile success come crashing down. He's probably not going to do any public speeches for a while. The Leigh Bureau speakers bureau, which used to call him "the most sought-after analyst of the costs and benefits of healthcare reform," doesn't even list him on its website anymore. (The group's president didn't respond to questions about why his name has disappeared.) His comments have cost him consulting contracts with Vermont and North Carolina.

Meanwhile, his academic colleagues are watching the media firestorm and shaking their heads—including Mark Pauly, the University of Pennsylvania health economist who was sitting next to him at the October 2013 conference where Gruber talked about "the stupidity of the American voter." The political sensitivities in academia, however, aren't the same as they are in the rest of the country. Pauly says he recalls thinking that it was a "poor choice of words," but he adds, "You need to cut him a little bit of slack when you're speaking at an academic audience and you're trying to hold everyone's attention."

Gruber is certainly blunt, Pauly says. "He's someone who doesn't mince words," Pauly says. "These days, when you talk about politics, you'd better mince words."

The first time the health care world heard of Jonathan Gruber was in the early 1990s, when he was a promising young graduate student at Harvard who wanted to study who really pays the costs of health care benefits. A native of Ridgewood, New Jersey, Gruber had studied under some of Harvard's leading economists—including Larry Summers, the future treasury secretary under Bill Clinton and chief economic adviser to Obama (and another brilliant academic who didn't always show a ton of political smarts). Gruber's Ph.D. dissertation in 1992 set the tone for much of his early research: He showed how businesses shift the costs of mandated benefits, like maternity leave, to their workers—but also found that state benefit mandates didn't have a big impact on health coverage for small businesses.

That led to other groundbreaking research on the costs of health benefits, in which Gruber sometimes teamed up with other leading economists—including Alan Krueger, who later became chairman of Obama's Council of Economic Advisers. But

Gruber also showed diverse interests that went well beyond health care, publishing research on everything from unemployment insurance to Social Security. Krueger, now at Princeton, says Gruber was “an innovative and energetic researcher on issues such as, who bears the cost of employer-provided health insurance, as well as on topics ranging from social insurance programs to whether people make rational decisions about smoking.”

What really put Gruber on the map, however, was his economic model that helps simulate the impact of health policy changes on health care spending—and how they affect people. The Gruber Microsimulation Model became a valuable tool in Massachusetts, as lawmakers and policy aides developed the health care reform law passed in 2006. Gruber’s role in consulting on that law was valuable enough to land him a seat on the board of the Massachusetts Health Connector, the state’s health insurance marketplace—an appointment that came from Romney, even though Gruber has described himself as a “card-carrying Democrat.”

Kingsdale, the executive director at the time, describes Gruber as “one of the more educated, thoughtful” board members—and sometimes to the right of the rest of the board, which he jokingly describes as including “everyone from the far left to the dead center.” By most accounts, he’s well-liked by his colleagues on the board. Nancy Turnbull, another board member, calls him a “devoted, engaged and insightful member” who “has made consistent and important contributions to the implementation of the Massachusetts coverage law.”

Gruber’s main disagreements with other board members focused on how much low-income people should be expected to contribute to health care, with some of the more liberal board members concluding that he relied too much on economic theory and not enough on real-world experiences. One board member recalls taking Gruber to task for saying anyone who earns \$30,000 a year can pay for health care. “He’s never lived that life,” the board member said, but added that Gruber never meant his remarks to be malicious and was always willing to reconsider his views: “You could talk to him about it and say, ‘Why did you say that?’”

But Gruber’s main value was still his economic expertise. So when the Obama administration and congressional Democrats started working on the Affordable Care Act in 2009—which, they all acknowledged at the time, was heavily influenced by the

Massachusetts law—they turned to Gruber to run cost estimates for them. That’s how Gruber won the consulting contract with the Department of Health and Human Services that netted him roughly \$400,000 during the health care reform debate. For the congressional staffers who worked on the law, Gruber’s model had an enormous benefit: They could have him run cost estimates that would come out pretty close to what the Congressional Budget Office would say, but way faster.

“That was the power of it. You take your proposal to CBO and ask for an analysis, and you wait and wait and wait,” McDonough recalls. “He could tell us within a hair’s breadth what CBO would tell us three or four weeks later.” It’s not that Gruber’s numbers could be a substitute for CBO, the official budget scorekeeper for Congress—they just helped staffers narrow down the options on issues like how generous the Obamacare subsidies should be. “It’s more like, there are four or five different options members might be thinking about, and you can only go to CBO so many times,” said another former congressional health aide who worked on the law. “We would use Gruber to get a sense, and then we’d say, ‘let’s have CBO run this option,’ and then when they run the numbers, those are the numbers you use.”

Later, after Obamacare became the law of the land, Gruber became widely valued in Washington circles for a talent his Massachusetts colleagues had already seen: his ability to explain the most complicated pieces of the law in plain English. “Most people I know trust that when Jon goes through it and simplifies it, he doesn’t take advantage of the opportunity to slant it,” Kingsdale said. Health care groups wanted him for paid speeches. Journalists sought him out for quotes. He even wrote a guide that explained the law in comic-book style—an idea he got from his three kids. He became Obamacare’s “explainer-in-chief.”

And that’s when it all started to fall apart.

It was a video from a health economics conference at the University of Pennsylvania—made in October 2013, but not blasted all over the cable-news airwaves until November this year—that started the downhill slide. Gruber made two explosive claims: that the law was “written in a tortured way” to hide the fact that the individual mandate penalties were actually taxes, and that it hid a basic trade-off: to cover everyone with pre-existing conditions, healthy people would have to pay higher

premiums to cover the costs of sick people. “If you had a law which said healthy people are gonna pay in, [if] it made explicit that healthy people pay in and sick people get money, it would not have passed,” Gruber said.

And then the kicker: “Lack of transparency is a huge political advantage. And basically, you know, call it the stupidity of the American voter or whatever, but basically that was really, really critical to getting the thing to pass.”

Democrats were furious. How dare he suggest that they were trying to fool people, rather than help people—a guy who wasn’t even in the room when the actual negotiations were taking place? “I was in nearly every room that mattered during the drafting of that legislation, and I don’t remember Jonathan Gruber ever being in those rooms,” said Jon Selib, former chief of staff to then-Senate Finance Committee Chairman Max Baucus. And, of course, Obama had to scramble to insist that “there was not a provision in the health care law that was not extensively debated and was fully transparent.”

But that’s not going to stop Darrell Issa from exploring the topic at great length; the title of Tuesday’s hearing is, “Examining Obamacare Transparency Failures.” And the length of the congressional debate isn’t really the issue anyway—Gruber’s point was that it didn’t shed a lot of light on uncomfortable trade-offs that have now become very visible, like healthy people paying more so sick people can get health coverage. And guess what? Health policy experts who really know the law say he’s right, even if his wording was too harsh. “In politics, there’s a lot of framing of choices that aren’t necessarily transparent,” says Pauly, the University of Pennsylvania economist who sat next to Gruber at the conference.

When Gruber himself explains Obamacare’s trade-offs, though, he doesn’t hold anything back—and that’s where the famed bluntness comes in. When I interviewed him for a November 2013 story about the trade-offs, he didn’t exactly insult healthy people, but he did make it clear he believed the only reason they were able to pay lower premiums in pre-Obamacare days was that they got a great deal at the expense of sick people. “The losers here are people of above-average income—not rich, but above-average income—who were previously benefiting from a discriminatory health insurance market,” said Gruber. “That’s what happens when you end discrimination.”

But does Gruber actually think lack of transparency was a good thing in the Obamacare debate? That's not what he said in our interview. When I asked him whether the trade-offs to cover sick people were explained well enough during the congressional debate, he admitted, "Probably not. And we're learning that that was a mistake." In the University of Pennsylvania video, though, he seemed to suggest that it was the price that had to be paid to pass the law: "Look, I wish Mark was right and we could make it all transparent, but I'd rather have this law than not."

Suddenly, cable news was filled with more videos of Gruber making health policy interesting—but only by sticking his foot in his mouth. In a March 2011 speech in Boston, he said a part of the law takes the first steps to get rid of the tax break for workplace health insurance "by mislabeling it, calling it a tax on insurance plans ... when we all know it's really a tax on people who hold those insurance plans." And at the University of Rhode Island in 2012, he called another Obamacare tax "a very clever, you know, basic exploitation of the lack of economic understanding of the American voter."

Even so, those aren't the comments that really have Democrats blowing cartoon smoke out of their ears. The Supreme Court justices won't be watching those. They'll be watching the ones where Gruber says states won't get the Obamacare subsidies if they don't set up their own health insurance exchange. That speaks right to the centerpiece argument of the *King v. Burwell* lawsuit: The Obama administration has no authority to pay subsidies in the federal exchange. If the Supreme Court agrees, millions of Americans might have to drop their Obamacare health coverage—and the law could fall apart.

No other topic makes Democrats as furious at Gruber. How would he know what lawmakers and their staffs had in mind, they ask? He wasn't even there. "It goes to the point that he was totally irrelevant to the process," says Selib. "In all of our conversations with CBO, we made it clear that every single person who applied for coverage would get the tax credits, regardless of whether they were in the state exchanges or the federal exchange." The point of having the "Balkanized" approach—state health exchanges plus a federal one for states that didn't build their own—was to appeal to centrist senators, he said, since most liberal Democrats would have been happy just to have a federal one. "No one was willing to fall on their swords to make sure states created their own exchanges," he says.

Although Gruber has sought to play down his remarks, the danger to the law from the unclear language is still very real: The section in question mentions exchanges “established by the state,” but not the federal government. One former staffer involved in drafting the legislation attributes the vague wording to a rushed process in the Senate: “When there’s a rapid process, sometimes things aren’t worded as precisely as you might like when you have more time. ... I see it more as, you didn’t find all your cross-references.”

That explanation, however, makes Carvin laugh out loud. “That’s another way of saying, ‘we didn’t read it,’” he said. “The question is what Congress enacted, not what staffers, quote unquote, ‘thought.’” As for Gruber, Carvin said, his comments won’t be a legal issue in the case “because the only legal issue is what the statute says.” But if the argument turns to the “psychoanalysis” of what staffers were thinking when they wrote the law, he said, “we note that a person who was very involved in the process understood what it meant.”

So where does Gruber go from here? Most likely, back to a lower-profile role in academia. He’ll go through the grilling in Issa’s committee, and cringe as all the cable news networks play his videos again when the Obamacare lawsuit goes before the Supreme Court. He’ll probably make less money, at least from speaking gigs and consulting contracts. But he’ll still be at MIT, and he’ll still have a leadership role among health economists. He’s the president-elect of the American Society of Health Economists, a role he’s scheduled to assume sometime next summer, when Pauly, the current president, gives up the post. Right now, Pauly says that’s still on track— noting that the position is “not a political office.”

And his colleagues and friends still hope the whole thing will blow over, somehow. “He’s a great person and a great economist,” said Pauly. “I think it’s kind of a tragedy. It’s because of the hyperpartisan atmosphere that we’re in now.” After this, though, Obamacare is going to need a new explainer-in-chief. This time, the Obama administration had better hope it’s somebody with a filter.

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