

SUPREME COURT UNLEASHES CORPORATE CAMPAIGN CASH IN CITIZEN'S UNITED DECISION

The decision by the Supreme Court in Citizen's United v. FEC is in.

LANNY DAVIS'S RENT-A-WISDOM

Lanny Davis has wasted no time trying to spin MA voters' rejection of Obama's focus on corporations rather than people into an attack on progressives. He starts by ignoring that aspect of the liberal complaint and (as the Administration is doing) blaming all of this on Coakley.

Liberal Democrats might attempt to spin the shocking victory of Republican Scott Brown in Massachusetts by claiming that the loss was a result of a poor campaign by Martha Coakley. Would that it were so.

Then, incredibly, Lanny says something I agree with:

This was a defeat not of the messenger, but of the message—and the sooner progressive Democrats face up to that fact, the better. It's the substance, stupid!

But from there, Lanny makes several mistakes of

analysis you'd expect from someone with a history of selling out real Democratic values.

Lanny says backroom deals sunk Coakley; but then says this is the fault of progressives (Ben Nelson? Hello!!!)

Lanny turns on the insurance industry's second-biggest champion after President Lieberman, President Nelson, and disowns his smarmy deals.

Then there were the two "deals" that put congressional Democrats in a worse light than the infamous "Bridge to Nowhere"—as impossible as that might have seemed—as an emblem of the special interest politics Barack Obama ran against. We Democrats had to explain to Massachusetts voters and other Americans why non-Nebraskans and nonunion members have to pay more taxes, while Nebraskans and union members get to pay less. Those two deals seem to have alienated most people across the political spectrum.

It is true that voters soured significantly on Coakley after Ben Nelson got his deal. Of course, one big reason for that is that, after MA primary voters picked Coakley partly for her very strong stance defending choice, her election would simply have empowered people like Nelson to gut choice. But somehow Lanny ignores both the demands Nelson made on choice as well as Nelson's and Lieberman's insistence that insurance companies not face any competition from Medicare or a public option.

Lanny says a deal that had not yet happened—the excise tax deal—and actually explicitly benefited more than unions was the cause of Coakley's loss because it painted unions as exceptionalists?

And then there's Lanny's attempt to throw the unions—who have been negotiating a deal on the excise tax—in with Ben Nelson. Thing is, that deal, unlike Nelson's deal, hasn't happened yet!

Not to mention the fact that the deal proposed between the unions and the Administration would have helped all middle class families by exempting dental and vision coverage, making sure older and sicker workers weren't unfairly punished, and raising the amount at which the excise tax kicked in.

Lanny celebrates getting everyone health insurance—but not care

Then, Lanny makes the mistake that many supporters of the insurance friendly bill make: confusing health insurance with health care.

The Democrats have a simple message on health care that has still not really gotten through: If our bill passes, you never have to worry about getting, or losing, health insurance for the rest of your life.

Thing is, people from Massachusetts know better, because they've already got precisely the kind of system that ensures everyone has health insurance even if 21% of those paying lots of money to insurance companies can't actually afford to use that insurance. MA voters know better than many that having health insurance doesn't necessarily mean you can get health care.

Lanny mysteriously talks about an Obama plan that didn't include EITHER a public option OR a mandate—yet there was no time when that was true (and polling still says the PO was the only thing that made this palatable)

Finally, Lanny invents a mythical Barack Obama who at one point supported neither a mandate nor a public option.

The purists on the left of the Democratic Party who demanded the "public option" or no bill at all apparently forgot that candidate Obama's health-care proposal did not include a public option; nor did it include a

government mandate for everyone to either purchase insurance or pay a significant tax approximating the cost of that insurance—the “pay or play provision” in both the Senate and House bills.

Candidate Obama supported a public option with no mandate. President Obama supported a mandate and paid lip service to a public option. But at no point did “his plan” lack both a public option and a mandate. Though I guess Lanny is distinguishing here between the mandate in Obama’s bill (up to 2% of income) and the mandate—like the one in MA’s program!—that is tied to the cost of insurance premiums. I’m not sure why that distinction would be relevant to MA residents though.

And of course, polling still shows that having a mandate is more popular when people can choose not to give their money (20% of which can go to profit and marketing) to private insurance companies.

Now, I don’t blame Lanny for staying up all night to try to spin Coakley’s loss as a call to move to the center. The more logical lesson to draw from it is that Americans are sick of corporatists like Lanny Davis (he rather amusingly adopted the label “liberal” for himself in this piece, though I suspect WSJ may have just stripped the “Neo-” that came before it). Which is precisely what Lanny’s extensive parsing tries to deny.

**ON GRUBER: I DON'T
WANT APOLOGIES. I**

WANT INDEPENDENT ANALYSIS.

Between the auto show and the Prop 8 trial and associated travel, last week was tremendously exhausting for me and it will take me several days to actually report on those two events. But it seems one thing hasn't moved on very much since last Sunday—the reporting surrounding Jonathan Gruber's role in pitching the Administration's health care. Gruber's defenders are still falsely claiming I accused Gruber of tainting his analysis for pay (I said, "I don't doubt he believes all this stuff") and suggesting that I'm ignoring Gruber's qualification for the HHS contract (I wrote an entire post affirming that the sole source on it made sense). Now, the debate has ratcheted up as some very able commentators call for apologies.

Unfortunately, that debate—like Gruber's failure to reveal his conflicts in the first place—has supplanted what is really long overdue in this policy debate: real analysis of the assumptions behind the \$850 billion plan about to be enacted by Congress, the assumptions that Gruber had a key role in formulating.

Gruber's public claims delayed real analysis of the claim that the excise tax would raise workers' wages

To explain why this is important let me make a suggestion that I can't prove, but which is the reason I started looking at this in the first place: because someone as credible as Gruber made certain claims about the excise tax, others in his field did not examine his claims in timely fashion.

Gruber, in conjunction with the Joint Committee on Taxation, has long been claiming that the excise tax would raise workers' wages. I first started challenging that claim in October, in response to an Ezra Klein post that relied on Gruber's faith-based claim that the excise tax

would lead to higher wages. On November 5, Gruber quantified the benefit as \$74 billion in 2019. And by December, I was in full panic mode, given that no economist could point me to a study proving the point, even in the face of benefit consultants' surveys refuting it. Economists kept pointing me to Gruber's papers and telling me not to worry my sweet little non-economist head about such matters.

Perhaps because of the work of the Economic Policy Institute, people finally started looking at this key claim in the last two weeks. No lesser economist than Gruber's chief defender, Paul Krugman, judged that those making the claim (Krugman implied, but did not say explicitly, that this criticism was directed at Gruber) were exaggerating. And Gruber, who backed off the claim slightly after having had his conflicts exposed, has since admitted privately that he "over-reached" in his earlier statements.

So to review what happened: for a number of months, unions and benefits professionals and dirty fucking hippies like me challenged this assumption, but no one in Gruber's field appears to have done any independent analysis of his claims. As a result, the excise tax was passed by the Senate based on at least one erroneous assumption. But now, either because economists have weighed in or because Gruber's conflicts have been exposed, a key part of those assumptions has been challenged (and, in a perhaps not unrelated development, unions have been able to negotiate a palatable deal on this issue).

This kind of analysis should have happened last fall, but it did not, at least partly (I would argue) because someone of Gruber's prominence had strongly made the claim. His colleagues didn't do what scholars normally do, regardless how prominent the scholar, which is to check his work. And again, none of this is meant to say Gruber "over-reached" with this claim intentionally. Rather, because the normal peer review of Gruber's claims didn't happen, he (and

with him, the Administration and the Senate) made a mistake, one that has already had real policy implications.

The entire basis for the excise tax remains unexamined

Now, this matters to me not because a bunch of prominent people are accusing me of being a scandal-monger, but because I believe some more key assumptions about the health care reform have not been adequately examined. In fact, there are two key claims about the excise tax that have, at the least, gotten far too little scrutiny.

Start with the revenue model. Here's how Gruber very helpfully explains the revenue model the Joint Committee on Taxation used to come up with revenue estimates that will be raised through the excise tax.

This analysis relies on three documents issued by the JCT. The first is their October 13, 2009 memo which provided the score of the revised High-cost insurance tax as in the Senate Finance Committee mark. This memo shows the year-by-year revenues raised by the High-cost insurance tax. Importantly, the memo highlights the two different ways the High-cost insurance tax raises revenues. The first is through actual excise tax receipts paid by those high cost plans that remain above the High-cost insurance threshold. The second is through the fact that **firms will spend less on health insurance – and this reduced spending will be shifted to workers in the form of higher wages.** This conclusion of wage shifting is supported by both economic theory and evidence, and is assumed in modeling by both the JCT and the CBO. This division is very informative: **the JCT estimates that about 80% of the revenues raised by the High-cost insurance tax will come from revenue from higher wages, not from**

the excise tax itself. [my emphasis]

To lay out what Gruber says the assumptions he (along with CBO and JCT) make:

1. The excise tax will lead employers to switch from “gold” to “silver” insurance plans
2. This will mean “reduced spending” as “firms will spend less on health insurance”
3. Those companies will pass those savings onto employees in the form of higher wages
4. Employees will pay more taxes on those higher wages which will lead to higher tax revenues

80% of the revenues raised under this tax, Gruber and JCT estimate, will come from higher wages.

Now, we’ve already seen Lawrence Mishel and Krugman and even Gruber challenge or rethink assumption 3, the claim that employers will pass on savings to employees. So there is already a clear problem in the revenue model JCT used to assess this plan.

But (as some economists reassured me when I was having my December panic) if the other assumptions remain the same, it wouldn’t **necessarily** be a problem, because employers would simply keep the increased profits they got from those savings in health care, and pay higher taxes on them.

Which brings us to assumption 2, that “firms will spend less on health insurance.” Note what this claim implies. It argues that companies will not just aim to keep their health benefit

spending constant over time (that is, move from a gold plan, which had been \$700/mo but had been raised to \$750/mo by the insurance company and therefore fell into the excise tax, and switch to a \$700/mo silver plan to stay under the excise tax level). Rather, Gruber describes the JCT as assuming that companies will “spend less” on health insurance, implying a switch from a \$700/mo plan to a \$600/mo plan as the plan began to hit up against the excise tax.

And that **must** be what the JCT assumes. If there weren’t either increased profits or wages to come out of this, then profit and or wages would remain the same, and tax receipts would not go up at all (except through companies actually paying the excise tax itself, which JCT says will only account for 20% of the revenue). Yet the only way there would be actual savings (as opposed to flat spending over several years) is if companies dramatically cut back health care (from a Platinum to a Silver plan, or a Gold to a Bronze plan) or if they stopped offering health care altogether (which, given that there will be no employer mandate, they may well do).

Now, I’m fairly sure that Krugman, at least, believes this to be an erroneous assumption. He says,

Maybe it will help the plausibility of this case to notice that **we’re not actually asking whether a fall in premiums would be passed on to workers. Even with the excise tax, premiums are likely to rise over time** – just more slowly than they would have otherwise. So what we’re really asking is whether *slowing the growth of premiums* would reduce the squeeze rising health costs would otherwise have placed on wages. Surely the answer is yes. [my emphasis]

But, as Gruber’s language clearly suggests, he and JCT **do** appear to have assumed that there would be “a fall in premiums,” they **do** appear to have ignored that “premiums are likely to rise

over time.”

And as one example of why this is probably another erroneous assumption, take this story on Safeway, which has been celebrated for the kind of innovative cost-cutting that policy makers would like to see come out of the health care reform. As the WaPo reports, after Safeway made some fairly aggressive insurance plan changes, their costs did drop; but costs have already climbed back up to where they were after the reform.

But a review of Safeway documents and interviews with company officials show that the company did not keep health-care costs flat for four years. Those costs did drop in 2006 – by 12.5 percent. That was when the company overhauled its benefits, according to Safeway Senior Vice President Ken Shachmut.

The decline did not have anything to do with tying employees’ premiums to test results. That element of Safeway’s benefits plan was not implemented until 2009, Shachmut said.

After the 2006 drop, costs resumed their climb, he said.

Even as Burd claimed last year to have held costs flat, Safeway was forecasting that per capita expenses for its employees would rise by 8.5 percent in 2009. According to a survey of 1,700 health plans by the benefits consultant Hewitt Associates, the average increase nationally was 6.1 percent.

Today costs are slightly higher than in 2005, Shachmut said.

So when Safeway said it had flatlined costs since 2005, “we defined that, you might say, loosely,” he said. “Perhaps a more precise way to say it is that our costs today on a per capita basis are

essentially the same as they were in 2005.

So even in the case of a fairly radical change, a company only got savings (and therefore only paid higher taxes) for a few years, at which point their costs returned to the same levels. More moderate changes, it seems, may well result in no savings and therefore no revenue gains. And if companies don't actually spend less—if they instead simply spend the same but get less health care in return, as seems likely—then 80% of the presumed revenue tied to the excise tax would fail to materialize.

In other words, it appears that economists, if they looked at Gruber's and JCT's claims closely, would challenge the entire revenue model to the excise tax, which would surely change the debate about the tax. But that hasn't happened.

And will the excise tax even “bend the cost curve”?

But then there's the really troubling unexamined assumption: that it will “bend the cost curve”—that is, make costs go up more slowly over time.

Now, curiously, all the justifications for this claim speak abstractly of the benefit of forcing employees to pay for more of their health care costs themselves, which will result in them choosing which care they need, using less care, and therefore saving money. I've yet to see any analysis of what happens in real life when this happens.



The thing is, though, it has happened in real life.

A lot.

It has been happening for decades.

And yet no economists that I've seen have argued that such switches have led to a slow in the rise of health care costs. If, as companies have

tried to trim health care costs over the last several decades by making precisely the kind of changes that excise tax boosters envision incenting in the future, but those changes haven't already slowed health care costs (not to mention resulted in increased tax revenues), then there is zero reason to expect it to work in the future. Zero.

Let me go back.

In 2003, Jonathan Gruber actually studied the degree to which employers were shifting some of their health care costs onto employees. He and his study co-author, Robin McKnight, found that "in 1982, 44% of those who were covered by their employer-provided health insurance had their costs fully financed by their employer, but by 1998 this had fallen to 28%." Gruber and his co-author attributed the shift to the following factors: 32% to the rise of HMOs, 9% in employees becoming newly eligible for Medicaid, 14% due to changes in taxation, and 47% to the rise in medical spending. Significantly, part of this cost-shifting was already a response to taxation changes, but even the shift because of rise in medical spending would look-in practice-precisely like what excise tax boosters want to see happen in response to the excise tax. The cost to employers goes up, and as a result employers make employees pay more of their own health care out-of-pocket.

In other words, over the last thirty years, employers have **already** been shifting costs onto employees. As long ago as 1998, fewer than 30% of employers were shielding their employees from the rising costs of insurance. And surely those numbers are far, far lower now. So if the excise tax were going to work, then the "cost curve" would already be bending; health care cost increases would already be slowing in response.

Now, frankly, I'm less sure this assumption is totally bogus. For example, employer supplied health care costs increased more slowly last year (though analysts have suggested that's just because fewer people have it). But still-since

we've seen 30 years of employers shifting costs onto employees, shouldn't there be data—and therefore a testable argument—that shows that all that cost-shifting has resulted in decreased costs?

Because if it hasn't worked over the last 30 years, there is absolutely no reason to think it will happen in the next ten. And this, of course, is the big "cost savings" that bill proponents point to to excuse the abandonment of a public option or drug reimportation.

More analysis, please, not more defensiveness

Now, we don't really know what role Gruber played; we don't know why the White House sold his pieces as "objective" analysis justifying their own policy decisions. The Gruber story may or may not end up being a scandal. We don't know whether or why yet.

But what we do know is that the guy we all thought was conducting independent analysis of these policies was in fact just affirming policies he conducted the analysis for the Administration on, the same analysis the Administration used in selecting this policy. We do know that on at least one count, Gruber (by his own admission, as well as Krugman's) overreached in his defense of the Administration's favored policies. And we know that all those other policies Gruber was pitching remain largely unexamined—at least, unexamined by Gruber's colleagues, the ones with the ability to identify **other** problems in his assumptions. And the risks are real. The entire revenue model may be (and I suspect is) based on a faulty assumption. And the claim that the excise tax will slow cost increases may (I'm less sure about this one) also prove to be based on a measurably wrong assumption.

So rather than defending Gruber for what his colleagues judge to be a mistake, can they (I'm looking at you, Krugman) start checking some of his work? As I've said, this country is about to make an \$850 billion bet on Gruber's analysis

and assumptions. And yet rather than doing what all scholars do—check each others' work—Gruber's colleagues would prefer to spend their time focusing on me, rather than on Gruber's analysis.

NY TIMES ADMITS GRUBER PROBLEM, FAILS TO MENTION KRUGMAN PROBLEM

In a full throated mea culpa by the New York Times Public Editor, Clark Hoyt, appearing in the Sunday edition, the Times officially describes the critical and material implications which arise when readers are misled by undisclosed interests of sources and authors like Jonathan Gruber in their paper of record. Unfortunately, Hoyt and the Times did not have the decency to apologize to Marcy Wheeler for previously inferring otherwise.

MARCY WHEELER TEEVEE - JONATHAN GRUBER AND THE CADILLAC PLAN

There has been a fair amount of misinformation and disinformation about what has been said by Marcy Wheeler on this blog about Jonathan Gruber, including by Paul Krugman; there was also no foundation for it.

KRUGMAN ON THE CADILLAC-AS-CHEVY

A number of people have pointed to this Krugman post, in which he seemingly agrees with the excise tax apologists.

I think that states his position too strongly. What Krugman does is argue that it makes sense to limit the tax exclusion for benefits. At the same time, he admits there are problems with imposing the excise tax as a flat dollar amount, not least because it'll end up targeting older workers and those with chronic medical issues. In that stance, Krugman endorses a key point raised by excise tax critics—that it is taxing people who need the insurance, rather than just the affluent.

Here's how Krugman weighs in on the Excise Tax Raise claim.

Second, there's the argument that any reductions in premiums won't be passed through into wages. I just don't buy that. It's true that the importance of changing premiums in past wage changes has been exaggerated by many people. But I'm enough of a card-carrying economist to believe that there's a real tradeoff between benefits and wages.

Maybe it will help the plausibility of this case to notice that we're not actually asking whether a fall in premiums would be passed on to workers. Even with the excise tax, premiums are likely to rise over time – just more slowly than they would have otherwise. So what we're really asking is whether *slowing the growth of premiums* would reduce the squeeze rising health costs would otherwise have placed on wages. Surely the answer is yes.

I'll come back to that, but first I want to treat his rebuttal of the third complaint about the excise tax—that it targets unions that have exchanged salary increases in the past for benefits—because I think it is illustrative to the question of the Excise Tax Raise.

The last argument is that this hurts unions which have traded off lower wages for better benefits. This would be a bigger issue than I think it is if the excise tax were going to kick in instantly. But it won't, giving time to renegotiate those bargains. And bear in mind that this kind of renegotiation is exactly what the tax is supposed to accomplish.

Krugman suggests, I think, that the unions that will be disproportionately affected by this tax will have three years to negotiate new contracts that (presumably) take more compensation in wages and less in health care.

Nationally, one of the unions that will be most affected by this is AFSCME—national, state, and local government workers. The teachers unions are also likely to be affected.

So what do you think the chances are, in an economic environment in which many states are struggling to close budget deficits, in which states are cutting basic services and educational resources dramatically, that any contract renegotiation in the foreseeable future would involve a one-to-one swap of wages for health care costs or even any raise at all? What are the chances that elected government officials would give public employees salary increases when all their constituents were struggling, rather than putting that money back into the services that constituents need?

Not. Gonna. Happen.

In another economic environment, unions might be in a position to negotiate for raises to offset hits to their benefits package. But not in this

economic climate, not these unions.

Which brings me back to Krugman's take on the Excise Tax Raise.

Krugman starts by ceding that "the importance of changing premiums in past wage changes has been exaggerated by many people." "The Shrill One" is being polite here in not naming names. But the report he links—the EPI report I've cited—introduces the claim this way:

Jonathan Gruber, an economics professor at M.I.T., argued in an op-ed in the Washington Post on December 28, 2009:

And when firms reduce their insurance generosity, they make it up in higher pay for their workers. We saw this in the late 1990s, when the rise of managed care temporarily lowered insurance costs, and wages rose in real terms for the first time in many years. But as soon as managed care was weakened and health costs rose again, we once again saw flat or declining real wages in the United States. (Gruber 2009)

The paper then goes on to name Ezra Klein and NYT's David Leonhardt as the others making this claim.

In other words, Krugman **starts** by saying that Gruber and others are exaggerating the degree to which wage increases in the late 1990s were caused by a slowing rise in health care premiums. So Krugman's rebuttal is, in part, a Nobel Prize winner **affirming** that the excise tax's biggest boosters are overselling their case.

And in fact, Krugman's endorsement of the relationship is much more measured. He reformulates the one-to-one claim that excise tax boosters are making this way:

Maybe it will help the plausibility of this case to notice that we're not

actually asking whether a fall in premiums would be passed on to workers. Even with the excise tax, premiums are likely to rise over time – just more slowly than they would have otherwise. So what we’re really asking is whether *slowing the growth of premiums* would reduce the squeeze rising health costs would otherwise have placed on wages. Surely the answer is yes.

I find the claim that “slowing the growth of premiums would reduce the squeeze rising health costs would otherwise have placed on wages” completely uncontroversial. Yes, health care cost is one element in the overall calculation of wages, and if it continues to skyrocket, it’ll contribute to continued wage stagnation. Yes, if employers are paying bajillions in health care, they’re probably not also paying bajillions in salary, unless the employer in question is Goldman Sachs.

By reformulating this from a one-to-one correspondence into one source of pressure on wages, Krugman allows for the inclusion of a bunch of other factors in the calculation. One of the reasons wages rose in the late 90s—particularly among the almost half of workers who don’t get health insurance through work that the EPI looks at—is because the labor market in general was tight. That gave employees—whether they had health care or not, whether they were unionized or not—the leverage to negotiate for higher wages (and health care, in some cases).

One of the points I have been making when I challenge this Excise Tax Raise myth is that, in this job market, the claim that employers are going to share any savings with employees is just farcical. Hell, in this competitive business environment—in which businesses in most segments are struggling mightily to stay profitable—they’re not going to do it. The fundamental problem with the Excise Tax Raise myth is that it gives no consideration to the

overall state of the economy in its calculations. If we have a booming recovery between now and 2012, when employers will begin to make changes in anticipation of the excise tax, workers might have the leverage to demand raises. But everything my favorite Nobel Prize winning economist says about the recovery makes me doubt it will be that strong.

Which brings us, finally, to this part of the statement.

we're not actually asking whether a fall in premiums would be passed on to workers

We're not?

Seriously, I'd love to have Krugman actually look at this claim and look at the JCT's numbers, because I think that is, in fact, what JCT has assumed, and I think that is, in fact, what Gruber claims will happen. Here's what JCT has said:

We expect that consumers will seek **less costly** policies that will reduce their exposure to the excise tax. **Cost reductions** could be achieved through several strategies, ranging from managed care plans and limited provider networks to more out-of-pocket cost sharing by consumers. When employers offer employees **less costly plans**, the employees will have less compensation in the form of non-taxable health care benefits and more in the form of [taxable] cash compensation. [my emphasis]

All that language about "less costly" and "cost reductions" sure seems to envision **savings**, all in an environment in which health care costs have never ceased rising.

JCT calculates that the primary source of revenues from the excise tax will come from

raises that workers will get. So even assuming the recovery is stronger than I think even Krugman or I believe it will be, if you're assuming raises that wouldn't otherwise happen, aren't you in fact, assuming that those raises would come from somewhere. Or, assuming the JCT assumptions are wrong, doesn't the excise tax at least depend on employers' having profitability that they wouldn't otherwise have?

My understanding—and I'm not an economist of any sort, much less a Nobel Prize winning one—is that the excise tax is assuming that there will be new funds available to employers that—they implausibly claim—will mostly be passed onto workers. And if not, it will result in new profits that can then be taxed.

The biggest problem with this claim is that employers have already been making precisely kinds of moves that excise tax supporters argue they'll do in response to the tax: moving from Platinum or Gold insurance plans to Silver ones as a way to minimize the increase in costs in health care they have to pay. And we've not seen the raises or, even, much increase in profitability.

Businesses are already doing precisely what the excise tax incents—and they've been doing it for years (as an economist named Jonathan Gruber has pointed out).

Yet that doesn't seem to have had a noticeable affect on tax revenues, much less a noticeable affect on wages, not in this crappy economy. Rather, it is the overall economy, and not the benefits calculations that individual employers are making, that seems to be the real driver of wages and tax revenues.

Again, I'm not an economist, so if someone actually wants to do the calculations of the effects of all the down-shifting in health care plans that has occurred over the last decade, I'd like to see it. I'd really welcome some evidence to support these arguments. But I'm not seeing it.

But all this comes back to the big problem with Gruber's undisclosed role in the Administration's formulation of this policy. Krugman suggests (though he doesn't say it directly) that Gruber has been exaggerating. Yet Gruber has, in some way, provided the basic assumptions behind the Administration's plans. Did he use more realistic assumptions when he did his simulations? Or did he exaggerate the benefit of the excise tax in his assumptions? And what is the relationship between the JCT prediction about the excise tax and any simulations Gruber did before them?

GRUBER CAVEATS THE "EXCISE TAX RAISE" CLAIM

Earlier today, DDay pointed out that the NYT, after issuing a fairly pointed correction revealing Jonathan Gruber's ties with the Administration, then used a quote from Gruber without disclosing his role in the Administration. DDay was focusing on the NYT's actions. But I would like to focus on the quote.

Jonathan Gruber, a Massachusetts Institute of Technology economist, predicted the excise tax would raise workers' wages from 2010 to 2019. "There are many academic studies showing that when health costs rise, wages fall," he said. "In the mid- and late 1990s, when we got health costs under control, wages rose nicely." But he added that other factors could have also lifted wages during that period.

According to Stephen Greenhouse, Gruber repeated the claim that the excise tax would result in a

pay increase for the little guys, and then did the following:

- Noted that “many” academic studies (though he doesn’t say it, some of them are Gruber’s own studies) show that “when health costs rise, wages fall”
- Pointed out that during the late 1990s, the slowing rise in health care costs coincided with wage increases
- Admitted that “other factors could also have lifted wages during that period”

With this formulation, Gruber dramatically backs off one of the key claims excise tax supporters make about the tax—that it will result in a pay increase for those affected. Indeed, he seems to suggest (though I’d need to see a direct quote to be sure) that he doesn’t actually know whether decreasing health care costs would increase wages. He certainly doesn’t appear to say he’s got a study to prove that.

This is one of the reasons why I believe Gruber’s now-revealed ties to the Administration are so important.

The Recursive Claims To Support the Excise Tax Raises

As you might recall, one of my biggest gripes about the excise tax have to do with a bunch of seemingly unexamined assumptions that go into it. For example, the claim that employers would have actual savings from cutting back expensive insurance plans, rather than managing simply to keep health care spending constant; or the claim that increasing out-of-pocket claims will decrease costs without affecting outcomes. Both

are dubious and, if they're wrong, then not only will the tax not generate the revenue promised, but it will make people less healthy.

But one of my biggest gripes was precisely this claim, that employers would pass on presumed savings to employees. I first questioned the claim when Ezra made it based on an uncritical demonstration of the relationship in the 1990s that Gruber points to. Then, I spent an entire post both trying to trace how the White House had justified that claim in a blog post, and pointing out the evidence that contradicted it. I also spent the better part of a day asking economists to point to proof that employers would pass on savings to employees; one normally friendly economist who has elsewhere backed the claim ignored my question; several more pointed to studies showing, again, the inverse (that when health care costs rise, wages fall). More recently, the Economic Policy Institute did analysis—partly based on White House aide Jared Bernstein's work—showing that wages didn't go up in the 1990s because health care cost increases slowed.

In other words, no one has been able to point to a study that supports the case. And a lot of data from the real world suggests just the opposite would occur—that employers would pocket the savings as profit rather than passing them onto employees.

The Joint Committee on Taxation and the Excise Tax Raise Claim

Now, the one place that people do point to (aside from things like Gruber's papers showing the inverse relationship) to defend their Excise Tax Raise claim is a report from the Joint Committee on Taxation, a non-partisan Congressional Committee that provides the same kind of reviews as CBO (but, because it is managed by Committee chairs, may be more exposed to political pressure). I'll come back to this, but here's what Center for Budget and Policy Priorities says JCT said about the Excise Tax Raise:

Similarly, the JCT writes, “We expect that consumers will seek less costly policies that will reduce their exposure to the excise tax. Cost reductions could be achieved through several strategies, ranging from managed care plans and limited provider networks to more out-of-pocket cost sharing by consumers. When employers offer employees less costly plans, the employees will have less compensation in the form of non-taxable health care benefits and more in the form of [taxable] cash compensation.”

JCT projects that only 20 percent of the revenues from the proposal in 2014 will come from the excise tax itself, with the remaining 80 percent coming from additional income and payroll taxes on the increased cash compensation that workers will receive. By 2019, fully 83 percent of the additional revenues will come from taxes on higher wages and salaries, not the excise tax.[11]

And here’s what the Chief of Staff of JCT, Thomas Barthold, said to Congressman Joe Courtney, one of the biggest skeptics of the excise tax.

As you can see in the table, other than the first year, the percentage owing to excise taxes is declining over the period, as consumers shift away from higher cost health coverage towards increased wage benefits.

That is, JCT appears to simply assume that workers, not their employers, get to choose whether they want higher cost health care or raises. But I have not found JCT actually citing a study that supports that claim.

Gruber and the Excise Tax Raise Claim

As it happens, Gruber has written three papers

(none of these are peer-reviewed; these papers seem to be hybrids that place him squarely in the policy debate about these issues, but not—Gruber says—part of his work-product under the contract with HHS) that include defenses of the Excise Tax Raise claim.

- November 5: Implications of JCT Score
- November 17: Response to AFSCME Criticisms
- November 20: Impacts of Excise Tax on Wages

These papers—particularly the November 5 one—are another source cited to defend the claims about the excise tax.

Let me start with the November 17 paper. I don't dispute some of Gruber's argument about the AFSCME complaints (note, Gruber hasn't done a similar response to the CWA's much stronger report illustrating the problems with the Excise Tax, nor to a recent EPI report that seriously challenged this claim). Here's what Gruber says about the Excise Tax Raise:

Claim: The argument that reduced employer-sponsored insurance spending will lead to higher employee wages is "speculative"

Reality: The available evidence clearly illustrates that there is essentially a one to one offset between employer insurance spending and wages. There are a number of economics studies that support this conclusion. But it is perhaps most vividly illustrated by simply comparing the growth rate of health insurance costs to the growth rate of wages, a task recently undertaken by Ezra Klein:



It is readily apparent in this graph

that when health care costs moderate, wages rise – but as health care costs increase, wages fall.

Moreover, the ultimate authority on this topic is the Joint Committee on Taxation, and they have clearly spoken: the shift away from high cost insurance raises wages. As I have illustrated in another analysis, the JCT estimates imply that net worker wages will increase by over \$300 billion over the next decade under the Senate Finance Committee's proposed excise tax, after taking out the payments on this high cost insurance tax. The shift out of excessively generous health insurance plans and into wages is a major boon to U.S. workers.

Now, Ezra, to his credit, twice notes this is a correlation (and even calculates it), not proof of causation. But not the economist we're paying \$400,000—for him, "it is readily apparent" is strong enough proof. In my post on this, JTMInIA raised some problem with this correlation. And the EPI does an even more thorough job explaining why this graph can't prove what Gruber claims it does.

The other value of Ezra's post is this classic:

Earlier in the day, I'd been talking to MIT economist Jon Gruber about this issue. "There are a few things economists believe in our souls so strongly that we have a hard time actually explaining them," he said. "One is that free trade is good and another is that health-care costs come out of wages."

Ahem.

These are, Gruber makes clear, articles of faith, not proven facts. And the absence of any study actually proving this claim (which, I'm

sure, most economists would consider less foundational than free trade, for what **that's** worth) is instead pitched as a simple "hard time actually explaining."

Which leaves Gruber, in this paper, with the JCT paper. The "another analysis" Gruber refers to is his own November 5 paper, in which he refers to the JCT's apparently uncritical assumption that employers will pass on savings in the form of wages.

This [JCT] memo shows the year-by-year revenues raised by the High-cost insurance tax. Importantly, the memo highlights the two different ways the High-cost insurance tax raises revenues. The first is through actual excise tax receipts paid by those high cost plans that remain above the High-cost insurance threshold. The second is through the fact that firms will spend less on health insurance – and this reduced spending will be shifted to workers in the form of higher wages. This conclusion of wage shifting is supported by both economic theory and evidence, and is assumed in modeling by both the JCT and the CBO. This division is very informative: the JCT estimates that about 80% of the revenues raised by the High-cost insurance tax will come from revenue from higher wages, not from the excise tax itself.

Gruber—the guy who has been distinctly unforthcoming about the fact that he had been doing simulations to find out the outcomes of various policy outcomes for more than seven months by the time he wrote this paper—then makes a show of calculating the increased wages **based on the JCT numbers.**

The JCT estimates can be used infer the impact of the High-cost insurance tax on wages.

[snip]

Key findings[...] are:

- *Worker wages rise by \$74 billion by 2019,*
- *Worker wages rise by \$313 billion in aggregate over this time period, or more than one-third of the estimated price tag of the entire health reform bill*

In the November 20 paper, Gruber repeats the same exercise using the revised Senate bill.

Estimates from the Joint Tax Committee (JCT) can be used to demonstrate the important effect of the High-cost insurance tax in terms of increasing worker wages. Using data from the JCT, I show in this memo that the high-cost insurance tax will

- *Raise net worker wages from 2013 through 2019 by \$234 billion*
- *By 2019, net wages per insured household will be \$700 higher because of this excise tax*

Do you begin to see why Gruber's failure to disclose the fact that he has been doing simulations on this stuff is so problematic?

Now, before I move on, let me emphasize what these papers don't do. They don't cite any study that proves that a decrease in health care costs bring about an increase in wages. Gruber says they exist,

There are a number of economics studies that support this conclusion.

But as his primary proof, Gruber links to Ezra's pretty picture (which has since been debunked) and to the JCT analysis (which itself doesn't seem to cite any evidence). And, apparently, in the conversation supporting Greenhouse's article, Gruber didn't cite one either. Gruber, supposedly the expert on precisely this issue, twice stops well short of providing proof for this assertion that wages will increase if benefits are taxed.

Who Is Doing the Simulations?

But I'm more interested in where that leaves us. The popular press often cites Gruber for this claim (without, of course, any disclosure that he's working for the Administration), and Gruber cites JCT. And neither of them, apparently, cite any study proving this claim.

More interesting to me is that a guy who had, by the time he wrote his November 5 paper, received something in the neighborhood of \$250,000 doing simulations showing what would happen if "the President's plan" were implemented, seeming to work backwards off of the public JCT data, all the while proclaiming "the ultimate authority on this topic is the Joint Committee on Taxation."

In one explanation to Ben Smith, Gruber said,

Gruber said his work for the administration was running **the sort of cost simulations that the Congressional Budget Office does**, based on a model that he'd spent 10 years developing. "I'm the numbers guy," he said.

Part of its value, Cohn writes, is that it helped the administration predict CBO scores.

In an earlier one, Gruber said,

Throughout this year I have provided

technical assistance to the administration **and to Congress** with my micro-simulation model, as well as based on my experience as a member of the Massachusetts health connector board.

Now, to be fair, Gruber once told Jonathan Cohn that he wasn't doing the same analysis as the CBO on a different topic,

He hasn't formally modeled the impacts of the reforms on premiums; for this analysis, he has relied simply on available data from the Congressional Budget Office.

But Gruber's admission that his consulting includes working with Congress doing the same kind of analysis as CBO, and his repeated production of papers that apparently replicate analysis done by CBO and JCT, apparently does just that sort of analysis before the CBO and JCT do them.

Only, in papers he says had nothing to do with his contract, to then work backwards off the analysis of CBO and JCT to prove points that then get used in the Administration's support of its preferred version of health care reform.

I'm sure Gruber is not doing the CBO's work for him. I doubt he's doing JCT's work either. (Though, in both cases, I'm mindful of the delay Reid had every time he submitted something to the CBO.)

But the way in which Gruber repeatedly does this kind of analysis, all the while suggesting he hasn't been doing precisely this kind of analysis for the Administration, raises more questions about his role.

GRUBER DID NOT DISCLOSE CONFLICT TO THE WAPO

One of the biggest puzzles in Jonathan Gruber's explanation for why he hasn't been disclosing his \$400,000 HHS contract as he has led the campaign to support the bill is timing. By his own admission, he revealed the contract for a disclosure form associated with a December New England Journal of Medicine article. That form was dated November 30.

But the WaPo did not disclose the relationship for an op-ed published almost a month after he filled out that disclosure form.

Now, Gruber says he has disclosed the contract whenever he has been asked.

Gruber told POLITICO that he has told reporters of the contract "whenever they asked."

But in a follow-up with the WaPo, Ben Smith reports that Gruber was asked by the WaPo, and he said he didn't have any financial conflicts.

Washington Post op-ed editor Autumn Brewington emails that the Post, as a practice, asks writers to disclose any "conflicts of interest that might be relevant to this op-ed, including but not limited to financial or family relationships with any of the subjects of the article" and that Gruber, when asked whether he "received any funding, for research or otherwise, from organizations or persons identified in the column," answered "no."

Now, perhaps there's some wiggle room here. Perhaps, since Gruber's op-ed doesn't mention HHS, even though it mentions the health care reform he was hired to consult on repeatedly, he

felt he didn't need to reveal the conflict. Perhaps there's some confusion at the WaPo, which itself is having problems disclosing ethical conflicts (though Ben says Brewington was quoting directly from the exchange on disclosure).

But, at least given what we know, it looks like Gruber felt obliged to reveal the conflict to the NEJM on November 30, but when asked a similar question about financial conflicts less than a month later, he did not disclose it.

REINHARDT: GRUBER'S SIMULATIONS BETTER THAN PRIVATE SECTOR ONES

After I learned that Jonathan Gruber—one of the biggest pitchmen for the Administration's health care reform—had also gotten a significant sole source contract from HHS, I wanted to get a sense of how sound the justification for the sole source on it was. I asked Dr. Uwe Reinhardt about the contract. Reinhardt, a professor at Princeton, has himself testified on health care financing to Congress. And he has been critical of the whole hocus pocus that lies at the heart of the excise tax proposal.

"The consumer-directed-health-care crowd argues that with high cost-sharing, patients will do the only legitimate . . . cost-benefit calculus – but that surely is nonsense," said Princeton economist Uwe Reinhardt. "None of these proponents has ever shown that patients are even capable of evaluating the clinical merits" of treatment options.

That said, Reinhardt does vouch for the quality of Gruber's simulations. When I asked him whether he could have applied for this contract (given that he, like Gruber, is an acknowledged expert in the financing of health care), he said,

If I had constructed as a sophisticated a simulation model for health reform as has Jon Gruber, I certainly would have been in the running for a competitive bid. But there are not many sophisticated models of this sort around.

Gruber is one of the brightest young health economists (and public-finance specialists) in the field. He thinks and writes twice as fast as most of his peers (although David Cutler at Harvard comes to mind as well). So I am sure that, too, weighed in his favor with this contract. Just have a look at his textbook in Public Finance to get a feel for the man.

All simulation models suffer from the fact that their predictions are a function of a series of assumptions that must be fed into the models. I certainly would trust one of Gruber's simulations more than those produced for much higher fees for trade associations.

Mind you, that doesn't excuse Gruber's disclosure lapses, nor does it recommend having the top pitchman for a policy also be the guy running simulations to see how it'll turn out. But at least according to Reinhardt, we're not going to get better simulations than we're getting from Gruber.

GRUBER DOESN'T REVEAL THAT 21% OF MA RESIDENTS CAN'T AFFORD HEALTH CARE

✖ I was intrigued to see Gruber link—in his response to Ben Smith—to his May 2009 analysis of how to measure affordability for a national healthcare reform plan. After all, I've been debating with people who love to cite Gruber on affordability for months, and I've never seen them cite it. Now there are several reasons they might not want to rely on this paper. It might be that he starts out by arguing that you can still call something "affordable" even if it isn't affordable for everyone.

In considering affordability for a group, we need to establish a sensible benchmark whereby insurance is considered affordable if "most of" a group can afford it. We can disagree about what "most of" means, but it would be wrong to define "most of" only as "very close to 100%."

This, of course, accepts as a baseline **some** continued medical debt (at least) or even bankruptcies in your definition of "affordable."

Or maybe it's the fact that Gruber insists that health insurance (not care) be considered as the same kind of necessity as food and shelter.

Second, it implicitly assumes that health care is less important than these other categories; that is, that if individuals have to spend their resources on these other categories, then they should not have to spend resources on health care. It is unclear why health insurance should take a lower position on the priority scale than other necessities.

But the thing I'm most troubled by in this paper is something Gruber neglects to mention: real data from MA on the number of people who forgo necessary medical care because it is not affordable.

In March 2009—two months before Gruber wrote this paper—MA released the first results [PPT] of how that state's health care reform had improved access. It showed that 21% of the total population—and even 12% of children—forgo necessary medical care because they cannot afford it. Of the 21% forgoing care, most (something like 18 or 19%) have health insurance—but it is health insurance they can't afford to use. In a paper contemplating what constitutes affordability for a national plan that resembles the MA plan in many ways, Gruber uses national Kaiser/HRET data, rather than the MA data that is much more directly on point.

Now, I might excuse other analysts for ignoring the MA results, except for two things. First, Gruber boasts of his involvement in the MA program as part of his explanation for his qualifications for the HHS contracts.

Throughout this year I have provided technical assistance to the administration and to Congress with my micro-simulation model, as well as based on my experience as a member of the Massachusetts health connector board.

Also, when the facts from MA suit his argument, he uses them, as he did in a November analysis of how much the Senate plan would reduce premiums.

So rather than looking at a real world study showing what happens when a program very similar to the Senate plan goes into effect—which shows that a significant number of people can't afford to use their health insurance—here's what Gruber says about how out-of-pocket expenses affect affordability.

A very conservative response would be to say that a plan is only affordable if the premiums plus the maximum out of pocket exposure does not exceed available resources. This is very conservative because while premium payments are certain, out of pocket payments are not, and a sizeable majority of enrollees will not reach the out of pocket limit.

Moreover, there is a strong argument that out of pocket costs should not be incorporated into a discussion of affordability of insurance. After all, individuals face more out of pocket risk without insurance than they do with coverage. Thus, if an individual is very ill and faces large out of pocket costs under an insurance plan, they would have faced at least those same out of pocket costs, and likely more, had they remained uninsured. So it would be wrong to say that those out of pocket costs were responsible for making insurance unaffordable. That is, it is nonsensical to argue that very sick individuals cannot afford insurance because they will have large out of pocket costs under the insurance plan; indeed, the problem is that these individuals cannot afford not to have insurance.

This is analysis that Jonathan Cohn, with data from Gruber, expands upon here.

But it all comes back to that underlying premise. So long as you define “affordable” in such a way that accepts ongoing medical debt for at least some of your sample in your definition of affordable, then this approach—looking at total risk, rather than whether insurance equates to care, makes sense. It transforms the question of whether health care (not health insurance) is affordable into one that measures degrees of indebtedness for using health care.

But then again, that's what a lot of bill apologists do: consistently oversell what this kind of reform does, by conflating health insurance with health care.

Update: Fixed percentages forgoing care for clarity.