

## When Did Gingrich Stop Supporting a Health Insurance Mandate? Did He Ever?

By Jacob Sullum

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During Saturday's Republican presidential debate, Newt Gingrich claimed (not for the first time) that he advocated requiring every American to obtain medical coverage as part of a strategy to defeat President Clinton's health care plan:

In 1993, in fighting HillaryCare, virtually every conservative saw the mandate as a less-dangerous future than what Hillary was trying to do. The Heritage Foundation was a major advocate of it. After HillaryCare disappeared, it became more and more obvious that mandates have all sorts of problems built into them. People gradually tried to find other techniques. I frankly was floundering, trying to find a way to make sure that people who could afford it were paying their hospital bills while still leaving an out [for] libertarians to not buy insurance. And that's what we're wrestling with. It's now clear that the mandate, I think, is clearly unconstitutional. But it started as a conservative effort to stop HillaryCare in the 1990s.

Although this account does not reflect well on Gingrich's principles (or the Heritage Foundation's), it seems plausible. But it does not explain why Gingrich continued to support an individual health insurance mandate for nearly two decades—much longer than Barack Obama, who rejected the idea during the 2008 presidential campaign, only to change his mind after taking office. In a 2005 interview with NPR, notes Josh Hicks in *The Washington Post*, Gingrich had this to say about a requirement he now calls "clearly unconstitutional":

Our goal has to be for 100 percent of the country to be in the insurance system. So that means finding ways through tax credits and through vouchers so that every American can buy insurance, including, I think, a requirement that if you're above a certain level of income, you have to either have insurance or post a bond.

Here he is on the same subject in his 2009 book *Real Change: The Fight for America's Future*:

We should insist that everyone above a certain [income] level buy [medical] coverage (or, if they are opposed to insurance, post a bond).

On *Meet the Press* last May, Gingrich conceded that he still supported "a variation on" ObamaCare's insurance requirement:

I've said consistently we ought to have some requirement that you either have health insurance or you post a bond.

Two weeks ago Gingrich told ABC's Jake Tapper "a mandate per se is clearly unconstitutional because it means the Congress can require you to do anything with your own money under any circumstances." When Tapper asked him whether he still supported a modified mandate (with a bond as an alternative), Gingrich suggested he preferred an approach suggested by **John Goodman** of the **National Center for Policy Analysis**:

He essentially would give you a tax credit if you want to buy insurance, and if you didn't want to buy insurance your share of the tax credit would go into a pool for the uninsured and if something happened to you, you'd be taken care of by the pool of the uninsured. And so you'd be in a different league in terms of how you were handled and what happened to you.

That proposal seeks to avoid the question of whether requiring health insurance counts as regulating interstate commerce by recasting the mandate as a tax incentive. The upshot is similar: Either way, the government penalizes noncompliant taxpayers by taking away money they would otherwise have (which under **Goodman's** proposal could be their own money or, if the credit is refundable, a transfer from other taxpayers). Still, the Supreme Court might see the difference as crucial, since Congress has been using the tax code for social engineering since it was created but has never before tried to mandate a purchase under the Commerce Clause.

In any case, as far as I can tell, Gingrich still has not explicitly renounced the insurance-or-bond approach, which is puzzling given his newfound constitutional objections to the mandate imposed by the Patient Protection and Affordable Care Act. Putting up a bond big enough to cover one's future medical expenses presumably would cost more than buying insurance, meaning that the penalty for not obtaining coverage would be much bigger than it is under ObamaCare. I do not see how this policy avoids the constitutional problem or paternalistic precedent of using the Commerce Clause to compel purchases.

Last month Peter Suderman cited Gingrich's "tangled" position on mandating health insurance as an example of his muddled thinking.