

## NEWSSTAND

### Healthcare Update: Last Week in D.C.: The Healthcare Reform Debate - October 19, 2009

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The healthcare reform debate moved forward largely behind closed doors last week, as House and Senate leaders face the critical and complicated task of merging various committee-approved versions of healthcare reform into a single bill for consideration on the House floor, and a single bill for consideration on the Senate floor. As previously reported, this process has proven to be increasingly difficult, as leaders face competing demands and opinions from within their own Democratic caucus.

#### **MERGER OF TWO SENATE PROPOSALS BEGINS:**

After months of intense negotiations and a comprehensive two week markup, the Senate Finance Committee approved its healthcare reform proposal on Tuesday by a vote of 14-9. Every Committee Democrat joined Chairman Max Baucus (D-MT), the bill's author, in voting "aye". In addition, one Republican – Senator Olympia Snowe (R-ME) – crossed party lines to support the proposal.

Senator Snowe's support was notable in that she became the first and only Republican to support a Democratic healthcare reform proposal during this year's five separate committee markups in the House and Senate. However, despite the positive reactions from Chairman Baucus and other Democrats who can now point to bipartisan support – albeit nominal – for their reform efforts, it is clear that Senator Snowe's yes vote could be short lived. During her statement of support, she firmly said, "My vote today is my vote today. It doesn't forecast what my vote will be tomorrow." This statement clearly indicates the Senator's concern that the legislation will be altered substantially during the next step in the process.

That next step began on Wednesday, when Senate Majority Leader Harry Reid (D-NV) hosted Chairman Baucus, Senator Christopher Dodd (D-CT) and key White House staff in his office to begin the process of merging the Finance Committee measure with the one approved by the Health, Education, Labor and Pensions (HELP) Committee over the summer. As discussed in past updates, the Finance proposal is notably more moderate than the HELP bill, with the most contentious differences revolving around the possibility of a government-run public health insurance plan to compete with private insurers. The HELP bill contains a strong public option, while the Finance proposal would create non-profit medical cooperatives to provide increased health insurance coverage in lieu of the liberal-preferred public option.

These and other differences have left Majority Leader Reid with the difficult task of blending together the two bills in a way that will satisfy his entire Democratic caucus. Should he include

the moderate-preferred co-ops in place of the public option, some liberal Senators have vowed to oppose the measure. Should he include the public option in the final version, several moderates have indicated they will vote against it.

This complex situation is further exacerbated by the fact that Democrats cannot afford to lose a single vote. There are a total of 60 Democrats in the Senate – the exact number needed to prevent a Republican filibuster. Should the Majority Leader be unable to strike a balance that will attract 60 votes, he would likely have to resort to the controversial parliamentary tactic of reconciliation (see below) – a move that could change the ultimate scope and timing of healthcare reform.

### **CONSENSUS ON HOUSE BILL REMAINS ELUSIVE:**

Negotiations continued in the House last week, as Speaker Nancy Pelosi (D-CA) sought to shore up support for her chamber's healthcare reform bill – H.R. 3200 – by considering policy concessions demanded by some members of her party. These provisions have reportedly included everything from changes to Medicare, to abortion-related language, to the issue of illegal immigration, and their potential inclusion could alleviate the concerns of certain moderate Democrats, therefore providing House leaders with the 218 votes necessary to pass H.R. 3200 on the floor.

Some are predicting that healthcare reform could be considered on the House floor as early as October 30. However, given the recent announcement by Majority Leader Steny Hoyer (D-MD) that the House could be in session through December, it is evident that a floor vote could easily be further delayed.

### **THE RECONCILIATION QUESTION:**

The House Ways and Means Committee set the wheels in motion last week for what Republicans have called healthcare reform's "nuclear option," sending its version of H.R. 3200 to the House Budget Committee per budget reconciliation instructions. The reconciliation language approved by Congress earlier this year instructed specific committees to do this, but left those committees substantial leeway in what should be included in such legislation – leaving the door open for healthcare reform to be considered via reconciliation.

In the coming weeks, should the Senate be unable to produce a final healthcare reform bill that can attract the required 60 votes to prevent a Republican filibuster, the reconciliation process may be employed. If and when this occurs, this parliamentary tactic only requires 51 votes for passage in the Senate – a move that would negate the need for any Republican support and would also allow several moderate Democrats to vote against a healthcare reform bill that contains the controversial public option.

That said, complicated rules dictate what can and cannot be included in a bill that is considered through the reconciliation process and could result in what many have dubbed a "Swiss cheese" healthcare reform bill. For this reason, along with the fact that the process would surely worsen already-inflamed partisan tension on Capitol Hill, reconciliation is viewed as a last resort in enacting healthcare reform.

**NEXT STEPS:**

Closed door negotiations will move forward this week, and predictions on the timing and scope of healthcare reform legislation continue to vary widely. Public option or no public option? Using reconciliation or sticking to regular procedure? Votes in the House and Senate within the next several weeks or delays until December or beyond? Answers to these questions are anything but clear, and the coming weeks are expected to provide more insight into this fluid, complicated situation.

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