

Wednesday, January 27, 2010

This Week in Health Care Reform

After months of public debate and private negotiations, health care reform discussions stalled following last Tuesday's Senate vote in Massachusetts. The Democratic Senate lost its 60th vote supermajority when Republican Scott Brown was elected to the United States Senate in the Massachusetts special election.

Health Care Reform Negotiations Post-Massachusetts Special Election

Massachusetts Election of Senate Republican Recasts Debate: Following the election of Republican Scott Brown to the Massachusetts Senate seat Tuesday night, Democratic leaders have been scrambling to revive what could now be a dying bill. The loss of the Democrat's 60th vote in the Senate opens up the legislation to a Republican filibuster - something the Democrats have managed to avoid thus far in the debate.

House and Senate Democrats met this week to discuss how to move forward with the reform legislation in light of this election and promised Wednesday that they would push ahead. There are a number of options that Democrats are considering, but at this point they have not charted their course.

Last Wednesday, Speaker of the House Nancy Pelosi (D-CA) attempted to rally House Democrats around a strategy to push the Senate bill through the House and onto President Barack Obama's desk so as to avoid the need to again secure 60 Senate votes. However, the Speaker indicated on Thursday morning that she did not believe she has the needed 218 House votes necessary to move forward. This option would have allowed lawmakers to then propose additional modifications to the approved legislation through a process called "reconciliation," which only requires 51 votes in the Senate.

Other remaining options:

1. Democratic leaders could attempt to re-engage Sen. Olympia Snowe (R-ME), the only Republican who voted for the Senate Finance Committee's bill passed in October. Democrats would need to allow her to amend the bill so that she could support its passage and give Democrats the needed 60th vote; or,
2. House and Senate Democrats could essentially start over in their respective chambers and propose scaled-back versions of the bill under "reconciliation" procedures or regular order. Reconciliation procedures would greatly limit the scope of the legislation to issues only related to raising or spending federal funds; therefore, many provisions, such as creating new insurance exchanges and an individual mandate, might be excluded.

President Obama seemed to indicate that he favors having House and Senate lawmakers start over again and produce a scaled-back bill. In addition, more moderate Senate Democrats, hesitant to push through such a huge partisan bill in light of the Massachusetts election, urged leaders to slow down.

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Sen. Jim Webb (D-VA) has called on Senate leaders to suspend voting on health care reform until Mr. Brown is sworn into office. President Obama and Senate Majority Leader Harry Reid (D-NV) have iterated this same message. Further, Sen. Joe Lieberman (D-CT) called for a bipartisan effort as the best way to achieve health care reform legislation.

Health Care Reform Negotiations Prior to Massachusetts Special Election

Senators Urge Guarantee of Government Savings: In a letter sent last Thursday to Sen. Reid, five Democratic Senators asked for the inclusion of a "fail-safe mechanism" in the final bill. This mechanism would give Congress "the tools to keep costs under control should the current savings estimates fail to materialize."

Both the Senate and House versions of the bill rely heavily on reductions in government spending, particularly around Medicare, to help pay for reform. Republicans and some nonpartisan analysts believe the government will not follow through on these spending reductions, which will lead to soaring costs.

President Obama Pushes for Less Protection for Biologic Drugs: Last Thursday President Obama pushed for a change in the health care reform legislation that would reduce the number of years that biologic drugs were patent protected from generic competition, previously set at 12 years. White House officials and Rep. Henry Waxman (D-CA) were negotiating for 10 years protection or less.

Members of the news media speculated that the move to reduce biologic drug protections could be a leverage point for President Obama to pressure the drug industry to increase contributions to pay for health care reform. In fact, the *Wall Street Journal* reported that Congressional Democrats had already asked drug companies to contribute an additional \$10 billion or more, over and above the \$80 billion which the industry agreed to early on in the reform negotiations.

President Obama Strikes Deal with Unions: Last week Democratic negotiators struck a deal with union officials and conceded to union demands to scale back a tax on high-end insurance plans. The deal would exempt union workers from having to pay the tax until 2018, five years after the tax would apply to other workers. While the deal would help gain union support for the bill, it would also reduce the amount of tax revenue generated by about 40 percent, to \$90 billion. As such, Democratic leaders would need to find other sources of revenue to make up the difference.

Public Opinion

Exit Poll Indicates Health Care Reform as Hot Button Issue: As the ballot polls closed on last Tuesday night's Massachusetts Senate election, an exit poll conducted by Frabrizio, McLaughlin & Associates indicated that 52 percent of voters said that they oppose the federal health care reform measure and 42 percent said they cast their ballot to help stop President Obama from passing this legislation. In addition, 48 percent said that health care was the single issue driving their vote.

Polls Show Discontent: The latest Wall Street Journal/NBC News poll indicated that almost half of Americans believe the health care reform bill in Congress is a bad idea (46 percent). This figure is up dramatically from April when only 26 percent believed the plan was a bad idea. Further, just 33 percent say the plan is a good idea. Nearly half of those surveyed (48 percent) believe that passing the current legislation would be a "step backward."

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In addition, a new Quinnipiac University poll showed that public support for health care reform continues to decline. Thirty-four percent mostly approve, while 54 percent mostly disapprove. At the end of December, 53 percent of Americans mostly approved, while 36 mostly disapproved.

Looking Ahead

Currently, the path to health care reform is unclear. Democrats seek a way to secure the necessary votes to pass the legislation, and some now question the value of pushing such a large bill. President Obama had hoped to see a final bill prior to his State of the Union address this evening.

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