



WEEKLY UPDATE ON HEALTH CARE REFORM

January 28, 2010

The progress of healthcare reform legislation has come to a very dramatic pause on Capitol Hill following the Democrats' loss of their filibuster-proof majority in the Senate. But it's too soon to say whether the reform effort is dead. The theme coming out of Washington this week is that the Democrats have not given up on health care reform, but are taking their time to figure out how best to go forward while at the same time, trying to shift some focus to job creation and the economy. Republicans, for their part, are calling for the health care reform efforts to be abandoned.

In last night's State of the Union address, President Obama clearly indicated that he does not intend to give up. However, the splinter between Democratic leaders keeps a health care package far from the President's desk, with no agreement in sight. House Majority Leader Steny Hoyer (D-MD) summed up where health care now stands by telling listeners at a speech on Tuesday that Democrats have four options: 1) do nothing; 2) try to pass a smaller bill that will make much more modest changes and can attract bipartisan support; 3) try to obtain House passage of the Senate's bill as-is; or 4) get the House to pass the Senate bill with an agreement that both chambers will later pass a "fixes" bill to bridge their differences. This last option is one we noted in last week's update, and it has proven to be the one that is generating the most discussion so far. House Democrats have signaled that doing nothing is not an acceptable option, and neither is the 3rd option of the House passing the Senate bill without the "fixes." Additionally, many Members do not believe there is adequate time to craft and approve a new, scaled back measure, given that the White House and Congress both want to shift focus now to unemployment and the economy.

This calculus may indeed mean that the most likely path Democrats will take is to seek House passage of the Senate bill with agreement on fixes to be made later to appease House members. Senate Democrats have said this path is their best hope, House Speaker Nancy Pelosi (D-CA) is now indicating that there would be enough votes in the House to pass the Senate bill with fixes, and there are rumors that slow progress is currently being made behind the scenes to identify the issues that could be fixed. House demands for fixes reportedly include a reduction in the Senate's "Cadillac" tax on insurance plans and elimination of special provisions aimed at winning individual Senate votes, such as extra Medicaid funding for Nebraska.

There are no guarantees of course. We note that moderate Senate Democrats Evan Bayh (D-IN) and Blanche Lincoln (D-AR) have already stated that they will not support the Senate "reconciliation" procedure that would be necessary for this strategy to work. (Reconciliation is a procedure usually reserved for budgetary measures, but could be used to win Senate passage of the "fixes" with only 51 votes, rather than the filibuster-proof 60 votes.) And since the Democrats could afford to lose 8 votes from their party members using the reconciliation procedure, the objection of two Senators, by itself, is not enough to call the plan to a halt.



But time will tell whether more moderate Democrats will balk at the use of a strategy and procedural methods that may cause some voters to perceive passage of health care reform legislation as more the product of back-room dealing and procedural acrobatics than thoughtful policymaking. In addition, the historic distrust between the two chambers is building, and rank and file House Democrats are beginning to link the President himself to the Senate, noting his roots in that chamber and what they viewed as significant deference to Senate Finance Chairman Max Baucus during his committee's markup.

We will continue to update you weekly on the latest developments concerning the fate of the health care reform bills.