

Health Care Reform: A Legislative Update and Overview

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Status of Legislation

- 9/8/09 – SFC Chairman Baucus released Framework for Comprehensive Health Reform (“Framework”)
- 9/9/09 – President Obama outlined his health plan
- 9/16/09 – SFC released “Chairman’s Mark”
- 9/19/09 – SFC posted amendments that will be considered during the mark-up.
- 9/22/09 – SFC begins debating Chairman’s Mark

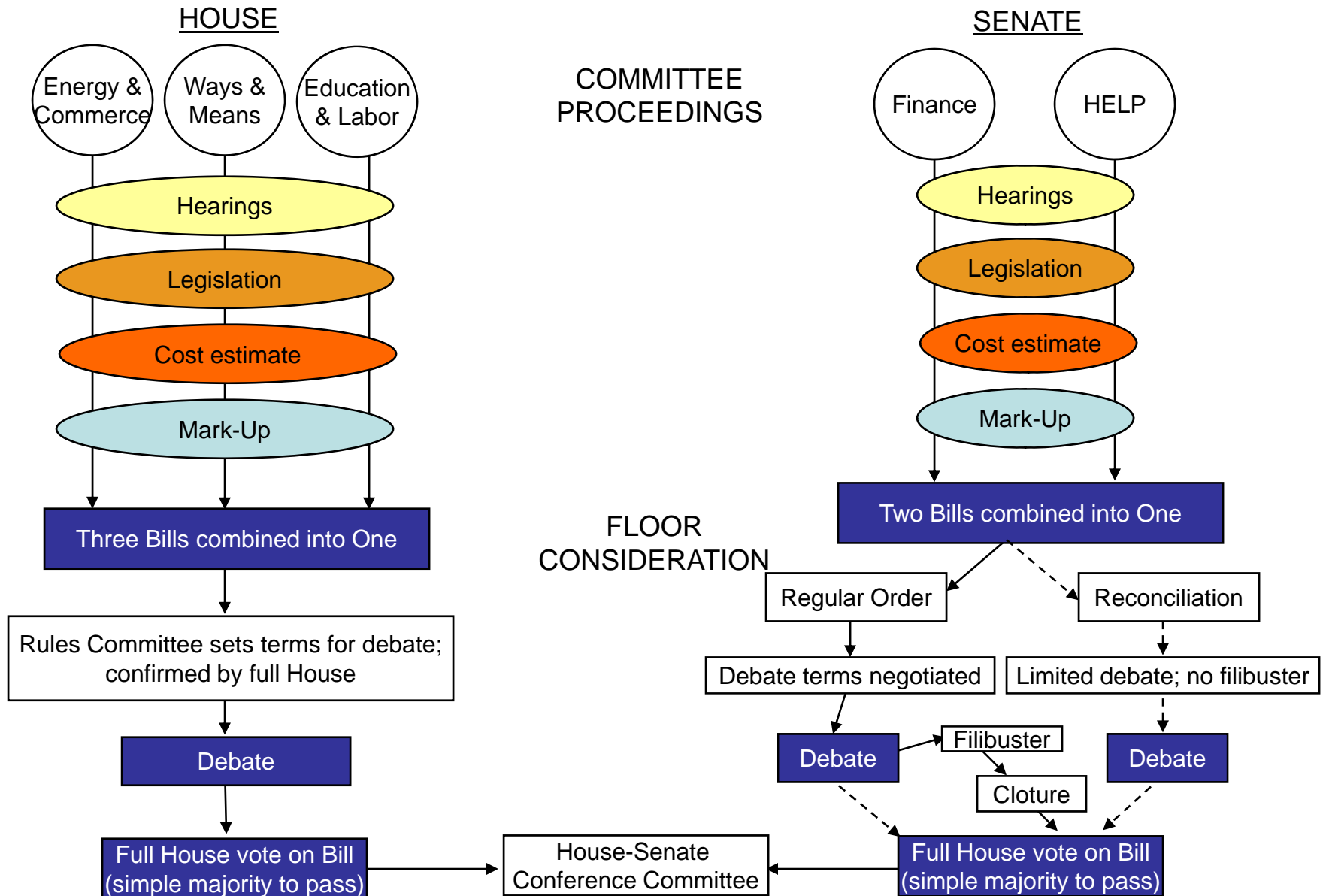
Status of Legislation

- If SFC can agree, legislation will be voted out of committee by the end of September, floor vote by October 15.
- If SFC can not agree, Senate leadership will meld SFC with HELP and bring bill to the floor.
- Democrats control 59 seats in the Senate, one short of a super majority which is needed to stop a filibuster.
- Democrats may bring bill to the floor under reconciliation rules to limit debate.
- Expect bill by early December.

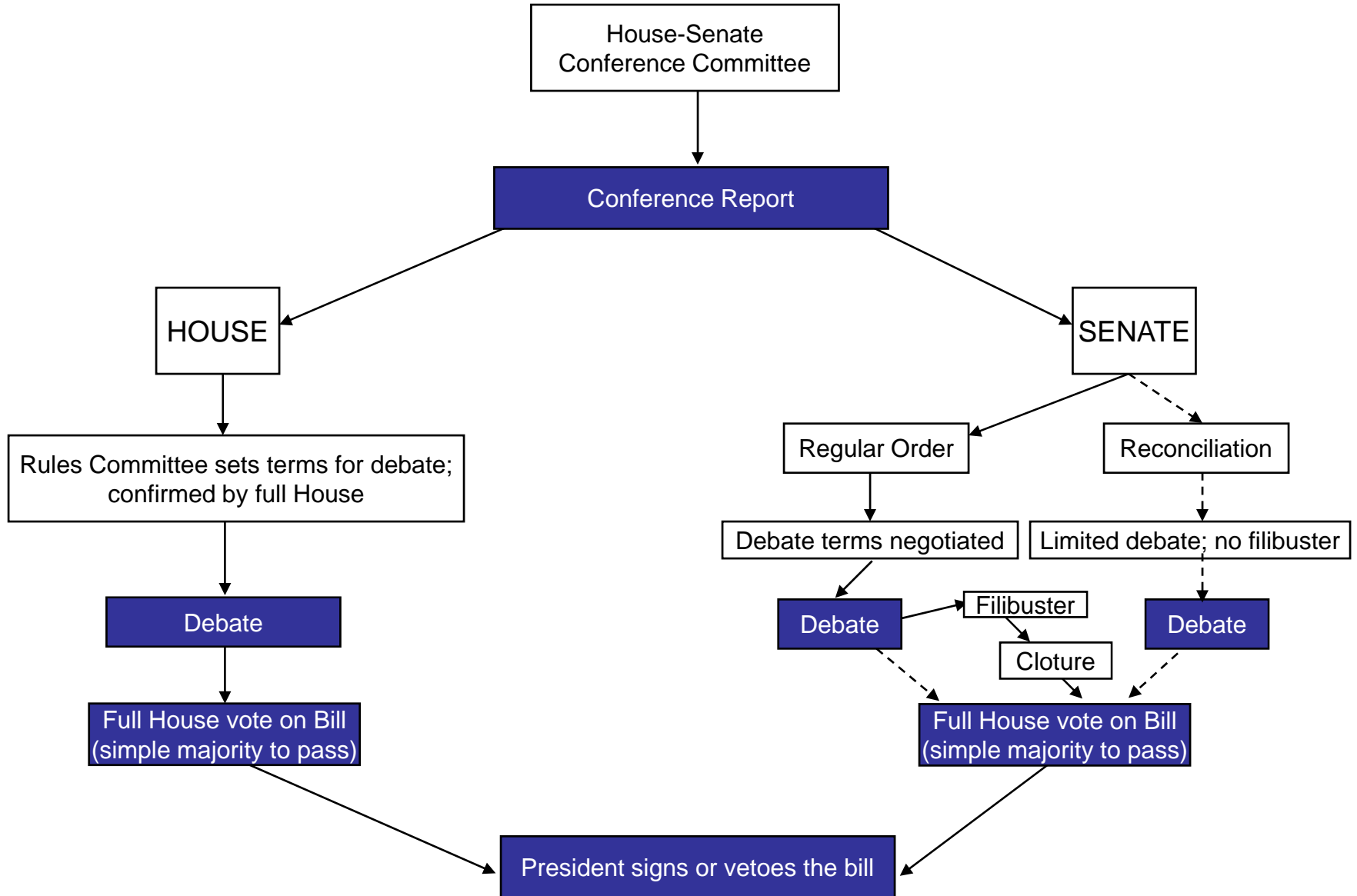
Status of Legislation

- Week of 9/21/09 – House working to meld Tri-committee bills and give to the Rules Committee, which brings the bill to the floor.
- Once House and Senate pass their respective bills, representatives from each will negotiate one final bill during the House-Senate Conference

Overview – Committees and Floor Debate



Overview – House-Senate Conference



House Tri-Committee Proposal

- America's Affordable Health Choices Act prepared by the Committees on Energy and Commerce, Ways and Means, and Education and Labor

House Tri-Committee Proposal

- Individual Responsibility
 - Maintain coverage or pay a tax of 2.5% of AGI
 - Hardship exemption available
 - Affordability credits
 - available for individuals up to 400% of FPL who are not eligible for Medicaid
 - used to reduce costs of premium and out-of-pocket expenses
 - coverage must be obtained through Exchange
 - determined on sliding scale: 1.5% of income for those at or below 133% of FPL; 11% of income for those at 400% of FPL
 - Subsidies are not available for illegal immigrants

House Tri-Committee Proposal

- Employer Responsibility
 - Contribution of 72.5% of premium for individual coverage; 65% for of premium for family coverage
 - Or make contribution to the exchange; generally 8% of the average salary for the employer
 - Small businesses with less than annual payroll of less than \$250,000 are exempt
 - Excise tax applies if employer fails to follow rules governing an offer of coverage
 - Tax credit available to small businesses
 - Equal to 50% of amount paid for employee coverage
 - Phased out for employer with 10 to 25 employees; or average wages of \$20k to \$40k per year

House Tri-Committee Proposal

- Insurance Market Reforms
 - Guaranteed issue and renewal
 - No exclusion for pre-existing conditions
 - Minimum benefit standards

House Tri-Committee Proposal

- Health Insurance Exchange
 - Open to individuals and employers (initially only small employers)
 - Medicaid eligible individuals generally not eligible to participate
 - Once an individual enrolls in coverage in the Exchange, remain eligible even if circumstances changes
 - Participating plans must offer benefits package established by the Health Choices Commissioner

House Tri-Committee Proposal

- Public Option
 - Offer same benefit and compete on level playing field with private plans
 - Premiums set to cover the costs
 - Payment rates set by Secretary, but generally Medicare rates plus 5% for practitioners who participate in Medicare
- Revenue Provisions
 - Health care surcharge on households with AGI in excess of \$350K (married), \$280K (single)

House Tri-Committee Proposal

- Medicare and Medicaid Reforms
 - Focus on prevention
 - Expansion of Medicaid
 - Fills Medicare Part D “donut hole”
- Promotion of Coordinated Care
 - Accountable Care Organizations
 - Medical Homes
- Promotion of Primary Care
 - Payment incentives
 - Loan repayment programs

House Tri-Committee Proposal

- Center for Comparative Effectiveness Research
- Transparency
 - Reports on financial relationships between physicians and health care entities and with manufacturers or distributors of drugs, devices, supplies, etc.
- Fraud and Abuse
 - Increased funding
 - Enhanced penalties

HELP Proposal

- Senate's Health, Education, Labor and Pensions (HELP) Committee's *The Affordable Health Choices Act*
- Individual Responsibility
 - All individuals required to obtain health ins. coverage
 - Exemptions – if affordable coverage is not available, Indians, individuals without coverage for fewer than 90 days
 - Penalty – no more than \$750/year

HELP Proposal

- Employer Responsibility
 - Employers with more than 25 employees who do not offer qualifying coverage or who pay less than 60% of employees' monthly premiums are subject to annual fee of \$750 per uninsured full-time employee and \$375 uninsured part-time employee.
 - The first 25 employees are exempted
 - Employers with 25 or fewer employees are exempt from penalties and eligible for program credits.

HELP Proposal

- Insurance Market Reforms
 - Guaranteed Issue
 - No exclusion for pre-existing conditions
 - No lifetime or annual limits
 - Coverage of preventive health services
 - Dependents stay on parents' policies until age 26
 - Policies must include financial incentives to reward high quality care
 - Minimum benefit packages

HELP Proposal

- Affordable Health Benefit Gateway
 - Each State will have a Gateway to facilitate purchasing of insurance coverage.
 - Will include a public insurance option
 - Health insurers will be able to offer insurance outside of the Gateway
 - Credits to individuals to defray premium costs provided on a sliding scale basis up to 400% of the poverty level.
 - Small business credits – available to employers with up to 50 FT workers who pay 60% or more of employee's health insurance premiums; available for up to 3 consecutive years

HELP Proposal

- Community Health Insurance Plan
 - Provides essential health benefits
 - Administered by non-profit entities in the same manner as Medicare
 - No requirement that health care providers participate or individuals join

HELP Proposal

- Health Improvements
 - Community living assistance services and supports
 - Prevention and public health programs
 - School based health programs for medically underserved children and families
 - Healthy Aging, Living Well – improve health status of pre-Medicare-eligible population to control chronic disease
 - Menu labeling – restaurant chains
 - Encouraging employer-sponsored wellness programs

HELP Proposal

- Quality Improvements
 - Community Health Teams to support development of medical homes
 - Best practices
 - Grants for Medication Management Services
- Health care workforce
 - Loan repayment programs for pediatric subspecialists, providers of mental/behavioral health services to children, public health professionals in public health agencies, allied health professionals in medically underserved areas.
 - Grants for new training opportunities (e.g., for direct care workers in long-term care facilities, advance nursing education, cultural competency for working with disabled, geriatric and chronic care management providers)
- Fraud and Abuse

Senate Finance Committee Proposal

- Chairman Baucus' attempt to reach compromise among the SFC bipartisan "Gang of Six"
 - (Max Baucus (D-MT), Kent Conrad (D-ND), Jeff Bingaman (D-NM), Charles Grassley (R-IA), Mike Enzi (R-WY), Olympia Snowe (R-ME))
- None of the three Republicans support the Chairman's mark-up.

SFC Proposal

- \$774B over 10 years
 - Less costly, less intrusive. Criticized for not helping enough Americans.
- Two major compromises
 - Co-ops in every state instead of government-run public plan; co-ops are nonprofit, member-run health insurance companies serving individuals in one or more states.
 - Tax-levy on insurance companies

SFC Proposal

- Individual Responsibility
 - US citizens and legal residents required to have coverage
 - Exemptions: religious objections, undocumented immigrants, hardship, unaffordability.
 - Penalty: 100-300% of poverty=\$750/yr, max per family of \$1,500/yr; income above 300% of poverty=\$950/yr, max per family of \$3800.

SFC Proposal

- **Employer Responsibility**

- Employers with more than 50 full-time employees (30hours plus) that do not offer health coverage must pay a fee for each employee who receives the tax credit for health insurance through the exchange
- Fee based on the amount of the tax credit received by employee; capped at \$400 x total number of employees, regardless of how many receive the tax credit
- Coverage by employer not required to comply with list of benefits required of plans in non-group and small-group markets.
- Employers must provide first dollar coverage for prevention services.

SFC Proposal

- Tax Credits
 - Small Businesses
 - Temporary relief for tax years 2011 and 2012 for firms with fewer than 25 employees and average wages below \$40,000; maximum credit of 35%
 - Permanent program beginning in 2013, available to new businesses and firms newly offering health coverage through an exchange; available to firms with fewer than 25 employees and average wages below \$40,000; max credit of 50%
 - Individuals and families between 100% and 300% of poverty – sliding scale based on the percent of income the cost of premiums represent
 - Cost-sharing assistance is also available for these individuals and families.
 - Illegal Immigrants not eligible for tax credits
 - Generally, tax credit not avail if employee offered employer-provided insurance unless insurance is unaffordable (13% of income)

SFC Proposal

- Insurance Market Reforms
 - Guaranteed issue
 - No exclusions for pre-existing conditions
 - No lifetime or annual limits
 - Prohibited from rescinding coverage
 - Interstate sale of insurance through “health care choice compacts” to allow for the purchase of non-group health insurance
 - State health insurance “exchanges” for uninsured to facilitate enrollment
 - Standardized benefit options

SFC Proposal

- Prevention/Wellness
 - New programs for Medicare and Medicaid (e.g., coverage for bi-annual check-ups, incentives for healthy lifestyles)
- New Patient Care Models
 - Medical Homes
 - Accountable Care Organizations
- Payment reform
 - Value based purchasing program
 - Financial Incentives for meeting quality measures
 - Pilot programs for payment models
 - Primary care and general surgery bonuses

SFC Proposal

- Fraud and Abuse
 - Transparency reports of physician ownership or financial interests in drug, device and biologic manufacturers
 - Prescription drug sample transparency
 - New enrollment process for providers
 - New procedures to disclose and repay overpayments
- Revenue Raisers
 - Fee on pharmaceutical manufacturing companies, medical device manufacturers, health insurance providers, clinical laboratories
 - High Cost Insurance Excise Tax – 35% tax on insurance companies and administrators for health plan above \$8,000 for singles and \$21,000 for family plans; tax applies to premium in excess of threshold; applies to self-insured plans and plans sold in the group market, not to plans sold in the individual market

Massachusetts

- Massachusetts Health Care Reform Act of 2006
- Individual Mandate – penalty up to \$912
- Employer Requirements – Employers with 11 or more employees required to make “fair and reasonable” contribution towards coverage or contribute up to \$295 annually per employee.
- Expansion of State Medicaid Program
- Subsidized health coverage for individuals below 300% of FPL
- Creation of insurance exchange

Massachusetts

- Reduced number of uninsured (number of uninsured recently increased).
- Residents may be choosing to take penalty, which is less than cost of coverage.
- Affordability of care is an issue.
- Financial challenges for the State; threatens ability to pay for subsidies.

Resources

- Department of Health and Human Services (www.healthreform.gov)
- House Ways and Means Committee (<http://waysandmeans.house.gov/MoreInfo.asp?section=52>)
- House Committee on Energy and Commerce (<http://energycommerce.house.gov/>)
- House committee on Education and Labor (<http://edworkforce.house.gov/>)
- Kaiser Family Foundation (www.kff.org)
- Kaiser Health News (www.kaiserhealthnews.org)
- New America Foundation (www.newamerica.net)
- United States Senate Committee on Health, Education, Labor and Pensions (<http://help.senate.gov/>)
- United States Senate Committee on Finance (<http://finance.senate.gov/sitepages/legislation.htm>)
- White House (http://www.whitehouse.gov/issues/health_care/)