



REGULAR PROCEDURE TO PASS HEALTH INSURANCE REFORM

TO IMPROVE AND PASS THE SENATE BILL

One option for passing health care reform is to consider a rule for Reconciliation that would pass the Senate bill and pass improvements to it that are based on the President’s proposal and the will of a majority of Congress. **As congressional scholar Thomas Mann has pointed out, such a rule would “make clear that the vote on the reconciliation package is in effect also a vote on the underlying Senate bill.”**

KEY POINTS

- The House would be sending the Senate bill to the President’s desk and simultaneously sending the improvements to the Senate for approval.
- Criticisms of the process by longstanding opponents of health insurance legislation are just the latest attempt to derail reforms that polls show the American people want.
- Historically, the House—**under both Democrats and Republicans over almost eight decades**—has used this regular procedure many times that “considers as adopted” a provision or bill.
- A review of the record shows that members of the current Republican leadership have repeatedly voted for this procedure when they were in control of Congress.

PASSES CONSTITUTIONAL MUSTER

- The Senate bill and the improvements will both require a majority vote to win passage. Reform opponents are wrongly claiming that this procedure is unconstitutional – by not holding a separate vote on both the Senate bill and the improvements. But, as is shown below, it has been used many times – by both Republican and Democratic Congresses – and has not been found unconstitutional.
- *USA Today* reports “Brookings Institution scholar Thomas Mann said the ‘deem and pass’ move being contemplated by House Democrats is not that unusual and has been employed to handle ‘difficult partisan issues,’ such as the ban on smoking on domestic airline flights. Mann said Congress used this procedure 36 times in 2005 and 2006, when the GOP was in charge, and 49 times in 2007 and 2008, after the Democrats had taken control.” [[03/15/2010](#)]

HYPOCRISY ALERT

- This practice has been in use since at least 1933 – and has been commonly used under both Republicans and Democrats.
- In 1948, the Republican-controlled House passed a resolution to consider as adopted Senate amendments to a bill to change tax rates.
- In 1993, the House adopted a resolution to consider as adopted the Senate amendment to the Family and Medical Leave Act.
- In 1996, the Republican-controlled House adopted a resolution to consider as adopted the conference report on Line Item Veto.
- Separately, beginning in 1980 – and most years thereafter -- the House has had in place a standing rule that approves automatically a joint resolution to increase the public debt limit upon adoption of a Budget Resolution that contemplates such an increase. Such a resolution has occurred 20 times in the last 30 years.
- Congressional Scholar Norm Ornstein of American Enterprise Institute writes: “I can’t recall a level of feigned indignation nearly as great as what we are seeing now from congressional Republicans and their acolytes at the Wall Street Journal, and on blogs, talk radio, and cable news. **It reached a ridiculous level of misinformation and disinformation over the use of reconciliation, and now threatens to top that level over the projected use of a self-executing rule** by House Speaker Nancy Pelosi. In the last Congress that Republicans controlled, from 2005 to 2006, Rules Committee Chairman David Dreier used the self-executing rule more than 35 times, and was no stranger to the concept of “deem and pass.” That strategy ... was **defended by House Republicans in court (and upheld)** ... is there no shame anymore?” [\[03/16/2010\]](#)

OPEN AND TRANSPARENT

- The Senate bill has been publicly available for almost three months. The Reconciliation bill that improves it has been publicly discussed for weeks, and will be available online 72 hours before any House Member will be asked to vote on it.

AMICUS BRIEF

- Some health care opponents are comparing this procedure to an amicus brief filed in a lawsuit challenging the constitutionality of the Deficit Reduction Act of 2005. Speaker Pelosi, Chairman Waxman, and Chairwoman Slaughter all signed onto that amicus brief. That court challenge arose due to the House and Senate passing **two different final versions of a bill**, President George W. Bush signing one of them (the Senate version) into law, and the significant constitutional questions it raised. It had nothing to do with this process.