

MEMORANDUM

To: ASTS

From: Peter Thomas, Peggy Tighe, and Leif Brierley

Date: July 26, 2017

Re: Analysis and Developments on the Senate's Current Health Reform Activity

Summary

On Tuesday, July 25, 2017, the U.S. Senate [voted to proceed](#) to debate on federal health care reform legislation. The vote on the motion to proceed passed by a vote of 51-50, with Vice President Mike Pence casting the tie-breaking vote. Two Republican Senators, Sen. Susan Collins (R-ME) and Sen. Lisa Murkowski (R-AK), voted against the motion to proceed, along with all 46 Democrats and 2 Independent members of the Senate. Upon passage of the motion, the Senate entered 20 hours of debate, divided evenly between the Republicans and Democrats. During this time, the Senate can offer, consider, and vote on amendments to the underlying health care legislation, the House-passed bill, H.R. 1628, known as the American Health Care Act (AHCA).

Today, the Senate is continuing its debate of this bill and a large number of amendments from both Republicans and Democrats. Already, the Senate has considered several notable amendments, including one that would substitute the entire underlying bill with a modified version of the Senate's health care reform legislation, the Better Care Reconciliation Act (BCRA) of 2017. That specific 'substitute amendment' was [defeated](#) by a 43-57 vote, with 9 Republican senators voting against it.

This afternoon, the Senate debated and voted on another major amendment that would replace the underlying bill, H.R. 1628, with similar legislation that the Senate passed in 2015. Sen. Rand Paul was the chief sponsor of this approach. This amendment would repeal key aspects of the Affordable Care Act (ACA) with a two-year delay in implementation, potentially allowing Congress time to debate and pass a replacement for the ACA. This amendment failed by a vote of 55-45, with seven Republicans joining all 48 Democrats in opposing the amendment.

Procedurally, the current debate is subject to the Senate budget reconciliation rules. This means that any amendments or legislation must meet certain rules, which generally mandate that the legislation must be germane to the budget. Democratic senators can be expected to raise "points of order" against amendments they believe do not comport with the budget reconciliation rules; any amendments that are found not in compliance with the rules are then subject to a 60-vote threshold to pass, rather than a simple 51 vote majority.

Senators from both parties are expected to continue to offer amendments over the next day or two. If no consensus emerges, one option for Majority Leader McConnell would be to pull the bill from the floor, temporarily ending consideration of the legislation. Another option would be to enter into a so-called “vote-a-rama,” in which the chamber holds a series of votes on a large number of amendments consecutively. If this occurs, it would likely take place toward the close of the 20 hours of debate, approximately late Thursday or early Friday. Many observers are predicting that the result of such a process would be a “placeholder” or “skinny” bill which would contain just three provisions, a repeal of the individual mandate, a repeal of the employer mandate, and a repeal of the medical device tax.

This approach would allow the Senate to move onto other matters while deferring to a conference committee to begin deliberations with House negotiators on a final bill. If an agreement were to be reached, this new legislation or “conference report” would be subject to an up or down vote in each chamber, presumably following the August Congressional work period/recess.

We are closely monitoring the Senate debate and will report back with further details as they emerge. Please do not hesitate to contact us with any questions.