

The Washington Post

House may try to pass Senate health-care bill without voting on it

By Lori Montgomery and Paul Kane
Washington Post Staff Writers
Tuesday, March 16, 2010; A01

After laying the groundwork for a decisive vote this week on the Senate's health-care bill, [House Speaker Nancy Pelosi](#) suggested Monday that she might attempt to pass the measure without having members vote on it.

Instead, Pelosi (D-Calif.) would rely on a procedural sleight of hand: The House would vote on a more popular package of fixes to the Senate bill; under the House rule for that vote, passage would signify that lawmakers "deem" the health-care bill to be passed.

The tactic -- known as a "[self-executing rule](#)" or a "deem and pass" -- has been commonly used, although never to pass legislation as momentous as the \$875 billion health-care bill. It is one of three options that Pelosi said she is considering for a late-week House vote, but she added that she prefers it because it would politically protect lawmakers who are reluctant to publicly support the measure.

"It's more insider and process-oriented than most people want to know," the speaker said in a roundtable discussion with bloggers Monday. "But I like it," she said, "because people don't have to vote on the Senate bill."

Republicans quickly [condemned the strategy](#), framing it as an effort to avoid responsibility for passing the legislation, and some suggested that Pelosi's plan would be unconstitutional.

"It's very painful and troubling to see the gymnastics through which they are going to avoid accountability," [Rep. David Dreier](#) (Calif.), the senior Republican on the House Rules Committee, told reporters. "And I hope very much that, at the end of the day, that if we are going to have a vote, we will have a clean up-or-down vote that will allow the American people to see who is supporting this Senate bill and who is not supporting this Senate bill."

House leaders have worked for days to round up support for the legislation, but the Senate measure has drawn fierce opposition from a broad spectrum of members. Antiabortion Democrats say it would permit federal funding for abortion, liberals oppose its tax on high-cost insurance plans, and Republicans say the measure overreaches and is too expensive.

Some senior lawmakers have acknowledged in recent days that Democrats lack the votes for passage. Pelosi, however, predicted Monday that she would deliver.

"When we have a bill, then we will let you know about the votes. But when we bring the bill to the floor, we will have the votes," she told reporters.

Pelosi said Monday that House Democrats have yet to decide how to approach the vote. But she added that any strategy involving a separate vote on the Senate bill "isn't too popular," and aides said the leadership is likely to bow to the wishes of its rank and file.

As Pelosi and other congressional leaders pressed wavering lawmakers, [President Obama](#) highlighted how close the result may be as he focused his attention Monday on [Rep. Dennis Kucinich](#) (D-Ohio), who has been a stalwart no vote on health-care reform.

Kucinich, an uncompromising liberal, has rejected any measure without a government-run insurance plan. Obama invited Kucinich to join him aboard Air Force One for a trip to suburban Cleveland, where the president made a plea for reform, the third such pitch in eight days.

As he addressed a crowd of more than 1,400, Obama repeatedly called on lawmakers to summon the "courage to pass the far-reaching package." He painted the existing insurance system as a nightmare for millions of American who cannot afford quality coverage.

The president lashed out at Republican critics who have argued that the health-care initiative would undermine Medicare, and he argued that the measure would end "the worst practices" of insurance companies.

"I don't know about the politics, but I know what's the right thing to do," he said, nearly shouting as the crowd cheered. "And so I'm calling on Congress to pass these reforms -- and I'm going to sign them into law. I want some courage. I want us to do the right thing."

Asked whether he was reconsidering his position, Kucinich demurred. But [Sen. Sherrod Brown](#) (D-Ohio) said Kucinich is coming under intense pressure from Ohioans who want Congress to act, and from his colleagues in Washington.

"All of us -- the governor, the congressional delegation, the president -- are making clear to Dennis that we won't have another chance for a decade if this doesn't happen," Brown said.

Persuading liberals such as Kucinich to support the Senate bill is critical to the Democratic strategy, which has been rewritten since January, when Democrats lost their supermajority in the Senate. The Senate Democratic [caucus](#), reduced to 59 seats, lost its ability to override Republican [filibusters](#) and soon abandoned plans to pass a revised version of the health-care bill that would reflect a compromise with House leaders.

As House leaders looked for a path that could get the Senate legislation through the chamber and onto Obama's desk, conservatives warned that Pelosi's use of deem-and-pass in this way would run afoul of the Constitution. They pointed to a [1998 Supreme Court ruling](#) that said each house of Congress must approve the exact same text of a bill before it can become law. A self-executing rule sidesteps that requirement, former federal appellate judge Michael McConnell argued [in a Wall Street Journal op-ed](#).

Democrats were also struggling Monday to put the finishing touches on the package of fixes. Under reconciliation rules, it is protected from filibusters and could pass the Senate with only 50 votes, but can include only provisions that would affect the budget.

Democratic leaders learned over the weekend that they may not be able to include a number of favored items, including some Republican proposals to stem fraud in federal health-care programs and a plan to weaken a new board that would be empowered to cut Medicare payments.

[Rep. Chris Van Hollen](#) (Md.), the Democratic leader tasked with protecting politically vulnerable [incumbents](#), said Republicans would twist the nature of the health-care vote, no matter how the leadership proceeds. He defended the deem-and-pass strategy as a way "to make it clear we're amending the Senate bill."

Without that approach, Van Hollen warned, "people are going to try to create the impression that the Senate bill is the final product, and it's not."

Undecided Democrats appeared unconcerned by the flap. [Rep. Bart Gordon](#) (D-Tenn.), a retiring lawmaker who opposed the original House bill and is undecided on the new package, mocked Republican criticism of the process. Ultimately, he said, voters will hold lawmakers responsible for any changes in law.

"I don't think anybody's going to say that we didn't vote for the bill," he said.

Staff writer Peter Slevin in Ohio contributed to this report.

[View all comments](#) that have been posted about this article.

© 2010 The Washington Post Company