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Inside National Health Reform

JOHN E. MCDONOUGH

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To the memory and legacy of
Senator Edward Moore Kennedy,
whose life and example have inspired millions
to achieve health care justice

3. Political Will I—Prelude to a Health Reform Campaign

The scene: a Democratic presidential primary debate in Las Vegas, Nevada, on November 15, 2007, less than two months before the pivotal Iowa caucuses. After a shaky showing in the prior debate, Senator Hillary Rodham Clinton was urged by aides to challenge Senator Barack Obama on inadequacies in his health reform proposal, which was projected to cover fewer uninsured Americans than her plan because of the lack of an individual mandate to purchase health insurance. Here is the key exchange moderated by CNN's Wolf Blitzer:

SENATOR CLINTON: Well, I hear what Senator Obama is saying, and he talks a lot about stepping up and taking responsibility and taking strong positions. But when it came time to step up and decide whether or not he would support universal health care coverage, he chose not to do that. His plan would leave fifteen million Americans out. That's about the population of Nevada, Iowa, South Carolina, and New Hampshire. I have a universal health care plan that covers everyone. I've been fighting this battle against the special interests for more than fifteen years, and I am proud to fight this battle. You know, we can have different politics, but let's not forget here that the people who we're against are not going to be giving up without a fight. The Republicans are not going to vacate the White House voluntarily. . . . [*cheers, applause*]

MR. BLITZER: All right. Senator Obama.

SENATOR OBAMA: Well, let's talk about health care right now because the fact of the matter is that I do provide universal health care. The only difference between Senator Clinton's health care plan and mine is that she thinks the problem for people without health care is that nobody has mandated—forced—them to get health care. That's not what I'm seeing around Nevada. What I see are people

who would love to have health care. They—they desperately want it. But the problem is they can't afford it, which is why we have put forward legislation [*cheers, applause*]—we've put forward a plan that makes sure that it is affordable to get health care that is as good as the health care that I have as a member of Congress. [*applause*]

MR. BLITZER: All right. . . .

SENATOR CLINTON: Wolf, I—Wolf, I cannot let that go unanswered. You know, the most important thing here is to level with the American people. Senator Obama's health care plan does not cover everyone. He starts with children, which is admirable—I helped to create the Children's Health Insurance Program back in 1997. I'm totally committed—[*applause*]—

SENATOR OBAMA: That's not true, Wolf.

SENATOR CLINTON: —to making sure every single child is covered. He does not mandate the kind of coverage that I do. And I provide a health care tax credit under my American Health Choices Plan so that every American will be able to afford the health care. I open up the congressional plan. But there is a big difference between Senator Obama and me. He starts from the premise of not reaching universal health care. . . .

SENATOR OBAMA: —states that she wants—she states that she wants to mandate health care coverage, but she's not garnishing people's wages to make sure that they have it. . . . She is not—she is not enforcing this mandate. And I don't think that the problem with the American people is that they are not being forced to get health care. . . . The problem is, they can't afford it. And that is why my plan provides the mechanism to make sure that they can. [*applause*][1]

National health reform was a front-and-center issue in Democratic primaries and in the general election, to an extent rarely seen in the history of presidential elections. In the Democratic primaries, the defining issue became whether to include an individual mandate as part of reform, and in the general election whether to tax employer-provided health insurance. More than settling those issues, the challenge for reformers was to create an expectation that reform had to happen. Most of the time, generating political will does not happen spontaneously—it is developed and nurtured over time to take advantage of political opportunity when it arises. In this chapter, we will explore the presidential campaign and, before that, the activities between 2005 and 2008 of stakeholders who wanted to make sure that health reform mattered.

GATHERING MOMENTUM

While the Democratic primary campaigns provided heat and electricity to health reform, interest groups, key stakeholders, and influential individuals committed to achieving what was missed in 1993–94 had been working hard on reform well before Americans focused on the 2008 presidential sweepstakes. Their work was critical in generating the energy exhibited in the Democratic campaigns. While many were familiar progressive groups, the early action also involved nontraditional and surprising reformers—both groups and individuals. Consider six—the American Medical Association, the Federation of American Hospitals, the trade group for the medical-device industry known as AdvaMed, the Business Roundtable, the Pharmaceutical Research and Manufacturers of America, and America's Health Insurance Plans.

No organization has been more associated with opposition to national health reform than the AMA, the nation's largest, most influential physician organization. The AMA's opposition to the health reform designs of Presidents Roosevelt, Truman, and Johnson were potent and, with the exception of LBJ's plan, effective. In 1993–94 the AMA was conflicted and ineffective as insurers, business groups, and drug companies spearheaded the effort to kill Clinton-care. At the same time, a shrinking AMA membership and the growing memberships of a dizzying array of other physician organizations have made its work more difficult. Looking ahead to 2009, the AMA approached the prospect of national health reform differently. At the organization's 2005 strategic planning meeting, support for covering the uninsured and for participating in broader health reform had already emerged as top priorities. Leading up to the 2008 presidential elections, the AMA spent $16 million to invest in TV, newspaper, and subway ads, and more to promote health reform as a 2008 election issue. It had eight reform priorities, the top of the list including a fix to the flawed Medicare physician-payment system, medical-liability reform, and universal coverage. This time, unlike all the others, the AMA wanted reform and wanted to be a leader in helping to make it happen.[2]

Few individuals were more identified with opposition to the Clinton plan than Chip Kahn. As a leader of the Health Insurance Association of America (HIAA) in 1993, he dreamed up a TV advertising series featuring "Harry and Louise," a fictional middle-American couple worrying about the effects of the Clinton plan on their own coverage. "There's got to be a better way," they sighed, to devastating effect.[3] In 2001, after stints on Capitol Hill as a top health policy aide to House Republicans and time as president of the HIAA, Kahn was hired as the chief of the Federation of American Hospitals, the national trade organization of for-profit hospitals—not a liberal or social-justice-oriented association. At a 2006 federation meeting in Florida, he was summoned by his staffers into a raucous session:

> Staff told me I had better get in the room fast because everyone is angry. My members told me they were sick and tired of incremental health reform measures. They wanted universal coverage NOW. I said we won't get it. They told me they wanted the Federation to stand for this right away. They felt the path we were on was unsustainable with the levels of uncompensated care and the expectation that hospitals would take care of everyone, plus this byzantine financing scheme.[4]

His member revolt led Chip in early 2008 to formulate a proposal for a "Health Care Passport"—a pathway to universal coverage within the existing private health insurance structure. "My people said we're not interested in incremental anymore, and they put me in a different place."

AdvaMed, the national trade organization for the burgeoning medical-device industry, was another atypical party. Formed in 1974 as the Health Industry Manufacturers Association, it took its current name in 2000 to create a higher profile. As part of an effort to create a stronger federal presence, in 2005 it hired David Nexon as senior executive vice president. For twenty years before that, as Senator Edward M. Kennedy's senior health policy chief, Nexon was called the "dean of health policy in the U.S. Senate." In mid-2008, AdvaMed released its own universal coverage plan including Massachusetts-like insurance subsidies and an individual mandate. Nexon's fingerprints were visible all over it. While making clear it wanted to be a player, AdvaMed offered no suggestions for how to pay for the plan.

The Business Roundtable is just one of countless business voices in Washington DC. Yet as a voice for America's largest corporations, with $6 trillion in annual revenue and twelve million employees, it displays a more moderate disposition than harder-edged competitors such as the U.S. Chamber of Commerce and the National Federation of Independent Business (NFIB). Because all its members provide employee health coverage, it wanted to create greater efficiency and value for the medical services it purchased and to stop footing the bill for the uninsured. In September 2008, Business Roundtable president John Castellani released a four-part health plan calling for greater consumer value, a reorganized private health insurance market, an individual mandate, and subsidies for the lower-income uninsured. As for the other business groups, NFIB leader Todd

Stottlemyer publicly supported health reform, an eye-popping and short-lived turnaround from the organization's prior role as the business community's leading galvanizer against the Clinton plan. In 1993–94, the U.S. Chamber initially supported Clinton-care and its employer mandate, until NFIB browbeat it into opposition. This time, the Chamber started out hostile and browbeat NFIB into opposition. NFIB's new pro-reform stance was short-lived, as Stottlemyer left in early 2009, and the group soon returned to its prior anti-reform position. But in the early days of 2007 and '08, Stottlemyer and NFIB had teamed up with the Business Roundtable, AARP, and the Service Employees International Union (SEIU) to form the Divided We Fail coalition to promote a positive reform agenda throughout 2008.

The pharmaceutical industry was among the most vociferous and effective opponents of the 1993–94 Clinton health reform plan, investing tens of millions in opposition advertising. Working with the Bush administration and Republican congressional leaders, the industry and its trade organization, the Pharmaceutical Research and Manufacturers of America (PhRMA), won a major victory in 2003 with passage of the Medicare Modernization Act (MMA), which created a Medicare outpatient prescription-drug benefit relying on the private market without government cost controls. PhRMA's president, Billy Tauzin, had been a Republican congressman and the House Energy and Commerce Committee chair who brokered the MMA deal and then left Congress to head the drug trade group. While the MMA was a Republican victory, the industry had allies aplenty among Democrats who took control of the Senate in 2007. Among them was Senator Max Baucus (D-MT), chair of the Senate Finance Committee and one of the few leading Democrats to vote for the MMA. Also friendly was Senator Kennedy, whose Health, Education, Labor and Pensions (HELP) Committee had jurisdiction over the Food and Drug Administration and whose home state of Massachusetts was a base for many drug and life sciences firms. In 2008, Kennedy began meeting with industry leaders, particularly Pfizer's new president and CEO Jeff Kindler, to avoid a repeat of 1993–94. Well before an industry deal on health reform was reached with Baucus and the White House in July 2009, Pfizer began TV and other advertising to promote reform, signaling its intention to play a different role this time.

The health insurance industry—with its principal trade organization, America's Health Insurance Plans (AHIP)—was perhaps the most surprising player. And its president, Karen Ignagni, was a surprising leader. The daughter of a Rhode Island firefighter, she had been a staffer for U.S. Senator Claiborne Pell (D-RI) and was an AFL-CIO health policy director during the Clinton health reform process. Looking ahead to 2009, she was the face and voice of the U.S. health insurance industry and determined to steer a different course:

> In March 2006, my Board began an important strategic conversation—what position would we take after the 2008 election? We discussed the Clinton era and what happened. Back then, they decided not to advance proposals, and so our only choice was to say yea or nay. We did not want to do that again and wanted this time to play a leadership role. In November 2006, we became one of the first national organizations to adopt the principle that all Americans should be covered.[5]

AHIP began releasing proposals: in March 2007, on improving health care quality; in December 2007, on how states could achieve guaranteed issue; in May 2008, on cost containment; in November 2008, on how to achieve guaranteed issue federally; and in March 2009 on how to eliminate insurance rating based on health status and gender. To many, AHIP's proposals did not go far enough, though it was clearly an industry whose position was evolving—so it was not surprising when President Obama turned to Ignagni for a comment at the White House health reform summit on March 5, 2009. She told him, "We hear the American people about what's not working. We've taken that seriously. You have our commitment to play, to contribute, and to help pass health care reform this year."[6]

Business, insurers, manufacturers, medical organizations were all calling for comprehensive reform, all issuing principles and priorities, all stating that doing nothing to fix health care was unacceptable. An era of health reform good feeling had broken out and lasted well into 2009. Seasoned observers knew it would not last once actual legislation appeared, though many wondered if this time things just might be different.

Of critical importance in sustaining the focus and good feelings were key national health foundations, many of whom had been preparing for a new reform opportunity for years. The Robert Wood Johnson Foundation, led by Risa Lavizzo-Mourey, supported early efforts to connect congressional staff from both parties with researchers and promoted initiatives to build a robust community voice in the legislative process; the foundation also financed efforts to achieve multistakeholder and bipartisan consensus, including the Health Reform Dialogue and the Bipartisan Policy Center (both described shortly); it played an essential role in developing a robust health prevention part of the reform agenda. The Kaiser Family Foundation, run by former New Jersey Human Services commissioner Drew Altman, provided key polling data throughout the process, and became a key go-to organization for fast access to critical data and information; the Kaiser Foundation's Diane Rowland, one of the nation's leading experts on

Medicaid, was keenly involved in that part; its private insurance expert, Gary Claxton, consulted extensively with every congressional staffer involved in the private-insurance-market portions of the ACA. The upstart Atlantic Philanthropies, not bound by Internal Revenue Service restrictions on direct funding for legislative advocacy, provided $26.5 million to the newly created Health Care for America Now (HCAN) coalition.

The Commonwealth Fund, headed by Carter administration health official Karen Davis, a respected researcher, formulated its own detailed and robust proposals and developed key research on many policy priorities. Its "Path to a High Performance U.S. Health System" offered comprehensive recommendations on insurance, payment, and system reforms that resemble in many respects the details and the breadth of the final ACA.[7]

Familiar liberal organizations were also active early, including AARP, the massive senior citizens organization (half of whose members are under age sixty-five and at risk of losing health insurance); Families USA, the savvy consumer advocacy group; the Service Employees International Union (SEIU), the key labor voice promoting reform anywhere and everywhere; the American Cancer Society and other disease organizations; the Center for American Progress, a key progressive policy shop; and many others. Knowing their voices alone were insufficient, these groups formed and joined numerous overlapping coalitions: Divided We Fail, the National Coalition on Benefits, the Partnership to Fight Chronic Disease, the National Coalition on Health Care, the Are You Covered? coalition, Better Health Care Together, the Coalition to Advance Healthcare Reform, the Herndon Alliance, Americans for Health Care, the Healthcare Leadership Council, the single-payer Healthcare-Now coalition, Health Care for America Now, and more.

A few carved out unique and consequential niches.

Health Care for America Now was the most prominent reform coalition during the process. With 142 national organizations, hundreds of state and local groups, and a powerful steering committee including groups such as the AFL-CIO, SEIU, the National Education Association, MoveOn.org, the NAACP, and Citizen Action, HCAN was well financed with more than $51 million from the Atlantic Philanthropies, national labor unions, and other supporters, ensuring significant resources and a loud voice.[8] Many HCAN participants were single-payer advocates who became convinced their preference was not achievable, at least in the 2009 round. They embraced a plan advanced by Yale political scientist Jacob Hacker that proposed a Massachusetts Avenue–like arrangement with a crucial add-on—one insurance option through an exchange had to be a "public-plan option" run by the

federal government, paying Medicare rates to hospitals, physicians, and other medical providers and requiring all providers to contract with the plan as a condition to continue their participation in Medicare.[9] HCAN made the public-plan option one of the most compelling controversies in the reform process. By Election Day 2008, HCAN had collected pledges from 140 senators and representatives supporting its principles, including a public option.[10]

The Health Reform Dialogue, the brainchild of Families USA head Ron Pollack, involved America's Health Insurance Plans, the AMA, the Federataion of American Hospitals, the American Hospital Association (AHA), Pharmaceutical Research and Manufacturers of America (PhRMA), SEIU, the Business Roundtable, AFL-CIO, the National Federation of Independent Business (NFIB), and others, eighteen heavy hitters in all. They negotiated for seven months, beginning in the fall of 2008, helped by a professional conflict mediator. In their final agreement, announced in March 2009, they reached consensus on some key principles. The goals were to expand health coverage to all Americans; achieve more effective and efficient care; promote prevention and wellness; and reduce the growth rate for health costs—all of which were contained in the final ACA. Media coverage noted the nonagreement on financing, mandates, and a public-plan option. Because of the lack of an employer mandate and a public-plan option, the SEIU and AFL-CIO refused to sign the final statement. Intending to jump-start congressional consensus, the Dialogue instead gave an early indication of how hard achieving reform would be on the crucial policy controversies. Pollock did persuade some participants (PhRMA, AHA, the Catholic Health Association, and NFIB) to sponsor new TV ads featuring the characters Harry and Louise, sixteen years older. This time, they were back to support undefined national health reform. The ads ran prominently during the 2008 national political conventions and longer. "A little more cooperation, a little less politics," Louise says to Harry, "and we can get the job done this time."[11]

Another hope-triggering sign was the 2007 launch of the Bipartisan Policy Center by four former U.S. Senate majority leaders, Bob Dole (R-KS), Howard Baker (R-TN), George Mitchell (D-ME), and Tom Daschle (D-SD). Mitchell had told Democratic senators at a July 2008 lunch: "I bear a large share of responsibility for the '93–'94 failure—don't repeat my errors."[12] He was determined to help get it done this time, though his personal effort ended prematurely when Obama named him the new Middle East envoy in early 2009. With staff support from Clinton White House health policy chief Chris Jennings and the Bush director of the Centers for Medicare

and Medicaid Services Mark McClellan, hopes were high that this group could chart a credible bipartisan pathway to reform. The Bipartisan Policy Center's final June 2009 report, *Crossing Our Lines: Working Together to Reform the U.S. Health System*,[13] found agreement on four key policy areas, most of which found their way into the final ACA. They were preserving and improving quality and value, increasing access to health insurance in a reformed market, promoting individual responsibility, and securing adequate financing. As with the Health Reform Dialogue, there was common ground on key transformation issues and nonagreement on the hot-button controversies.

Between 2007 and mid-2009, much creative, constructive activity got done and helped to mask some high-profile disagreements. The glass was about three-quarters filled; it wasn't until legislation hit the street that the world began to focus on the unfilled quarter.

THE PRESIDENTIAL CAMPAIGN

On health reform, former North Carolina senator and 2004 Democratic vice-presidential nominee John Edwards went first. In February 2007, well before personal scandals eviscerated his reputation, Edwards put forward a bold, comprehensive plan promising universal coverage backed by an individual mandate and a public-plan option, a mandate on employers to cover their workers, and reforms to improve the quality and delivery of medical care. *New York Times* columnist Paul Krugman saluted: "So this is a smart, serious proposal. It addresses both the problem of the uninsured and the waste and inefficiency of our fragmented insurance system. And every candidate should be pressed to come up with something comparable."[14] In the Democratic primary field, the race was on to advance bold and systemic reform.

Because of her unprecedented health reform role as first lady in 1993–94, expectations were high for an audacious and far-reaching plan from the Democratic front-runner, Hillary Clinton. Before settling on one policy, she and her advisors explored alternatives, including health systems in Australia and Switzerland, Senator Ron Wyden's Healthy Americans Act, and more. She embraced the reform proposal developed by the progressive Center for American Progress. "It was always clear we were doing an individual mandate," said one former staffer.

Clinton announced her agenda in three speeches in the summer of 2007, first controlling costs, then improving quality, and finally, guaranteeing universal coverage, the last in mid-September. Her plan, resembling

Edwards's proposal with an individual mandate, received warm praise from Democrats and gave her a boost in Iowa polls. She emphasized what became a Democratic refrain—"If you like the coverage you have, you can keep it." She proposed to pay for the plan, in small part, by taxing the health benefits of those making more than $250,000 a year. She included a tax credit for small businesses, an idea borrowed from Senator Richard Durbin's (D-IL) small business health insurance legislation. She had a fine debate performance in Philadelphia on October 30 until she stumbled badly in response to a question about driver's licenses and undocumented immigrants. Preparing for the next debate in Las Vegas on November 15, she and staffers strategized to put Obama on the defense by attacking his perceived weakness, health care.

Obama released his health plan in late May 2007, months before Clinton, and it fit closely with the Edwards and Clinton positions on expanding coverage, reforming insurance markets, revamping medical care, and promoting prevention and wellness. Two elements stood apart. First, he rejected an individual mandate on adults, favoring one on parents to cover their children. David Plouffe, Obama's campaign manager, writes that the choice was Obama's and contrary to his advisors' advice. He quotes his boss:

> I reject the notion that there are millions of Americans walking around out there who don't want health coverage. They want it but can't afford it. Let's attack costs from every angle, provide incentives for small businesses and families to allow them to provide and buy coverage. I am not opposed to a mandate philosophically. But I don't think we should start there. It could be a recourse if coverage goals aren't being met after a period.[15]

Second, he promised that "the Obama plan will save a typical American family up to $2,500 every year on medical expenditures."[16] The savings would be achieved through investments in information technology, improving the prevention and management of chronic conditions, increasing insurance industry competition and reducing underwriting costs and profits, providing reinsurance for catastrophic conditions, and making health insurance universal. "What we're trying to do," Obama advisor and Harvard economist David Cutler explained, "is to find a way to talk to people in a way they understand."[17] He explained that the $2,500 represented an average family's share of savings in a pie that included the employer's share, plus savings to Medicare and Medicaid, creating a cloudier picture than the specific number implied. While the $2,500 commitment would emerge periodically, it never became a front-burner issue in the primary or general elections. Not so for the individual mandate, which became a heated source of contention once

the Democratic primary field had shrunk to Obama and Clinton. An Obama television ad charged:

> Hillary Clinton's attacking, but what's she not telling you about her health care plan? It forces everyone to buy insurance, even if you can't afford it, and you pay a penalty if you don't.[18]

His campaign sent mailings with the same message, provoking Clinton to exclaim at one campaign stop, "Shame on you, Barack Obama!" She then added, "Meet me in Ohio. Let's have a debate about your tactics and your behavior in this campaign."[19]

Obama campaign staff opinions differ regarding the candidate's position on the individual mandate after the primary season concluded in early June. Some believe he knew an individual mandate would eventually become a part of his reform agenda. Others suggest he maintained personal opposition to a mandate throughout the fall campaign. The issue subsided from public view because he and Republican candidate John McCain held the same view. Tom Daschle, Obama's first pick as Health and Human Services secretary, got the first indication of a softening on December 11: "To my pleasant surprise, the president-elect told us, for the first time, that he might be willing to reconsider his thinking on two of the strongest stands he had taken during the campaign: his opposition to requiring everyone to get health insurance, and his refusal to consider any taxation of health care benefits."[20] Obama's first public indication of a changed stance on the individual mandate came in a July 17, 2009, interview with CBS News: "I am now in favor of some sort of individual mandate as long as there's a hardship exemption."[21]

In the summer of 2008, Obama's campaign began preparing for the general election campaign with new personnel, including Clinton campaign veterans. At a meeting on July 2, polling was presented showing Obama and McCain neck and neck. Polling also showed the public's desire for health care reform was murky. A consensus began to form in the room not to emphasize health reform in the fall campaign. Obama himself put the brakes on backing away. "Look," he said, "I want to do health care my first year I'm if lucky enough to be president, and your job is to figure out how to win the issue, and we're going to do it."[22]

A different health policy issue came to the fore in the general election—McCain's proposal to finance his coverage-expansion plan by taxing employer health insurance. The exclusion of employer-provided health insurance from workers' taxable wages is a cherished target of economists, liberal to conservative, as a financing source to pay for universal health

insurance and to achieve greater value in the health system. Congress's Joint Committee on Taxation estimated the deduction's cost at $246.1 billion in 2007, making it the single largest federal tax expenditure and the fastest growing.[23] Just cutting it by half could finance robust universal coverage for all uninsured Americans. Harvard health economist Katherine Baicker expressed a prevalent view of economists in testimony before the Senate Finance Committee:

> Most economists would agree that our current tax treatment of health insurance is an important part of the problem, and that reforming that system would be a key component of a broader solution.[24]

More influential than the economists, though, are America's corporate and organized labor communities, rarely on the same side, but united in their opposition to altering the tax exclusion. Corporations do not want to forfeit a key employee benefit, and unions believe their working-class members would be most harmed by elimination or limitation of the exclusion. They were united with the Obama campaign in strident opposition to McCain's plan, which had been crafted by his campaign policy chief and former Congressional Budget Office director Douglas Holtz-Eakin. McCain's plan would have eliminated the exclusion to help finance new $2,500 and $5,000 tax credits for individuals and families to pay for health insurance and would have left existing health insurance markets unreformed without eliminating preexisting-condition exclusions—a basic element in all Democratic plans. It was the proposal to tax health insurance that got the most traction for Obama, and his campaign spent $100 million in ads attacking McCain for the proposal. While the impact of the issue on Obama's dramatic November 4 election is not clear, there is no doubt Obama won the argument with the American people.

Obama's advertising had an impact. A December 2008 poll by the Kaiser Family Foundation found that 73 percent of Americans opposed "taxing all workers with health care benefits."[25] McCain was not the only one who found himself on the wrong side of public opinion on this. Senator Ron Wyden (D-OR) used the exclusion as a major financing source for his "Healthy Americans Act." More importantly, Senator Max Baucus (D-MT), chair of the Senate Finance Committee and one of the biggest boosters of health reform on Capitol Hill, had targeted changes to the tax exclusion as a key financing source for his developing health reform plan. As with the individual mandate, more than a few observers prayed that the new president would change his mind about using the tax exclusion to pay for part of health reform.

Those decisions were for the future. A new president would take office in January 2009 with an electoral mandate and a personal commitment to universal coverage and health reform. The health care stakeholder community was mostly on board, enthusiastically so. A host of 1993–94 veterans was ready to try again, this time determined to get it right because the opportunity would not come again. Democrats had picked up sizable majorities in the House and Senate (looking like fifty-eight or fifty-nine, not sixty). The House and Senate were getting ready.

4. Political Will II— A Health Reform Campaign

Knowledge and strategy would not have led to the Affordable Care Act's passage without the third ingredient, political will—the commitment by political leaders to do what is needed to achieve success. In Washington DC, political will was on display in abundance throughout the process in the White House, the Senate, and the House, for and against passage. It mattered early, it mattered during the process, and in the end, it was indispensable.

THE SENATE MOVES FIRST

In the U.S. Senate, at the start, two figures dominated and used their positions to place health care front and center early, Senator Max Baucus, a moderate Democrat from Montana and the chair of the Senate Finance Committee, and Senator Edward M. Kennedy, a liberal Democrat from Massachusetts and the chair of the Senate Committee on Health, Education, Labor and Pensions (HELP).

If there is an official start date for congressional consideration of health reform, it was June 16, 2008, the day Senators Baucus and Charles Grassley (R-IA) hosted Prepare to Launch: Health Reform Summit 2008 at the Library of Congress on Capitol Hill for 250 congressional members, staffers, and invited outsiders. The session mattered because Baucus's committee holds jurisdiction over Medicare, Medicaid, tax policy, and a lot more, making its deliberations crucial to health reform's success or failure in the Senate. Baucus started the daylong event with a video clip of a countdown leading to a rocket launch. "This will succeed only if we work together and work outside the box, putting political differences aside," he stated. He declared that consensus already existed on six points: covering everyone,

revamping payments to reward quality, emphasizing prevention and wellness, expanding health information technology, promoting comparative effectiveness research, and creating an effective pooling of insurance risk.

Grassley, his friend, ally, and the ranking Finance Committee Republican, was also upbeat. "Health care is the number one economic issue in our country, and will be the number one political issue." It will take "real courage," he cautioned, and "compromise." Federal Reserve Board chair Ben Bernanke provided a sense of economic urgency, noting that the share of the federal budget devoted to Medicare and Medicaid had grown from 6 percent in 1975 to 23 percent in 2008 and was heading toward 35 percent by 2025 unless big changes were made.

After a day of presentations and panels, sixteen senators from both parties sat around an open square table talking candidly and openly about the prospects for reform. Though there were no surprises, the mood was upbeat, exemplified by Senator Kent Conrad's (D-ND) comment: "When I came here twenty-two years ago, this is what I thought the United States Senate would be like. . . . I thought the biggest surprise to me was how consistent the recommendations were." Senator Kay Bailey Hutchinson (R-TX) noted, "We all agree . . . doing nothing is not an option." Senator Robert Bennett (R-UT), cosponsor of Wyden's Healthy Americans Act, offered a view from his party: "I think, with a few diehard holdouts, just about every Republican is now willing to accept the idea that every American could be—should be insured."[1]

That day, the Senate seemed all systems go. And Baucus kept at it. As early as 2004, he had bewildered his staffers by talking about doing comprehensive reform, when he was in the minority, right after passage of the 2003 Medicare Modernization Act establishing the Medicare prescription drug program, which he was one of few senior Democratic leaders to support. Over the summer and fall of 2008 he held public hearings, consulted with groups, and insisted on meeting so often with his health staff, led by Liz Fowler, they often would roll their eyes and sigh. Eight days after Obama's election, he issued a health reform white paper on November 12, 2008, detailing his vision for health care reform, the first serious legislative document outlining comprehensive health reform goals and potential pathways to achieve them:

> The policies in this paper are designed so that after ten years the U.S. would spend no more on health care than is currently projected, but we would spend those resources more efficiently and would provide better-quality coverage to all Americans. . . . My door is open and I see partners with "can do" spirits and open minds. I believe—very strongly—that every American has a right to high-quality health care through affordable, portable, meaningful health coverage. I believe that Americans cannot wait any longer.[2]

What a difference fifteen years seemed to make! Back in 1993–94, the Senate Finance Committee was chaired by New York Democrat Daniel P. Moynihan, a legendary intellect who openly disparaged the Clintons' health reform ambitions, promoting reform of the welfare system instead and worrying about the impact of health system changes on New York's academic teaching hospitals. Moynihan coyly planned to wait until the last moment to cut a deal with Senate Minority Leader Bob Dole (R-KS), but by the time he was ready, the political climate had pushed the Kansan away from the possibility of deal making.

Baucus determined to be different. Not a last-minute savior, he would be the upfront leader who would make it happen—in a bipartisan way. In 2008, it was hard to argue with his logic; few believed Democrats could win sixty Senate seats needed to break a filibuster without Republican crossover votes. The November 4 election seemed to seal the issue as Democrats won a fifty-eight to forty-one majority in the new Senate, with the Minnesota race between Republican incumbent Norm Coleman and Democratic challenger Al Franken heading into an unpredictable recount. Even a win there would leave Democrats one seat short; two members, Senators Kennedy and Robert Byrd (D-WV) were in ill health; and several Democratic Caucus members were considered unreliable on health reform, including Senator Ben Nelson (D-NE), who told leaders early, "You'll get five Republican votes before you get mine." Some Democrats even thought a fifty-eight or fifty-nine vote margin was preferable to sixty—a level triggering unrealistic expectations among the Democratic base.

In the U.S. Senate, the Finance Committee is the big kahuna. Control over money does that to a legislative panel, even when its authority must be shared with the Budget and Appropriations committees. In matters relating to health policy, though, Finance shared jurisdiction with Kennedy's HELP Committee, which had authority over nearly everything else health related, including the Centers for Disease Control and Prevention, the National Institutes of Health, the Food and Drug Administration, and a key law, the 1974 Employee Retirement Income Security Act (ERISA), which sets federal boundaries for employer-provided health insurance. Finance and HELP also share jurisdiction over some key laws, especially the 1996 Health Insurance Portability and Accountability Act (HIPAA), which sets federal standards for health insurance.

Kennedy had served as chair or ranking member of the HELP Committee since 1981—he called his decision that year to become the key Democrat on HELP (then called "Labor and Human Resources") rather than on the Judiciary Committee one of the most important of his legislative career. In 2009, Kennedy was one of three remaining senators who had served in 1965 when legislation creating Medicare and Medicaid had been enacted (the other two were Democrats Byrd and Daniel Inouye of Hawaii). In 1966, he helped to establish the first of a new breed of federally funded community health centers, starting at the Columbia Point housing project in Dorchester. In 1969, at the Boston University Medical Center, he made his first speech calling for national health insurance. He called universal coverage "the cause of my life" and relished the prospect of one more chance that would avoid the errors of 1993–94.

Baucus and Kennedy knew they needed each other, not just because of jurisdiction. Baucus was mistrusted by progressive Senate Democrats, and Kennedy could guarantee their support for almost any deal Baucus approved. Kennedy, by contrast, was not embraced by the moderate-conservatives in the caucus, who wanted Baucus to craft the deal. Together, they could be a powerful team.

On May 17, 2008, Kennedy suffered two seizures at his home in Hyannis Port, Massachusetts. Within days, he was diagnosed with a malignant brain tumor. After his physicians told him he had months to live, he assembled a team of family, friends, and medical experts to choose a different course to give him more time. On June 2, he underwent brain surgery at Duke University Medical Center. He instructed his Senate staff to let nothing slow down preparations for health reform, despite his illness.

To keep HELP in the game with the Finance Committee, and to garner support and momentum for reform, Kennedy's HELP staff, led by his longtime and trusted staff director Michael Myers, worked away from TV cameras. Throughout the summer and fall of 2008, the committee organized roundtables with stakeholders, including physicians, nurses, hospitals, consumers, business, labor unions, health reform coalitions, drug and device makers, think tanks, public health groups, and more. In early fall 2008 the staff launched meetings of stakeholders called the Workhorse Group to push hard for agreements as soon as possible. In a sign of how difficult consensus would be, the Workhorse Group never generated agreement on any specifics.

Before his illness, Kennedy had outlined key strategies he thought crucial for success. First, there should be one bill to serve as the template for all committees, Senate and House. Second, financing health reform needed to be done right away in the new president's budget proposal to be sent to Congress in February 2009 and should be part of the annual congressional budget resolution to be approved in April 2009, keeping open the possibility, if needed, to pass reform using budget reconciliation, which required only fifty-one rather than sixty votes to pass. Despite having used reconciliation themselves to pass prior major legislation, including major tax cuts during the Bush presidency, Republicans were openly furious with suggestions that reconciliation might be used to pass health reform. Third, Republicans needed to be brought on board as rapidly as possible.

Baucus organized the first bipartisan meeting of key senators to discuss reform on November 19, two weeks after the 2008 elections and shortly after the release of his white paper. They met in Senator Kennedy's new Capitol Hill hideaway, room 219, steps away from the Senate chamber, overlooking the Mall, and loaded with Kennedy family mementos, paintings, and photos. Joining Baucus and Kennedy were Senator Chris Dodd (D-CT), the number two Democrat on HELP, Kennedy's designated health reform point person in his absence, and close friend; Jay Rockefeller (D-WV), chair of the Finance Committee's Health Subcommittee; Charles Grassley (R-IA), the Senate Finance Committee's ranking Republican; and Mike Enzi (R-WY), the ranking HELP Republican. The number of participating senators expanded after the first meeting to eleven, hence becoming known as the "group of eleven" or G-11; added were Budget chair Kent Conrad (D-ND), Judd Gregg (R-NH), and Orrin Hatch (R-UT), as well as Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY), neither of whom ever showed up, though their key staff always were there to observe.

A pattern emerged in G-11 meetings, late and slow to start, with senators chatting and relaxing before discussion began, sharing stories and information. Baucus would start, expressing hope for a joint statement of some kind. "We'll ask our staffs to explore agreements and disagreements. . . . We hope to have a pathway ready for members in January . . . and keep the White House involved." In every session, Republicans pressed Democrats to commit not to use budget reconciliation and to disavow any kind of public insurance option; Democrats demurred, though Baucus said: "I would hope not to use reconciliation." At the first meeting, a photo was taken of the smiling senators. It was left to staff to sort out and pick up the pieces.

It took time to assemble the first bipartisan meeting of Finance, HELP, and Budget staff to respond to the G-11 members' November 19 directive to prepare a January presentation on areas of agreement and disagreement. The first meeting happened December 3, 2008, and it wasn't small; at least

thirty-five staffers were in the room, including Kate Leone and Megan Hauck, the key health staffers for Reid and McConnell, respectively. The meeting tensed as Hauck spoke early: "Look, we know you can do this without us. We can do it together, or we can be part of the loyal opposition. Before that, our members need to know your commitment and the process. We need a commitment—through conference—that you won't use budget reconciliation. We would rather have you break up earlier rather than later."

Democrat staffers, led by Baucus's Liz Fowler, kept trying to draw the conversation to substance, and Republicans, especially Grassley's Mark Hayes and Enzi's Chuck Clapton, kept bringing it back to process and preconditions. It quickly became apparent that these meetings were futile without an agreement on Republican procedural concerns. Democrats were neither able nor willing to unilaterally disavow a key parliamentary device such as reconciliation. Right away, a standstill emerged. Staffers managed to pull together four PowerPoint slides to show the members at their January meeting.

Here's what staffers from both parties agreed to say to the G-11 members on January 21, 2009, about covering all Americans:

- Providing quality, affordable health insurance coverage for all Americans is a bipartisan goal of health reform.
- Successful reform will require shared responsibility by individuals, employers, insurers, health care providers, and government.

  What is the appropriate responsibility of employers to maintain and improve the system?

  What is the responsibility of individuals, and should there be an individual mandate?

  What is the appropriate role for government in coverage reform (e.g., subsidies, public programs)?
- Successful reform will build on, not undermine, the employer-based system.

  How can employer-sponsored coverage be strengthened?
- Americans deserve choice in their selection of health insurance coverage, medical providers, and treatments.

  How can the individual and small-employer markets be reformed to provide better quality, affordable coverage?

  What is an appropriate role for public programs in health reform?

  How do we determine an appropriate level of coverage and care?
- Coverage reform will be achieved in a fiscally responsible fashion.

After a rambling conversation, Baucus called the session "a good start. We got off on the wrong foot on the SCHIP [the State Children's Health Insurance Program]. I don't want it to continue. We made a mistake on aliens against my better judgment. It poisoned the well in committee." He was referring to the unsuccessful efforts in 2007 and 2008 to reauthorize the State Children's Health Insurance Program (Republicans prefer to call it the *State* Children's Health Insurance Program or S-CHIP, and Democrats prefer *CHIP*, without the *S*). In 2009, Democrats wrote a bill to permit new legal immigrant children to enroll, in spite of strenuous Republican objections. Grassley replied: "Obviously it has not damaged our relationship, or I wouldn't be here. We can talk things out."

Kennedy's heady hopes for a fast and bipartisan start in January came to naught. The sides were not ready, and other pressing issues, such as the collapsing economy, took precedence.

THE HOUSE FINDS ITS FOOTING

The House of Representatives approached health reform more cautiously than did the Senate. Conversations in 2008 with House members and staffers gave mixed signals: *Of course we want to work on this . . . We have to figure out how to do the CHIP reauthorization first . . . We should wait to see what the Obama administration puts on the table.* These were not signs of where the House would end up, only where they began. From Speaker Nancy Pelosi (D-CA) to committee and subcommittee chairs to rank-and-file members and to many staffers, House Democrats had an unquenchable passion for progressive health policy. Nearly eighty members, all Democrats, counted themselves public supporters of a government-run single-payer health system (compared with a half dozen or so in the Senate). The remainder of the caucus had many fervent health reformers with multiple shades of opinion. The Republican Caucus, as well, had members who regarded themselves as specialists in federal health policy reform. Unlike the Senate, though, the culture in the House of Representatives

had been far more partisan since 1994—with little genuine collaboration beyond what was necessary.

Among the House health reform advocates, foremost was John Dingell (D-MI), eighty-two years old in 2008, history's longest-serving member and a longtime supporter of national health reform—a position he inherited from his father, also a Michigan congressman, who was the lead House sponsor both of President Harry Truman's health reform plan and of the first bill to establish national health insurance for seniors. Dingell chaired the crucial House Energy and Commerce Committee. Despite his earnest efforts, he had been unable in 1993–94 to bring his large, unwieldy committee to a majority vote on any health reform bill. He showed his renewed passion at a health reform event sponsored by Families USA at the Democratic National Convention in Denver in August 2008. Quoting Alexander Solzhenitsyn, he said, "A man ought not to die like a dog in a ditch." He saw a difference from last time: "The number of opponents has declined but their viciousness has increased." Looking ahead to Obama's first hundred days, he promised: "We're going to make it happen. There are lots of bills pending." He recalled a statement by former Chinese premier Deng Xiaoping: "I don't care if it's a white cat or a black cat; it's a good cat as long as it catches mice." His conclusion: "I will do my best. . . . I'm ready to work my heart out."

Dingell's committee considered much legislation important to the business community beyond health policy, and he encouraged centrist and conservative Democrats to join, especially those who shared his pro-auto-industry environmental views. Because of this, the Energy and Commerce Committee leaned further to the right than the leadership-heavy House Committee on Ways and Means, chaired by Charles Rangel (D-NY), or the more progressive Committee on Education and Labor, chaired by George Miller (D-CA), one of Speaker Nancy Pelosi's closest friends. These were the three House committees that shared jurisdiction on health reform.

An internal Democratic fight over the chairmanship of Energy and Commerce became the first health reform skirmish of the 111th Congress. Second in committee seniority was Henry Waxman (D-CA), then chair of the House Oversight and Government Reform Committee. In November 2008 Waxman announced he would challenge Dingell for the chairmanship of Energy and Commerce. More than health care was at stake—even more contentious was potential climate-change legislation, where the Dingell/Waxman differences were sharp. Pelosi took no public position but privately worked through George Miller on Waxman's behalf. Waxman won a 137–122 secret vote of House Democrats on November 20, 2008.

Many Democratic Senate health staffers felt badly on a personal level for Dingell but thought Waxman would be a more effective committee and House leader on health reform. Waxman had long-serving health staffers, led by Karen Nelson, who were recognized as some of the smartest and most effective staffers on Capitol Hill.

Before health reform, there were other urgent matters to address. First was the deepening international economic crisis that exploded in September with the collapse of the Lehman Brothers firm on Wall Street. In early December 2008, President-elect Obama, Majority Leader Reid, and Speaker Pelosi agreed that an economic stimulus package was needed quickly, in the neighborhood of $500 billion over two years to shock and stimulate the economy away from a looming depression. The legislation would not be financed with new taxes or spending cuts, meaning the so-called pay-go rules would be suspended. Senate, House, and White House leaders also came to see stimulus legislation—known as ARRA, or the American Recovery and Reinvestment Act of 2009—as a way also to jump-start some key and less controversial elements of health reform. The final ARRA price tag was $787 billion, and $147.7 billion of that went to pay for health-related system investments and rescue items, the most important of which included:

- $86.6 billion to help cash-strapped states pay for their shares of Medicaid costs
- $24.7 billion to provide a 65 percent health insurance premium subsidy for the unemployed (known as COBRA subsidies, from the title of the act in which it was created)
- $19 billion to create a national health information technology infrastructure, including a reworking of federal privacy rules relating to the electronic exchange of health information
- $1.1 billion to research the comparative effectiveness of health care treatments

Baucus had suggested at his June 2008 health care summit that health information technology and comparative effectiveness research were two "consensus" matters that all parties agreed should be essential components of health reform legislation. After ARRA's passage, health information technology moved rapidly into deep implementation politics out of the public eye, and a complex and potentially contentious issue was taken off the health reform to-do list. Comparative effectiveness research, by contrast, needed more work in the health reform law and became embroiled in a heated controversy about "death panels" that emerged in the summer of 2009.

Even before the ARRA legislation was finished, the House and Senate completed action on reauthorizing the Children's Health Insurance Program, a key Democratic legislative priority in 2007 and 2008 stymied by President Bush's veto. Needing fewer Senate Republicans to win in early 2009, Democrats advanced a more progressive version than they had pushed in 2007 and 2008 and included expanded coverage for legally residing immigrant children and their parents. This provision had been kept out in 2007–08 to attract Republican support, and while its inclusion pleased the House Hispanic Caucus, it angered many earlier Republican supporters, especially Senator Grassley. The Children's Health Insurance Program Reauthorization Act (CHIPRA) was a proud early deliverable for the new president and the resurgent Democratic majorities in Congress.

In the 1993–94 Clinton health reform process, the three House committees with jurisdiction over health policy matters had been unable and unwilling to coordinate their legislative reform efforts, hindering the ability of the House to produce any health reform bill. Political commentators Haynes Johnson and David Broder described the frustrating situation:

> The president's most important policy initiative was hanging by a thread; a historic commitment of the Democratic Party was facing imminent defeat; and election disaster was looming. And for almost an entire month, committee chairmen and staffers on Ways and Means, Energy and Commerce, and Education and Labor used every weapon they could find to stake out the widest possible jurisdictions for themselves to maintain *future* control of a program that might not even pass.[3]

According to key House Democratic staffers, the three committees never made an explicit decision in 2009 to collaborate. It just happened. Tri-Comm, as the three-committee effort became called, started with the reauthorization of the Children's Health Insurance Program in January, went on to the stimulus legislation (ARRA) approved in February, and then moved seamlessly into health reform. As they deepened their work, staffers produced their own black designer tote bags to lug volumes of paperwork from meeting to meeting. The process (as well as the bags) was labeled "Tri-Comm 2009" and was led by veteran staffers Karen Nelson from Energy and Commerce, Cybele Bjorklund from Ways and Means, and Michele Varnhagen from Education and Labor.

When it became clear that the Obama administration would not send a national health reform bill to Congress, the House Committee effort that began with ARRA continued and solidified. The three committee staffs began working on reform right after President Obama signed ARRA into law on February 17, 2009. Multiple sets of meetings every week involved all relevant House staffers, and once a week the meetings involved the three committee and relevant subcommittee chairs. On the night of March 21, 2010, when the House passed the health reform bill, Representative Charles Rangel—Ways and Means chair until his resignation as chair earlier that month—observed, "the word *jurisdiction* was never spoken."[4] House Leaders and key staffers knew that success would require a radically different process from the 1993–94 effort, and they put it in place. It was one of the most tangible lessons from the Clinton failure and a good example of how Congress acted to avoid a repeat.

THE OBAMA ADMINISTRATION MOVES IN

On December 11, 2008, former Senate majority leader Tom Daschle was nominated as President-elect Barack Obama's unsurprising choice to head both the Department of Health and Human Services (DHHS) and the White House Office of Health Reform, with policy expert Jeanne Lambrew as his health reform deputy. In 2008, Daschle and Lambrew cowrote a health reform book—*Critical: What We Can Do about the Health-Care Crisis*—a blueprint for Daschle's ideas, including his big one, a proposal to establish a Federal Health Board, a kind of Federal Reserve for the health system. Combining the two positions in Daschle's hands struck many as another sign of Democrats acting to avoid a repeat of the 1993–94 mistakes, in this instance to avoid the schism between the DHHS and the White House Health Reform Office that had occurred earlier. Daschle had become personally close to Obama, another good sign to keep reform on track. On January 8, the Senate HELP Committee held a laudatory hearing, chaired by Kennedy, at which Daschle's confirmation was considered a sure bet—former Senate majority leader Bob Dole testified to endorse his former colleague.

On February 3, 2009, Daschle withdrew his name from consideration for either position after revelations emerged about personal tax problems that required him to pay the federal government $140,000 in back taxes and interest. It was not until March 2 that Obama nominated another candidate, Kansas Democratic governor Kathleen Sebelius, who waited until April 28 for Senate confirmation. Obama also named former Clinton administration health official Nancy-Ann DeParle as his new White House health care advisor, a position not requiring Senate approval. If reformers needed a reminder that the road to reform would be unpredictable and rocky, this filled the bill.

Daschle's problems exploded as a difference of opinion emerged in the White House among senior Obama advisors on the scope of health reform to be pursued. Vice President Joe Biden, Chief of Staff Rahm Emanuel, and Senior Advisor David Axelrod were joined by skeptics on the president's economic team who believed a drive for comprehensive reform was doomed to replay the calamitous consequences of the Clinton fiasco and would distract the administration from working on fixing the economy. For Emanuel, it was not abstract—he had served as a key political aide in the Clinton White House and witnessed the results of health reform overreaching. With Daschle gone from the scene, there was no effective counterweight, except the president himself. In February 2009, for the second time—the first was in July 2008 after the Democratic primary season—Obama declared comprehensive health reform a top administration priority, overruling his key aides.

On February 23, the president hosted a White House "Fiscal Responsibility Summit" providing a public demonstration that any reported rift between health care and economic policy was false. Office of Management and Budget director Peter Orszag made the case:

> So, to my fellow budget hawks in this room and in the rest of the country, let me be very clear: Health care reform is entitlement reform. The path to fiscal responsibility must run directly through health care. We also must recognize that reforms to Medicare and Medicaid will only succeed in the context of slowing the overall growth rate of health care costs. Improving the efficiency of the health system so that we get better results for less money is therefore not just or even primarily a budget issue. It would also provide direct help to struggling families, since health care costs are reducing worker's take-home pay to a degree that is both underappreciated and unnecessarily large. And for many states, health care is increasingly crowding out other priorities like higher education, which, in turn, is leading to higher tuition and painful cutbacks at state universities. All of this is why the president has said, time and again, that he is committed to reforming the health system this year.[5]

A few days later, on February 26, Obama showed he meant it when Congress and the public saw his initial fiscal year 2010 budget proposal to Congress, which included a ten-year $634 billion reserve fund as a "down payment" on financing health reform. White House officials said the $634 billion would be about half the cost of an estimated $1.2 trillion price tag over ten years. His proposal would cap itemized deductions for the wealthiest Americans, lower Medicare payments to private Medicare Advantage insurance plans, raise premiums for higher-income Medicare drug plan enrollees, and more. Although the idea to cap deductions was shot down on Capitol Hill at the speed of sound, the other proposals found their way into the final version of the ACA. Obama's larger purpose was to demonstrate a public and tangible commitment to pay for reform and a willingness to take criticism for putting real ideas on the table. Though he would not file his own bill, he showed an early, meaningful commitment to get reform done. This was more than lip service.

Obama put his next public foot forward on March 5, 2009, hosting a White House health reform summit for about 150 lawmakers (from both parties), patients, physicians, nurses, and health industry leaders. His message was clear: "The status quo is the one option that is not on the table." At the final session, Senator Kennedy made an emotional and surprise appearance, wowing the audience and declaring himself a "foot soldier" in the drive for universal coverage. "This time we will not fail," he assured the audience.

Seated in the room were many power brokers whose participation meant the difference between success and failure. One of them, labor leader Dennis Rivera of the Service Employees International Union (SEIU), began conversations with Jay Gellert of the managed care company Health Net and George Halvorson of the Kaiser Foundation Health Plan on what the health industry could do together to restrain rising health care costs. Karen Ignagni, from America's Health Insurance Plans (AHIP), joined the process, as did Pfizer chief Jeff Kindler, David Nexon of the medical-device trade group AdvaMed, and Richard Umbdenstock of the American Hospital Association (AHA). Nancy-Ann DeParle, from the White House, persuaded the American Medical Association to participate. To avoid publicity, they met at a local hotel and not at the White House, with some administration officials making cameo appearances for encouragement.

Key health industry leaders representing AdvaMed, AHIP, AHA, AMA, the Pharmaceutical Research and Manufacturers of America (PhRMA), and SEIU gathered at the White House on May 11, 2009, for an announcement of their breakthrough: "Over the next 10 years—from 2010 to 2019—they are pledging to cut the rate of growth of national health care spending by . . . over $2 trillion," President Obama declared.[6] Afterward, the industry leaders emphasized the wording of their letter: "We will do our part to achieve your administration's goal of decreasing by 1.5 percentage points the annual health care spending growth rate—saving $2 trillion or more."

AGREEMENTS, DEALS, AND LACK THEREOF

Max Baucus was pleased and perplexed to see deal making on health reform financing done by the White House without him. "If you've got savings," he told the six groups shortly after their announcement, "I want them." Baucus's health team, led by Liz Fowler, an attorney with a PhD and lengthy Capitol Hill experience, had already been analyzing the economic performance of all health industry sectors to evaluate how much each could be pressed to contribute to paying for reform; in 2009, she hired a former Wall Street analyst, Tony Clapsis, to perform detailed financial analyses of each sector. Finance Committee staffers—sometimes with White House participation and sometimes without—began meetings with drug companies, insurers, hospitals, device makers, home health companies, hospices, and others to hammer out detailed concessions from each industry to pay for as much of the health reform tab as possible. All participants rejected the word *deal* to describe their deals.

The first, with PhRMA, announced on June 20, 2009, also was the most controversial. The White House, Team Baucus, Team Kennedy, and the drug industry all wanted to avoid a replay of 1993–94, when drug companies spent millions for a fierce anti-reform advertising assault. Not involved or invited to the discussions was the House of Representatives, whose leaders wanted price controls and other drug company requirements that would have been deal breakers. The industry originally offered $45 billion to $50 billion in savings over ten years while DeParle for the White House suggested $120 billion. In the agreement, the industry ceded $80 billion over ten years in rebates, assessments, and contributions and in return got commitments from the administration and Baucus to resist measures opposed by the industry, such as permitting reimportation of drugs from outside the U.S. The deal and the negotiators came under quick attack from numerous quarters, including the House leadership, who demanded details. Critics contrasted the behind-closed-doors negotiations with candidate Obama's commitment to broadcast health reform negotiations live on C-SPAN. Even the White House pulled back, referencing an agreement "reached between Senator Max Baucus and the nation's pharmaceutical companies." It was not until early August that the administration acknowledged its role in the negotiations.[7] Around the same time in early August, the industry announced plans for a $150 million advertising campaign to support reform.

Though critics on the right and the left used the agreement as an easy target just as congressional committees were beginning to debate proposed health reform legislation, the deal turned a potentially fatal reform opponent into a crucial reform supporter. Given the slender margin by which the final ACA was approved in March 2010, it is hard to imagine a successful legislative outcome had the pharmaceutical industry been on the other side. Some questioned the value of the industry's bland pro-reform advertising campaign, though few doubted the industry's potential as a full-throated adversary.

The second agreement, announced on July 8, 2009, by Vice President Joe Biden, involved $155 billion in Medicare and Medicaid payment reductions to hospitals over ten years. The American Hospital Association, the Federation of American Hospitals, and the Catholic Health Association were the industry parties. AHA is the United Nations of U.S. hospitals and had an automatic seat; FAH was headed by Chip Kahn, a former high-level Republican congressional staffer and former insurance industry lobbyist (he was a seasoned dealmaker and Democrats appreciated the symbolism of having him on their side); the Catholics were the firmest reform supporters of any hospital industry group, for reasons of faith more than dollars and cents. The industry, Team Baucus, and administration leaders met at least ten times, in Baucus's and other Senate Finance offices and in the White House Roosevelt Room. At White House sessions, Chief of Staff Rahm Emanuel and others would drop by or wander through.

The hospitals had done financial modeling and concluded that if the percentage of insurance coverage for all Americans could grow from the current 83 percent level to 95 percent, then hospitals could withstand Medicare payment reductions because revenues generated by the expanded coverage would exceed the losses. The White House thought new revenues would exceed $250 billion over ten years, Senate Finance modelers thought about $200 billion, and hospitals pegged the number at $170 billion. All sides agreed on reductions of $155 billion as long as coverage would reach the 95 percent threshold as determined by the Congressional Budget Office (CBO). Thus, 95 percent became the overarching target in writing the coverage titles of the legislation (Titles I and II). Then all sides had to agree on how to achieve $155 billion. In spite of hopes for cutting-edge delivery-system reforms, about two-thirds of the savings came from straight rate reductions; savings from reforms such as reducing preventable readmissions and hospital acquired infections were small. Negotiations were rocky until the final hours, and Baucus's OK was uncertain. He never showed up at the July 8 announcement with the vice president and hospital leaders. No matter, the deal was done and hospitals, a huge player, were on board.

The medical-device industry was less experienced in high-stakes

negotiations than hospitals and drug companies. Its trade association, AdvaMed, had signed the $2 trillion letter to be helpful. Its savings ideas—working with the AMA to reduce overused procedures and improving the design of devices to reduce errors—scored no savings. Baucus's staff proposed $60 billion in ten-year savings or payments. The industry's position was zero, countering that they would end up absorbing the impact of cuts to their primary customers—hospitals, nursing homes, labs, and physicians providing imaging services—through increasing price pressures and reduced demand. While a few companies were willing to support some assessment, the industry as a whole strongly resisted any industry-specific tax. Industry leaders also believed the Finance Committee's bipartisan Gang of Six (Baucus, Grassley, Kent Conrad, Jeff Bingaman, Mike Enzi, and Olympia Snowe) would veto a fee because both Grassley and Enzi were opposed. When the Gang's talks ended in mid-September without resolution, Baucus recommended $40 billion in industry assessments. In the November-December negotiations among Democrats on a final Senate bill, the assessment dropped to $20 billion as a concession to Senators Evan Bayh (D-IN) and Amy Klobuchar (D-MN), who demanded the reduction as a condition for their votes.

Discussions between the Senate and the insurance industry proceeded without White House participation. Though the industry is perceived as a monolith, its players are diverse, reflected in the widely varying effects that different kinds of cuts and savings would have on different companies, and making negotiations difficult. Some thought failure was inevitable: "Karen [Ignagni, of America's Health Insurance Plans] was never going to get the negotiation she wanted. The Democrats understood there had to be a villain here. From a populist standpoint, you can't not have them as a villain, unless you've got real bipartisanship. I don't think it was ever possible," concluded one source. The industry proposed administrative simplification as a way to save dollars, but the CBO said such measures would not produce scorable federal budget savings, so that didn't help. AHIP was prepared to negotiate as much as $80 billion in Medicare Advantage reductions, but Finance Committee staffers wanted at least parity with savings agreed to by the hospital industry, $155 billion. By late July, the parties stopped meeting. Attacks on the insurance industry by House and White House leaders were escalating. In August, with funds from large insurers, including Aetna, CIGNA, Humana, UnitedHealthcare, and WellPoint, AHIP began secretly funneling financial support to the U.S. Chamber of Commerce to bankroll its major advertising campaign against reform, done in the name of small business. In all, AHIP gave $86.2 million to the Chamber, well more than half the business group's available money to attack the Democrats' reform agenda.[8] Within five days in October, AHIP, the Blue Cross and Blue Shield Association, and insurance giant WellPoint—the most antagonistic of the largest companies to reform—each released actuarial studies claiming huge premium increases resulting from the pending Senate Finance health reform bill. From then on, any collaboration with insurers was off, and so were the gloves.

REPUBLICANS—CURRENT AND FORMER

On April 28, 2009, Republican senator Arlen Specter from Pennsylvania shocked the nation by announcing he was switching to the Democratic Party to keep alive his 2010 reelection hopes. Suddenly, a sixty-vote Democratic Senate majority was not only reachable but certain—Minnesota Senate contender Al Franken had been certified as the winner in his razor-thin win over Republican Norm Coleman in January and March—only a final decision by the state's Supreme Court remained (it came on June 30). Most Senate Democrats said they still wanted a bipartisan health bill, but after April 28, they no longer needed one.

By spring 2009, Senate Democrats and Republicans interested in health reform had spent lots of time romancing each other. Baucus and Grassley had cohosted the health reform summit in June 2008; their respective health policy staffers worked together, met with stakeholders together, shared drafts and more under the assumption that they were in this together; indeed, Grassley's team authored many provisions that remained in the final ACA, such as the Physician Payments Sunshine Act in Title VI. Senate Finance and HELP Committee hearings showed both policy disagreements and a continuing desire for bipartisanship. Kennedy and Orrin Hatch (R-UT) talked regularly by phone. Ron Wyden (D-OR) had lured eight Republicans as cosponsors of his Healthy Americans Act. Beginning in November 2008, the bipartisan group of key senators and staff known as G-11 began meeting regularly to figure out how to move from talk to action.

Things began getting in the way. In the Senate, Republicans insisted on guarantees that Democrats would not use budget reconciliation rules to pass health reform with fifty-one votes—something Democrats said they did not want to do, and would not do unless faced with Republican obstruction. The disagreement was never settled. In January 2009, Democrats moved ahead with the Children's Health Insurance Program Reauthorization Act (CHIPRA), signed into law by President Obama on February 4,

2009. The inclusion of coverage for legally residing immigrant children and their parents angered Republicans, especially Grassley, who had supported the Democratic bill in 2007 and 2008 against their own party's president.

In December 2008, Senate and House Democrats began working with the Obama transition team to write a large spending package to stimulate the nation's economy away from the feared depression. The final legislation (ARRA, the American Recovery and Reinvestment Act) included $787 billion in spending and tax cuts ($285 billion), came on the heels of the controversial 2008 bill to rescue the nation's banking industry, and was approved with zero Republican votes in the House and three in the Senate (one belonging to Specter). As partisan recriminations volleyed back and forth, prospects for bipartisanship began to evaporate, and Republicans proved they could hold their beleaguered minority together. That was the public and the private message of Mitch McConnell and John Boehner, the respective Senate and House minority leaders.

In April 2009, Republican communications and message impresario Frank Luntz distributed a twenty-eight-page memo outlining suggested words and themes Republicans should use to stand their ground in the coming health care debate. Here is a sample:

> WORDS THAT WORK: THE PERFECT PLATFORM FOR HEALTHCARE REFORM
>
> As a matter of **principle**, Republicans are firmly **committed** to providing **genuine** access to **affordable, quality** healthcare for **every** American. The time has come to create a **balanced, common sense** approach that will **guarantee** that Americans can receive **the care they deserve** and **protect** the **sacred doctor-patient relationship**. We will oppose any **politician-run system** that **denies you the treatments you need, when you need them**."[9]

In the House, the stimulus experience was a continuation of a fifteen-year hyperpartisan environment. House leaders on both sides of the aisle readied for health reform in separate camps, convinced from the start that bipartisan agreement was inconceivable. In the Senate Finance Committee, the Baucus and Grassley teams worked collaboratively to ready their bipartisan effort, believing it would succeed and trump all other efforts.

In the Senate HELP Committee, there also was a history of bipartisan bills engineered by the acknowledged master, Senator Kennedy. Without his daily and fully engaged presence, the committee members taking leadership roles—Chris Dodd (D-CT), Tom Harkin (D-IA), Barbara Mikulski (D-MD), Jeff Bingaman (D-NM), and Patty Murray (D-WA)—could not replicate his magic. At the staff level, dozens of bipartisan meetings on coverage, delivery-system reform, and prevention were held between March and May of 2009. To Republican staffers, it seemed Democrats were going through the motions for appearance's sake; to Democratic staffers, it seemed Republicans did not have a coherent stance and could not agree to anything. Kennedy had wanted a health reform bill ready for the day after President Obama's inauguration, followed by a multicity presidential tour. The economy, CHIP, stimulus, and the budget got in the way—and Kennedy kept pushing for action. By May, the bipartisan staff meetings petered out as HELP Democratic members and staff, led by health policy director David Bowen, focused on writing and readying their own bill. Moving a bill early was a critical lesson Democrats took from the 1993–94 failure and time was believed to be running out.

The so-called G-11 bipartisan meetings of senior senators continued through the spring without any decisions of consequence. Once HELP Committee Democrats began writing their bill, Baucus reconstituted G-11 as a purely Senate Finance group comprising himself, Jeff Bingaman, Kent Conrad, Mike Enzi, Charles Grassley, Orrin Hatch, and Olympia Snowe, the moderate Republican from Maine. The group again became a Gang of Six on July 22, 2009, when Hatch decided he had had enough and announced his withdrawal: "Some of the things they're talking about, I just cannot support. So I don't want to mislead anybody," he told reporters.[10]

No matter, assumed Baucus, as long as he held on to his key partner, Grassley, who stated on June 14, 2009, on Fox News his views on an individual mandate: "When it comes to states requiring it for automobile insurance, the principle then ought to lie the same way for health insurance, because everybody has some health insurance costs, and if you aren't insured, there's no free lunch. Somebody else is paying for it. So I think individual mandates are more apt to be accepted by a vast majority of people in Congress."[11] Three months later in September, his views had shifted: "Individuals should maintain the freedom to choose whether to purchase health insurance coverage or not."[12] What happened? Many cite the angry town meetings in August where conservatives calling themselves tea party activists dominated more than forty sessions that Grassley had attended across Iowa. Some suggest he feared a primary challenge from the right in his 2010 election campaign. Others believe pressure from party leaders Mitch McConnell and Jon Kyl (R-AZ) was critical. Others suggest he just got increasingly uncomfortable with the direction and cost of the emerging plan—all three Republican "Gang members" were uncomfortable with the proposed new fees on drug and medical-device makers as well as on

insurance companies. They also doubted Baucus's ability to defend any deal they might negotiate as pressure from progressive Democrats would push the legislation to the left once it was out of the Finance Committee.

For a period, there was a split between a minority of Senate Republicans who wanted serious engagement and bipartisanship on health reform versus Republicans who believed Democratic overreaching on health care could produce a replay of the stunning Republican takeover of the House and Senate in November 1994 in the wake of the Clinton health reform collapse. In mid-July, South Carolina Republican senator Jim DeMint said on a widely reported conference call with conservative activists: "If we're able to stop Obama on this, it will be his Waterloo. It will break him."[13]

Between May and December 2009, the policy and political perspectives among Republicans merged. The last Republican moderate, Olympia Snowe, joined the opposition in early December. The policy-oriented Republicans concluded, as Hatch had done in July, that the Democrats' reform designs—with mandates on individuals, tax increases, plus new requirements on states and employers, Medicaid expansions, expensive subsidies—was a bridge too far for them and especially for the party's hardening base. The more politically oriented Republicans wondered what had taken them so long.

MARKUP MASH-UPS

In every one of the five congressional committees with health reform jurisdiction, staffers worked around the clock to draft legislation for the formal committee proceedings, called "markups," where any committee member could propose additions, deletions, and changes to the underlying bill. Months of expert advice, stakeholder input, member and staff requests, data analysis—it all boiled down to legislative language hammered out by the professional committee staff and their respective drafting experts from the Senate and House Legislative Counsel's Offices. Drafts were shared, torn apart, and redone, and redone, and redone. The revision process can go on forever, until the member in charge blows the whistle signaling time is up.

If there is a single image from the HELP Committee health reform markup process in the minds of Democratic staffers, it is this: twelve Democratic senators, all HELP Committee members with staff, about forty in all, crowded into Senator Kennedy's Capitol hideaway office, working their way through yet another health reform policy decision. Senator Chris Dodd, assuming the chair's role for his best friend in the Senate,

Ted Kennedy, gets a call on his BlackBerry cell phone. He retreats to the small side room, where Kennedy had a bed for rest. Some minutes later, he returns and resumes his chair duties with his upbeat manner, skillfully leading the meeting to a consensus. Only later did we learn the subject matter of the interruption—a family member had called with news that his sister was dying of cancer. Dodd had other troubles on his mind during the arduous five-week stretch of formal legislative markup proceedings—the longest markup of a bill in the committee's history and among the longest in the Senate's history. The committee Dodd actually chaired, Banking, had a white-hot financial regulatory reform agenda to address; Dodd was facing the bleakest election prospects of any sitting senator; and he was keeping to himself his own medical diagnosis of prostate cancer. Day after day after day, he sat through a determined campaign by Republican members to derail the bill and never stopped smiling and encouraging everyone to move forward.

The HELP markup lasted fifty-six hours, stretching across twenty-three sessions over thirteen days between Wednesday, June 17, and Wednesday, July 15. The proceedings were held in the historic, high-ceiling Russell Building Senate Caucus Room (renamed the "Kennedy Caucus Room" in September 2009), the scene of Senate hearings on the sinking of the *Titanic* (something Democrats were urged not to mention for fear of inspiring parallels), the announcement of the presidential candidacies of John and Robert Kennedy, the Senate Watergate hearings, the Supreme Court confirmation hearings of Clarence Thomas, and more. Of the 788 amendments submitted, three-quarters were filed by the ten Republican members. Senator Tom Coburn from Oklahoma, proud of his nickname, "Dr. No," filed 332 of them. In all, 287 amendments were formally considered, and 161 Republican amendments were adopted in whole or in revised form.

House Democratic leaders had insisted that at least one Senate committee begin markup before any of the three House committees did so, as a sign of seriousness and commitment. HELP was more ready than Finance, which was tied up in Gang of Six talks and stakeholder financial negotiations. Because of HELP's jurisdictional limits—the committee's bill could not touch Medicaid, Medicare, or taxes to pay for coverage expansions—the HELP proposal had big gaps that the Republicans exploited to characterize the bill as half baked. As the first health reform bill out of the box, a lot was in need of refinement as members, staff from both parties, experts, stakeholders, and others explored the bill for flaws and needed improvement. The legislation got its final vote on July 15 and survived the markup without serious damage and, most importantly, with all thirteen

Democrats united. Some votes on amendments were bipartisan—such as requiring members of Congress and their staffs to obtain health insurance through the new exchanges (called "gateways" in the HELP version). Most were party line, thirteen to ten—and the HELP Committee met its obligation to move a bill forward. As opposed to Baucus, who sought bipartisan agreement upfront, Kennedy and Dodd believed it was most important to create forward momentum and hope that deal making with Republicans would gel later. They moved it. As a result, health reform was no longer hypothetical—it was happening.

Two days after the HELP Committee began its markup, the chairmen of the three House committees unveiled their unified legislative health reform proposal. It was a full plan distinctly to the left of the Senate's direction—financed significantly with new taxes on millionaires and including a requirement on most employers to cover their workers or pay a hefty assessment to the federal government. It included a robust public-plan option to be offered in the new insurance exchange, which, unlike anything in the Senate versions, would be a single federal entity, not a state-by-state amalgam. The proposal emerged from an intense collaborative effort by members and staff of the three key House committees. The plan was for each committee to do its own separate markup, then to reconsolidate the three bills into one under the aegis of the House Rules Committee and then to bring the full reform package before the full House.

The liberal-dominated Education and Labor Committee, chaired by Pelosi ally George Miller (D-CA), went first, starting on the afternoon of July 15, just hours after the HELP Committee finished its marathon. They finished by Friday the 17th, approving twenty-one of forty-two amendments considered. One advanced by Dennis Kucinich (D-OH) would permit states to establish their own single-payer health systems; it passed twenty-seven to nineteen, with thirteen Republicans joining fourteen Democrats in support, mischief making by the minority. Next went the Committee on Ways and Means, chaired by Charles Rangel (D-NY), not nearly as liberal as Education and Labor, but heavily Democratic dominated. Ways and Means started on July 16 and finished on July 17, considering and defeating all twenty-three proposed amendments and approving the measure by a vote of twenty-three to eighteen.

The Energy and Commerce Committee's markup started the same day as Ways and Means. Similarities end there. On the committee were thirty-six Democrats, chaired by the canny Henry Waxman (D-CA), and twenty-three Republicans; Democrats could lose up to six votes and still prevail on

any issue. The thirty-six Democrats included seven "Blue Dogs," a House caucus of fifty-four moderate to conservative Democrats who characterize themselves as committed to national and financial security and who prefer bipartisanship and compromise over ideology and party discipline. In May, two months before the July health reform markup, Waxman had pushed through his committee comprehensive climate-change legislation, which triggered the same sharp partisan divide as health reform, and he prevailed by splitting the Blue Dogs on his committee. Leading to the health reform markup, the Blue Dogs knew if they stayed united they had the balance of power. They would not be fooled again. They used their leverage for several purposes: to weaken the public-plan option, to equalize Medicare rates of payment between rural areas and the rest of the nation, to reduce the number of businesses that would pay penalties under the employer mandate, to produce a plan that relied less on Medicaid, and to bring the total ten-year cost of the bill to under $1 trillion—even though their other priorities all increased the cost of the legislation.

Representative Mike Ross (D-AR) was the Blue Dogs' health policy leader, and on July 21, he brought the Energy and Commerce markup to a halt when it became apparent all committee Blue Dogs would stick together. On July 30, the committee reconvened and approved changes that reduced the total cost of the legislation by about 10 percent, primarily by limiting subsidies for uninsured persons, exempting more small businesses from the payroll tax, and changing the public option to resemble the HELP Committee's version by paying higher-than-Medicare rates to medical providers—all to the chagrin of House progressives. House leaders also committed to delay any vote by the full House until at least September. With those commitments, four of the seven Blue Dogs, including Ross, voted for the bill, which was approved thirty-one to twenty-eight. All three House committees had approved their version, and HELP made four. Only Senate Finance was left to act.

Senate Majority Leader Reid paid attention to the evolving health reform process and rarely interfered, trusting his committee chairs to do their jobs. On Tuesday, July 7, 2009, he broke his pattern, weighing in with Baucus, his Finance Committee chair. As reported by *Roll Call*, "Reid told Baucus that taxing health benefits and failing to include a strong government-run insurance option of some sort in his bill would cost ten to fifteen Democratic votes; Reid told Baucus that several in the Conference had serious concerns and that it wasn't worth securing the support of Grassley and at best a few additional Republicans."[14] Ever since the release of his health reform white paper in November 2008, Baucus had made known his inten-

tion to use changes in the tax treatment of health insurance as his major financing source to pay for reform. Reid's directive, backed by the White House and supported by the House, was motivated in part by the seating of Minnesota's Al Franken, the Democrats' elusive sixtieth vote, meaning that Republicans were no longer needed to pass a bill. This directive, though, left Baucus's plan with a gaping financial hole. Baucus was criticized in many quarters for not moving faster and for spending too much time wooing Republicans in his Gang of Six. But after the loss of the tax exclusion as a funding source, his team struggled for weeks to find an alternative way to finance reform. By the end of July, Grassley and Snowe were still in play, while Enzi was considered a lost cause. Continuing the Gang of Six was convenient cover for a staff scurrying to find an alternative financing plan.

In August, many town meetings attended by senators and representatives from both parties featured large crowds and shouting matches over health reform—with the news media focusing on the minority of events, scenes, and moments with the greatest theatrical value. The many town meetings that did not include disruptions or angry outbursts were unreported by the national media. The process had the unexpected effect of solidifying both parties in their support for or opposition to reform.

Also, in late August, Senator Kennedy passed away, fifteen months after his diagnosis in May 2008. The emotional memorial service at the JFK Library in Boston, his funeral in the Mission Hill neighborhood of Boston, and related events further solidified the resolve of many Democratic members to win reform as a tribute to their late friend and colleague. "Do It for Ted" buttons began to appear as a message to Democrats. Days before his passing, Kennedy sent a letter to Massachusetts governor Deval Patrick and legislative leaders asking them to approve legislation to permit the governor to name an interim appointment to his seat until a special election could be held. In September, Patrick named former Kennedy aide and Democratic National Committee chair Paul Kirk as the new sixtieth Democratic vote.

The town meeting uproar convinced President Obama it was time to play the presidential card of a joint address to both houses of Congress. His forty-seven-minute September 9 address was well received, boosting favorable poll numbers, though it was most memorable for an outburst from Representative Joe Wilson (R-SC)—"You lie!"—in response to Obama's statement that the bill would not provide insurance coverage for undocumented aliens. That controversy distracted attention from one line in the address of particular concern to key Democratic House and Senate members and staffers alike: "Add it all up, and the plan I'm proposing will cost around $900 billion over ten years."[15] In spite of public perception to the contrary, the president never submitted his own plan, and the $900 billion ceiling would require a plan with significantly thinner subsidies than either the House or HELP Committee versions already approved. His February 2009 budget submission estimated that reform would cost about $1.2 trillion over ten years, so this was a substantial reduction. House leaders were particularly distressed. "Nine hundred billion," mused one House staffer. "Is that net or gross?" It was an offhand comment, though of critical importance—because $900 billion in gross spending would give Congress far less spending flexibility than $900 billion in net spending. Obama never clarified, though the final ACA price tag of $940 billion was in *net* spending.

From where did the $900 billion ceiling come? Over the summer and into August as the Senate Finance process dragged on, Obama's team had worked up its own health reform legislation to have in reserve if needed. In that plan, the total cost was less than $900 billion and the president used $900 billion to provide some "breathing room," according to an administration source. The new ceiling also had the collateral effect of killing any chance to include a fix of the costly Medicare physician-payment problem as part of the main health reform bill.

Under increasing pressure from Reid and Obama, on the Tuesday after Labor Day, Baucus sent a proposal to the other five Gang of Six members, asking them for support, ideas, and modifications. He got no response from the three Republican participants and proceeded to turn the proposal into the chairman's mark, or recommended legislation, for Senate Finance Committee consideration.

Between 10 a.m. on September 22 and 2 a.m. on October 16, the Senate Finance Committee debated amendments to Baucus's health reform proposal, advanced by the chairman alone, with no support from Grassley or Enzi and only ambivalence from Snowe. Unlike the other four committees, the Finance Committee does not give its twenty-three members or anyone actual legislative language. Instead, the committee considers a "conceptual draft" of plain-text language to be converted to legislative form after the markup is completed. On Capitol Hill, the Finance Committee is legendary for plowing through complex issues quickly—if necessary by turning up the heat in the room to make members uncomfortable. The Baucus plan cost less than the House or HELP plans, covered fewer uninsured, and provided less generous subsidies to purchase coverage—and it may have been the only plan that could survive a Finance markup. The CBO determined

that the Baucus mark was fully paid for and that it would bend the health care cost curve in years ahead.

In all, 564 amendments were offered to the 223-page summary document, and 135 were considered over eight days of sessions, the longest Finance Committee markup in twenty-two years. The plan contained no public option, offering instead support for hypothetical nonprofit health insurance cooperatives proposed by Conrad. An amendment by Charles Schumer (D-NY) to add a public-plan option was voted down ten to thirteen, with Baucus, Conrad, and Blanche Lincoln (D-AR) joining all ten Republicans. Another amendment offered by Schumer and Olympia Snowe to sharply reduce penalties related to enforcement of the individual mandate—including eliminating any penalty in the first year—was adopted, much to the alarm of the health insurance industry. While not touching the health insurance tax exclusion, the plan proposed a new "Cadillac" tax on high-cost health insurance policies, a proposal advanced by John Kerry (D-MA) that drew immediate fire from organized labor. The final vote in committee was fourteen to nine, with Snowe the only Republican to vote with Democrats. At the end of the markup, health reform was as controversial and partisan as ever. Still, five of five committees with jurisdiction had acted. Health reform had never gotten so far in seventy-five years.

ON THE FLOORS

Two out of three House committees had approved the original House health reform legislation essentially intact, with only minor changes, while the third, Energy and Commerce, had made major adjustments—on the public-plan option by delinking provider payments from Medicare, on employer responsibility by exempting more employers from any fee, on increasing Medicare payments to rural areas, and more. Because the final vote in the full House of Representatives was expected to be close in spite of the Democrats' eighty-one-seat numerical advantage over the Republicans, the Energy and Commerce version held the day. Sufficient votes were not there for the original version.

After an excruciating process to line up a majority, Speaker Nancy Pelosi and her team delivered a 220-to-215 win on late Saturday evening, November 7, 2009, with 1 lone Republican voting yes, and 39 Democrats voting no. To achieve the win, the Speaker was compelled to allow a vote on a strict antiabortion amendment that prohibited any plan operating in any new health insurance exchange from offering abortion coverage, except through a separate payment; pro-choice Democrats had wanted at

least one plan covering abortions and at least one that did not. The amendment succeeded by a 240-to-194 vote, and provided Pelosi with the needed votes of pro-health-reform Democrats who were also pro-life, especially their leaders, Bart Stupak (D-MI) and Brad Ellsworth (D-IN).

House Leaders and staff had begun readying the final House version—called the Affordable Health Care for America Act—after Energy and Commerce finished its work in late July (it held a final mop-up markup session in mid-September). By the time Senate Finance finished its markup on October 16, House leaders were already counting noses for a final vote. The House had four principal committees involved: Energy and Commerce, Ways and Means, Education, and Labor, plus the House Rules Committee. The Senate had only two—Finance and HELP. While the House started with a single merged bill, Senate Finance and HELP had not. Most of the titles in the two Senate bills were clearly within the jurisdiction of one committee or the other, easing the task—though not so for Title I, which dealt with the controversial issues of insurance-market reform, individual and employer responsibility, exchanges, premium subsidies and cost sharing, and more.

The Senate "merger meetings" were held in the vice president's office in room 201 of the Dirksen Senate Office Building. A large oval wooden table sat about twenty, with lots of space around the borders of the room for more. Attending were a throng of Finance and HELP staffers led by Liz Fowler and David Bowen, drafters from the Senate Legislative Counsel's Office, a cadre from the administration that included White House health czar Nancy-Ann DeParle plus HHS health reform coordinator Jeanne Lambrew, and Majority Leader Harry Reid's key staff. In this phase and in this room, Reid was fully in charge, chiefly represented by his health aide, Kate Leone. It was an endless process of editing, reviewing, changing, over and over, for weeks—lists containing hundreds of action items were exhausted, only to have an equally long list emerge a day or two later. This is where the essential language and structure of the Patient Protection and Affordable Care Act, or PPACA, was shaped.

Slowing down Senate and House Democrats at every turn was the unavoidable need for budget scores on every section from the Congressional Budget Office. While CBO analysts worked double and triple overtime to produce credible estimates, congressional staffers seethed at their pace. When scores came back with disappointing results, staffers hurriedly reworked policies to achieve more favorable estimates that could survive public scrutiny. Often, House and Senate staffers clashed with CBO officials over who had been first in line to get an estimate. When the CBO

released a health report on a non-Democratic-directed topic, as it did on October 9, 2009, on medical-liability reform, Senate staffers cursed loudly at the CBO's sense of priorities.[16]

While drafting and policy fine-tuning were under way in room 201, Reid worked to find the sixty votes needed simply to allow Senate debate to begin. On Thursday, November 19, he unveiled his "merged" legislation along with a CBO score showing a ten-year price tag of $848 billion, along with $130 billion in deficit reduction. His version included a public-plan option permitting states to choose to opt out; he included a "Cadillac" excise tax on high-cost health insurance plans, a new Medicare payroll tax on affluent Americans, and an allowance for exchange plans to include abortion coverage as long as no federal dollars were used to pay for the procedure. On late Saturday, November 21, he got the go-ahead, a vote of sixty to thirty-nine to allow the Senate to begin debating his proposed health reform bill, the minimum necessary to proceed on the Senate floor. Yet a vote to proceed did not assure a vote for final passage. As they voted, a cadre of Democrats made clear, publicly and privately, they would vote for a final bill only if significant changes were made. After a break for Thanksgiving, health reform would reach the Senate floor for the first time.

A team of staffers from Finance, HELP, and the majority leader's office set in place an extensive operation to manage the Senate floor process. More than fifty staffers were divided into four groups, with war rooms and operations plans—the floor team, the media team, the members team, and the stakeholders team. Each prepared to engage the Republicans, manage the message, and keep members and key supporting organizations informed on an up-to-the-minute basis. It turned out to be completely unnecessary. On the floor, Republicans and Democrats engaged in little more than message management. Republicans had their themes and talking points—Medicare cuts, new taxes, the individual mandate, Medicaid, CLASS, and more—and only few of the hundreds of amendments filed ever saw the light of day. At one point, the debate ground to a halt for nearly a week over a procedural disagreement regarding Senator Byron Dorgan's (D-ND) amendment to allow the reimportation of prescription drugs.

For Harry Reid, though, the time was not wasted—it was precious time to do what was necessary to assemble sixty votes needed for final passage. Statements from Senators Ben Nelson (D-NE) and Joe Lieberman (D-CT) made it clear that Reid's plan to include a public option would forfeit their two essential votes. In early December, Reid designated Chuck Schumer (D-NY) as his lead negotiator to meet in Kennedy's former hideaway office

with nine other members; the total group comprised five progressives and five moderates. Most other Democratic members were angered not to be included, fearing the loss of an inside opportunity to shape the final version. Ahead of time, Schumer met to strategize with the other liberals, Sherrod Brown (D-OH), Russ Feingold (D-WI), Tom Harkin (D-IA), and Jay Rockefeller (D-WV).

Schumer opened: "Here's the ticktock." Nelson and Snowe were meeting with President Obama to gauge which one would be vote number sixty. The public-plan option would have to go. The question was what progressives would get in place of it, because, Schumer said, "Any move away from that is big for us and we need something big in return." There were two items on his list: allowing uninsured adults between the ages of fifty-five and sixty-four to be able to buy into Medicare, and imposing tougher measures against the insurance industry. For three days, the five of them negotiated with Tom Carper (D-DE), Blanche Lincoln (D-AR), Mark Pryor (D-AR), Mary Landrieu (D-LA), and Ben Nelson. Lieberman had been invited as one of the moderates but only sent staff. The ten members met, accompanied by twenty-five staffers, and agreed on a package of tough insurance reforms, a limited Medicare buy-in for those fifty-five to sixty-four years old, and a new national nonprofit insurance plan to be offered in all state exchanges. Reid walked in to congratulate the participants: "The distance we've traveled this past week is amazing. The best is, all ten of you agree on every line." His sentiment did not apply to the eleventh member, Senator Lieberman, who was not in the room but who quickly announced he would not support any version of a Medicare buy-in, removing that option—which he had endorsed as the Democratic vice-presidential nominee in 2000—from consideration. The majority leader had no choice but to drop the Medicare buy-in that progressives had wanted so badly.

The final negotiation involved Senator Nelson, a participant in the Schumer meetings who had his own list not discussed in the ten-member meetings. Key was his insistence either that Medicaid expansion be voluntary for states or that the federal government pick up all state costs related to it—a request Reid met for Nebraska only, a deal that became known as the "Cornhusker kickback." Nelson also demanded and won stronger language on abortion than the Reid version after tense negotiations with Senators Barbara Boxer (D-CA) and Patty Murray (D-WA). All the other Democratic members got items from their wish lists: Landrieu won special Medicaid payments for Louisiana (dubbed the "Louisiana purchase") plus coverage for foster children until age twenty-six; Lincoln won the elimination of any employer penalty for noncoverage of workers during

new-employment waiting periods; Rockefeller got more money for the Children's Health Insurance Program; on and on, for all sixty Democrats. Altruism and self-interest were both on abundant display—the Senate at work. All the changes that Reid, Baucus, and Dodd agreed to were consolidated into one single amendment, called the Manager's Amendment, which was added to the legislation as a new Title X. It made reading the actual legislation messy—anything in the first nine titles might be amended in Title X. It was OK, they thought, because it would all get cleaned up in a final process merging the Senate and House bills.

The final Senate vote was called at 7 a.m. on December 24, 2009. Senator Bernie Sanders (I-VT) gave Democrats heart palpitations by arriving at nearly the last moment to cast the final vote. Majority Leader Reid unintentionally blurted out "no" and corrected himself to say "yes." Senator Robert Byrd shouted from his wheelchair in the chamber, "Mr. President, this is for my friend Ted Kennedy. Aye." Staff were ordered to put "pens down" over the holidays and to be ready to start nonstop negotiations with the House on a final bill beginning right after New Year's Day.

A FAUX CONFERENCE AND PING-PONG

When both the Senate and the House have approved broad and complex legislation, the usual process is to organize a bipartisan conference committee to meld two bills into one and then to bring the merged product back to both chambers for an up-or-down vote. Like nearly everything else about health reform, the final stages of the process were not normal. Because Senate Republicans were determined to do anything they could to defeat the legislation, or to slow it down if they could not stop it, they made clear they would act to slow down the forming of a conference committee. It was clear they could do so, delaying the process by weeks or even longer. As a result, Senate and House Democratic leaders decided to bypass the conference route and instead negotiate a merged version among the Senate and House Democratic leaders and staff, and then have the final merged bill approved in the exact form in each chamber—a process referred to as legislative ping-pong.

Beginning Wednesday, January 6, 2010, an army of House, Senate, and administration staffers began working to merge all the common elements of the House and Senate bills. At Reid's insistence, the first meetings were held at the White House and the adjacent Eisenhower Executive Office Building to emphasize that this was the administration's moment to take ownership. Numerous items had been included in either the House or the Senate bill that were never intended for inclusion in a final law—that's the usual process. Senator Kennedy, after once graciously agreeing to accept an objectionable amendment to a bill he was carrying on the Senate floor, remarked to his aide, David Bowen: "That amendment is going no further than the Ohio clock," referring to the elegant eleven-foot timepiece that has graced the corridor outside the Senate chamber since 1817. One advantage of the conference process—faux or real—is the opportunity to delete unsavory items and then blame the other chamber, a bicameral and bipartisan practice.

Marching orders were issued by White House chief of staff Rahm Emanuel right after New Year's Day. A staff steering committee with members from all key Senate and House committees, leader offices, and the administration would manage the process. Twelve subgroups were created: Coverage, Medicaid and CHIP, Medicare, Fraud-Abuse-Transparency, Abortion, Prescription Drugs, Geographic Equity, the CLASS Act, Comparative Effectiveness, Workforce, Revenue, and Immigration. Others quickly cropped up. The directive was to wrap up each issue quickly, with everything done and sent to the CBO by Friday, January 15, and with action in the House by Friday the 22nd and action in the Senate by Friday the 29th. The mission for the Senate participants, according to HELP staffer Mark Childress, was "to find what we can agree to with the House that will not lose us sixty votes. And there's no new money to add." Reid's health aide Kate Leone added, "Don't get kicked around by those House bullies."

There is a saying among House Democrats: "In the House, the Republicans are our opponents and the Senate is our enemy." It's understandable. Every year, the House sends hundreds of approved bills to the Senate, where they die from inaction. When the Senate does act, often the margin of approval is so slender that the Senate compels the House to take its version or nothing. That dynamic also played out in early 2009 involving large portions of the American Reinvestment and Recovery Act (ARRA, the stimulus bill). Although the meetings in the early weeks of January 2010 involved only Democratic staffers, the animus of many House staffers was palpable as they chafed against the "We have no room to move" message and attitude they perceived from Senate staffers. While less controversial titles and sections were resolved smoothly and quickly, others dragged.

Many meetings at the White House during the week of January 11 involved President Obama himself, who cleared whole days on his calendar to wrap up the process. In one tense meeting on Friday the 15th, sometime past 1 a.m. the president stood up, announced that his participation was

clearly not helping, and that he was leaving, available to be called—but leaving. Into the weekend, progress was slow, with important issues not yet resolved. Among Senate staffers, concerns were raised that some concessions already made to House negotiators would result in the Senate's falling short of the sixty votes needed to secure passage of the agreed-upon deal.

The January 19 special election in Massachusetts to fill the unexpired term of Senator Kennedy was only an occasional sidebar conversation. Members and staffers had heard that the Democratic candidate, Attorney General Martha Coakley, was doing poorly. There was a sense of hurry in the legislative negotiations, though unrelated to the special election. The surprising win of Republican state senator Scott Brown to fill the seat was a bona fide game changer in the sense that Democrats would no longer have sixty votes once Brown was seated, and, since Brown indicated he would not vote for the Democrats' health bill, the process as envisioned in early January became inoperative.

Many observers viewed the vote as a referendum by Massachusetts voters on national health reform. Yet polls indicated that more than half of Brown's own voters supported the Massachusetts health reform law, on which the national reform was based. Anger at the Massachusetts state government for recent tax increases and other foibles, an unprepared and poorly performing Democratic candidate, an asleep-at-the-wheel national and state party structure, and a likable moderate in Scott Brown, who was surprisingly adopted by tea party activists across the nation, seemed at least as important as any judgments by the Massachusetts electorate of national health reform. Whatever the reason, the damage was done, and health reform, for the moment, was off the tracks.

BYRD BATHS, END GAMES, AND A SIDECAR

The Thursday before the Massachusetts election, Ron Pollack, from Families USA, circulated a memo proposing a two-track strategy if the Democrats lost their sixty-vote margin in the Senate. Track one would have the House approve the Senate-enacted PPACA bill with no changes—requiring no further Senate action to send the legislation to the president's desk, and thus no sixty-vote hurdle. Track two would require the House and Senate to approve a separate bill making agreed-upon amendments to the larger Senate bill, and using the budget reconciliation process, which requires only fifty-one Senate votes for passage. The Senate-House budget resolution adopted in April 2009 had already left the door open for the use of reconciliation; though no one could have foreseen these circumstances, the decision to leave the option available, long advocated by Senator Kennedy, was prescient. It would surely involve numerous traps and pitfalls. Yet, importantly, from the get-go on the evening of January 19, there was a path—not pretty or appealing or easy—yet a path to achieve national health reform.

On the night of January 19, the president met with Reid and Pelosi in his office to talk strategy, and the Speaker forcefully told them there was no way she could round up enough votes in the House to pass the Senate bill. Later in the week, though, in a meeting with Emanuel and others, she derided White House–generated incremental ideas—expanded coverage for children or seniors or catastrophic coverage—as "kiddie care." Thus began a two-month process that seemed to evoke Elisabeth Kübler-Ross's five stages of grief—denial, anger, bargaining, depression, and acceptance.[17] House Democrats had to move through a painful, courageous process to accept the necessity of voting for the Senate bill, with only limited changes permissible in the reconciliation bill, often referred to as the "sidecar." Had the tables been turned, and the Senate been confronted with the imperative to enact the House health reform bill in toto, it is inconceivable that reform would have passed.

Once Pelosi and her key lieutenants, including Majority Leader Steny Hoyer (D-MD) and Majority Whip James Clyburn (D-SC), accepted the path, they moved methodically and relentlessly to win over a majority of House members one by one. Senators, uncharacteristically, kept their mouths shut. Options were suggested to make the process easier for House members, including having the Senate vote on the reconciliation sidecar before the House adopted the Senate's PPACA bill, and having the House approve the Senate bill without a formal roll-call vote through a House process known as "deem and pass." These and others tactics were rejected by Senate parliamentarian Alan Frumin, an obscure official reluctantly thrust into the public spotlight. Reid helped Pelosi by producing a letter signed by more than fifty-one Senate Democrats committing to vote for the sidecar as negotiated—a letter never released publicly. Once engaged, Pelosi would not let the matter die: "We will go through the gate," she told a January 28 news conference. "If the gate is closed, we will go over the fence. If the fence is too high, we will pole-vault in. If that doesn't work, we will parachute in. But we are going to get health care reform passed."[18] This was pure political will personified.

President Obama stepped into the process in new ways. On February 22,

he released the President's Proposal, a list of policy initiatives to address key inadequacies in the Senate's PPACA bill approved on Christmas Eve. Some thought Obama was advancing a new bill, but it was a laundry list for the sidecar. It included

- eliminating the Nebraska Medicaid deal known as the Cornhusker kickback;
- closing the Part D "doughnut hole" faster and more completely than done in the Senate bill;
- improving affordability provisions for insurance subsidies, which were much weaker in the Senate than in the House bill;
- expanding provisions to fight fraud, waste, and abuse; and
- raising the income threshold for the so-called "Cadillac" excise tax on high-cost health insurance policies so fewer would be affected by it, and delaying implementation until 2018.

Except for the fraud and abuse sections, all were included in the final reconciliation bill.[19] The fraud and abuse provisions were ruled out of order by the Senate parliamentarian.

Later that week, the president hosted a daylong bipartisan health reform summit televised at the Blair House, across from the White House. The summit, which involved leaders from both chambers, served several purposes: first, it distracted attention and bought time while Pelosi and Reid worked through the mechanics and politics of their final legislative moves; second, it allowed the president to claim the high ground by engaging in pointed public dialogue with his fiercest Republican critics; and third, it gave the president a response to complaints that he had not met his promise to engage in televised negotiations.

The insurance industry also played an inadvertent supporting role in aiding final passage. In early February, the giant for-profit Anthem Blue Cross plan in California (part of the WellPoint network) announced rate increases for its individual policyholders as high as 39 percent, triggering headlines and expressions of outrage across the nation and throughout Capitol Hill. It was the first time that rate increases in one state's individual market had become a national controversy. "WellPoint" became a rallying cry for Democrats and, in their off-the-record comments, an unbelievable gift. Just when most observers thought health reform dead, a major insurer's enormous rate increase threw cold water on claims that reform itself was driving premium hikes. WellPoint had invested millions

in defeating California governor Arnold Schwarzenegger's health reform plan in 2008; it was the most virulently anti-reform of the major insurers, engaging in especially aggressive medical underwriting and policyholder rescissions across the nation; so the fact that it was WellPoint in this position was a source of glee to White House and Capitol Hill staffers.

The Senate reconciliation rules did not permit changes to be made to the PPACA bill in the sidecar regarding abortion coverage, because any changes would have had trivial budget consequences, so President Obama issued a presidential executive order to appease Congressman Stupak and his small group of allies whose votes were, in the end, critical to success. The abortion controversy triggered a sharp dispute between Catholic bishops who opposed the bill and Catholic nuns, especially those who were leaders of the Catholic Health Association, a network of Catholic hospitals. At the signing ceremony on March 23, Sister Carol Keohane was the only nonpublic official to receive one of President Obama's signing pens.

Pelosi achieved her winning margin only in the final hours of House deliberations on March 21, 2010, by a final vote of 219 to 212 after a day of hostile tea party demonstrations around the Capitol. Shortly thereafter, the House approved the reconciliation sidecar.

The Senate followed up that week to act on the sidecar. Its rules are stricter than those in the House, due to the efforts of the late Senator Robert Byrd (D-WV), a former majority leader, who objected in the 1970s to the use of the budget reconciliation process to pass all kinds of legislation outside the normal Senate process. As a result, the only matters that can be included in a reconciliation bill are those having a direct and substantial impact, positive or negative, on the budget. Any senator can challenge any item or portion of any item as a violation of the Byrd rule. Senate parliamentarian Frumin rules on challenges in a process called the Byrd bath; items removed in the process are called Byrd droppings. The Democrats' fear was that if any significant changes were made, then the House might not have the votes to pass a revised version. For this high-stakes process at the end of March, Democrat staff budget experts, led by Senator Conrad's staff director, Mary Naylor, prepared diligently to face off with their Republican counterparts in behind-closed-doors proceedings that had the aura of a courtroom in which Frumin acted as judge and jury.[20] On all major challenges, he ruled for the Democrats and their carefully drafted revisions, agreeing with only two minor Republican objections. After the Senate approved the sidecar by fifty-six to forty-three on March 26, the House held one final vote to approve the bill.

President Obama signed the Affordable Care Act into law at the White

House on March 23 and signed the sidecar one week later. It was a few days more than nineteen months since Max Baucus had hosted the Health Reform Summit at the Library of Congress.

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Political will is the determination to see a matter through regardless of the firestorm, regardless of the advice of allies, friends, media figures, and others who say stop. At various points along the way to passage, President Obama, Speaker Pelosi, Majority Leader Reid, and Chairmen Waxman, Baucus, and Dodd each had their moments when the process could have died or suffered irreparable harm:

- In the 2008 presidential campaign in July, candidate Obama overruled most of his advisors' advice to downplay health reform.
- In February 2009, when Vice President Biden, Chief of Staff Emanuel, Senior Advisor David Axelrod, and most White House advisors wanted to scuttle comprehensive reform, President Obama said no, ordering its inclusion in his first budget proposal to Congress.
- In June–July 2009, when the Senate HELP Committee was mired in the longest legislative markup in the committee's history and the CBO scores looked dismal, Senator Dodd kept committee Democrats united to be the first congressional committee to act.
- In July 2009, when Energy and Commerce chair Waxman faced a revolt by Democratic Blue Dogs on his committee, he made key concessions to keep the reform process on track.
- In August 2009, when the tea party movement was transforming the health reform debate into a culture war, and Chairman Baucus was mired in Group of Six negotiations, and Emanuel again was looking to scale back the plans, Obama once again committed to staying the course and teeing up an address to a joint session of Congress.
- In October and November 2009, Speaker Pelosi and her team worked tirelessly to win a majority of votes in her chamber for the House health reform bill.

- In November and December, when Majority Leader Harry Reid had zero margin for error, he brought along sixty out of sixty Democratic senators to fashion a final Senate bill that could be enacted.
- And in January through late March 2010, when the results of the Massachusetts special election caused most of Washington DC and the nation to believe comprehensive reform was dead, White House advisors were hard at work preparing incremental fallbacks and Obama and Pelosi pushed back hard to stay the course to final passage of two complementary laws.

Moments after the House vote on March 21, 2010, Obama told reporters: "This is what change looks like."[21] He could have added: "This is what political will looks like." Because that's what it took.

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