Health Bill Cleared for Floor Votes

But Many Disputes Remain, Clouding Prospects This Year

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By Spencer Rich and Dana Priest
Washington Post Staff Writers

In a victory for the president, the House Education and Labor Committee approved a modified Clinton health bill yesterday that provides health insurance for all Americans and compels employers to pay 80 percent of the premiums for their workers.

"Today . . . for the first time ever, a committee in each house of Congress has reported a bill that guarantees universal coverage," President Clinton said, referring to a similar bill passed by the Senate Labor and Human Resources Committee three weeks ago.

The president said the House Education and Labor Committee had broken the "chokehold" of special interests, but deadlocks in two other committees, and increasing difficulties in a third, suggested that health care reform this year is far from a sure thing.

The Education and Labor Committee, one of the most liberal committees in Congress, approved its comprehensive bill, 26 to 17, without Republican support and with the defection of two Democrats.

The victory guaranteed that Democratic leaders in both chambers can bring the president's bill to the floor.

But the Senate Finance Committee is deadlocked as a "rump group" of moderate Republicans and Democrats struggles to craft a centrist plan they hope could pass the panel. The House Energy and Commerce Committee also is stymied, lacking a majority for

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any plan, and some Democrats on the House Ways and Means Committee began to complain yesterday that their panel was producing a bill that would be too radical to pass the House.

The House Education and Labor Committee bill provides health insurance to all Americans to pay for doctor and hospital bills, prescription drugs, mental health and substance abuse coverage and some dental benefits. About 80 percent of the cost would be paid for by employers, 20 percent by workers. The poor and small businesses would receive government subsidies to help pay their costs.

The committee "has brought us one step closer to achieving our goal of universal coverage—guaranteed private insurance for every American that can never be taken away," Clinton said.

But the committee's senior Republican, William F. Goodling (Pa.), said the bill adds burdensome government mandates, more bureaucracy and will increase the federal deficit $120 billion over five years, about $50 billion more than the original Clinton bill.

"There isn't a chance in Hell that this plan can pass the Congress of the United States," Rep. Steve Gunderson (R-Wis.) said recently.

After approving the modified Clinton bill, the Education and Labor Committee also reported to the floor "without recommendation" a Canadian-style government-run health insurance plan financed by taxes. The vote was 22 to 21, with six Democrats joining 15 Republicans in opposition.

Backers of the so-called "single-payer" bill had threatened to oppose the Clinton measure unless their plan was also reported and given a chance for an airing and vote on the floor.

While reporting a bill without recommendation does not carry the weight of a full committee endorsement, Rep. George Miller (D-Calif.) said, "The important thing is that it qualifies it to go before the full House where it will be one of only three" major health bills under consideration. "It will keep it in the mix," said Sara Nichols of Public Citizen, a supporter of the single-payer measure.

Before approving the modified Clinton bill, the committee defeated, 25 to 16, an effort by Rep. Ron Klink (D-Pa.) to forbid health insurance policies from paying for abortion, except where the pregnancy resulted from rape or incest or endangered the life of the mother. The vote was 25 to 16. Klink, Timothy J. Roemer (D-Ind.) and others argued that since all Americans would be required to buy the health policies provided by the bill, mandatory inclusion of coverage for abortion would require people to finance a procedure they find morally repugnant.

"Don't force us to pay for abortion if we don't want it," Klink said. But Marge Roukema (R-N.J.), Patsy Mink (D-Hawaii) and others said 65 percent of women are now covered for abortion in their existing health plans and the Klink amendment would wipe out that coverage.

Klink, Roemer, Dale E. Kildee (Mich.), Austin J. Murphy (Pa.) and Scotty Baeslar (Kentucky) were the only Democrats to vote for the Klink amendment. Roukema, Susan Molinari (N.Y.) and Michael N. Castle (Del.) were the only Republicans opposing Klink.

On the final vote on the modified Clinton bill, all Democrats backed the bill except Baeslar and Robert E. Andrews (N.J.). On the "single-payer" bill, 22 Democrats voted in favor, while Democrats Baeslar, Andrews, Roemer, Kildee, Karan English (Ariz.) and Ted Strickland (Ohio) joined the 15 Republicans in opposition.

In the Senate, the "rump group" of three Republicans and five Democrats attempting to write a compromise plan that could pass the Finance Committee made a pact to stick together during the public committee deliberations next week. They also are working on a contingency plan they could offer en bloc if one or more of them feel they are under unbearable pressure to break from the group, members said.

The group, led by Sens. John H. Chafee (R-R.I.) and John Breaux (D-La.), has become the best hope for finding a middle ground in the panel, which is stuck on the issue of how or whether to finance universal coverage, the bottom-line goal for Clinton.

But already Minority Leader Robert J. Dole (R-Kan.) has promised to come up with a more conservative alternative. The Chafee group's plan is considerably scaled-down from a bill Chafee proposed last year, and which Dole co-sponsored.

The Finance Committee's counterpart in the House, the Ways and Means panel, began to show stress yesterday. Some members said the acting chairman, Sam Gibbons (D-Fla), was trying to craft a bill that too closely mirrors the liberal Ways and Means subcommittee bill passed several months ago.

"He's too much in control," said Rep. Barbara B. Kennelly (D-Conn.) who said she was frustrated that one of her amendments to exempt large companies from government cost control measures did not get a full airing. "Every time you try to do an amendment that makes the private market work, it gets shot down," she said.

In the private caucus meetings, Gibbons is trying to get a 20-vote majority on each amendment before going into public session.

Gibbons recognized the difficulty he is having with such paper-thin margins for the major parts of the bill when he took the dais at 4:30 p.m. and explained why the committee was beginning its public work so late in the day.

"I'm constantly trying to hold together 20 votes," he said. "When you only have two votes to spare, it takes a long time to reach a consensus."

That was all the sign of vulnerability the Republicans needed. "And if you can't get 20 votes for your bill," said Rep. Bill Thomas (R-Calif.), Republicans stand ready to vote . . . for a reasonable bill."

Tobacco Executive Defends Testimony

As Industry Is Attacked on Hill, Justice Dept. Considers Probe

By John Schwartz
Washington Post Staff Writer

The top executive of a leading tobacco company defended his past statements on Capitol Hill about cigarettes' addictiveness and health effects yesterday, as the increasingly beleaguered industry found itself under attack in the House and from members of the Senate. In addition, the Justice Department said that it was looking into possible criminal charges based on congressional testimony by seven industry executives in April.

Thomas E. Sandefur Jr., CEO of the Brown & Williamson Tobacco Co., yesterday told the House Energy and Commerce subcommittee on health and the environment that he stands by his previous testimony and called congressional and executive branch inquiries into his industry's practices "McCarthyism."

On Tuesday, Food and Drug Administration Commissioner David A. Kessler appeared before the subcommittee and presented evidence that Brown & Williamson secretly developed a high-nicotine strain of tobacco overseas and boosts the nicotine released by its cigarettes by doping the tobacco with ammonia compounds.

Those findings, he said, "lay to rest any notion that there is no manipulation and control of nicotine." Kessler has said that if the agency determines that manufacturers intend that their products be sold as drugs—with manipulation a key element of proof—that tobacco products could fall within the FDA's regulatory ambit, potentially leading to restrictions on nicotine levels. The subcommittee is considering regulation that would guide the FDA on tobacco issues.

Sandefur denied that his company manipulates nicotine levels and said that Kessler's testimony was "no more than grandstanding." Sandefur accused Kessler of trying to "set Brown & Williamson up" to appear to be lying, and insisted that there was nothing "sinister and secretive" about the high-nicotine plant line.

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He said the so-called "Y-1" tobacco, which has made its way into several of the company's cigarette brands, was consistent with past requests by U.S. public health officials, notably former National Cancer Institute scientist Gio Gori (later a consultant to Brown & Williamson) for "cigarettes which would deliver lower levels of tar and moderate levels of nicotine." The cigarettes using the "Y-1" leaf, Sandefur said, "delivered essentially the same nicotine as the products they replaced."

FDA spokesman Jim O'Hara said, "Once you get past the personal attacks, the company confirmed today the facts we presented to the subcommittee on Tuesday" by explaining in detail the ways that the company can fine-tune nicotine levels.

Sandefur said that his company views nicotine not as a drug but as a flavoring for cigarettes, and does not design its products with the pharmacological effects of nicotine in mind.

Rep. Ron Wyden (D-Ore.) questioned Sandefur about "Project Wheat," a 1975 study conducted for a B&W sister company, British-American Tobacco Co., on smoker attitudes. (The companies, under parent British-American Tobacco Industries, pool research money and share research results.) The Wheat study, provided to the subcommittee by B&W, focused on the smoker's "inner need level," which the study said was "related to his preferred nicotine delivery."

> *"It sure looks to me that you all are in the drug-making business."*
>
> — Rep. Ron Wyden (D-Ore.)

Part of that study suggested that there was a market niche waiting for cigarettes that provided low tar and high nicotine. ("Tar" is a catch-all term for the gummy substance generated when tobacco burns. Tar and nicotine levels generally go hand in hand unless the tobacco or cigarette are modified.) About the time of the Wheat study, the company brought out Barclay, a low-tar brand that a 1983 New England Journal of Medicine article identified as delivering an exceptionally high charge of nicotine.

Wyden said in light of Project Wheat, "It sure looks to me that you all are in the drug-making business." Sandefur replied that he had not heard about Project Wheat before the hearing, and "we don't design our products that way."

The lawmakers also presented documents that they said showed that B&W simultaneously cosponsored research showing that mice painted with tobacco compounds developed tumors and mounted an aggressive media campaign, "Project Truth," to play down the smoking-cancer link.

Sandefur generally refused to answer questions about scientific studies or documents that were prepared before he came to the company over a decade ago, saying that he could not become an expert on all 7,000 pages of documents his company had provided to the committee. After one such demurral, subcommittee Chairman Henry A. Waxman (D-Calif.) said, "wouldn't you expect that you should, as CEO, be knowledgeble about something that is clearly the issue of the day?"

Although Sandefur was alone in the spotlight yesterday, other tobacco company executives could come under new pressure from the Department of Justice. Department lawyers revealed yesterday that they have begun studying whether to pursue a criminal investigation of tobacco company executives after a series of allegations lodged by members of Congress that cigarette officials had engaged in a number of illegal acts to protect their industry.

Rep. Martin T. Meehan (D-Mass.) and six other House members charged in a recent letter to Attorney General Janet Reno that tobacco companies may have committed mail fraud and wire fraud, as well as conspiracies to obstruct Congress, restrain trade and defraud the public by withholding scientific information "concerning the health hazards of tobacco use and the addictive characteristics of nicotine."

Yesterday, Reno said that "We are looking at all the allegations, all the comments, all the information that we have received to determine what would be the appropriate action by the Justice Department in terms of a variety of issues." In addition to the criminal division, that effort could involve the department's civil and antitrust "and all the divisions that might have some impact, to see what the appropriate action would be, if any."

A Justice Department source described the department's consideration of criminal violations as at the "inquiry" stage at which lawyers must make an assessment of whether federal laws were violated. No full-scale investigation involving the deployment of law enforcement officials had been initiated, the source said.

During a break in yesterday's hearing, one of Sandefur's attorneys, former attorney general Griffin B. Bell, said that his client and the other executives had only been expressing their opinions in their congressional testimony last April, and "we don't put folks in jail for things like that in this country—so far."

There were also indications yesterday that the tobacco industry may sustain further attacks on the state level.

Last month, Mississippi Attorney General Michael Moore filed a lawsuit seeking compensation from tobacco companies for Medicaid expenses due to smoking-related illnesses; shortly thereafter, Florida paved the way for a similar suit. In a telephone interview yesterday, Moore said that he had been in preliminary discussions with the Justice Department to encourage federal officials to file a similar lawsuit seeking reimbursement of Medicare funds.

Yesterday Sens. Tom Harkin (D-Iowa) and Frank R. Lautenberg (D-N.J.) announced that they would soon introduce legislation to allow the federal government to file a similar suit.

Toward the end of yesterday's hearing, Wyden urged Sandefur and other tobacco executives to work with lawmakers to come up with regulations they can live with, or be more and more "marginalized" and "outcast" in the debate over America's tobacco policy.

"Congressman, it's hard for me to envision becoming more of an outcast than I am," Sandefur responded.

Staff writer Pierre Thomas contributed to this report.

FRIDAY, JUNE 24, 1994 THE WASHINGTON POST

H.R. 3600

Chairman's Mark

HEALTH CARE REFORM

PAT WILLIAMS, Chairman

Subcommittee on Labor-Management Relations

Committee on Education and Labor

APRIL 18, 1994

STATEMENT OF CHAIRMAN PAT WILLIAMS (D-MT) REGARDING THE SUBCOMMITTEE CONSIDERATION OF HR 3600, THE HEALTH SECURITY ACT APRIL 18, 1994

On Thursday, April 21st, at 10:15 a.m., the Subcommittee on Labor Management Relations will begin its consideration of The Health Security Act. As Chairman, I will be introducing my own substitute modeled along the lines of the President's proposal. We will also be considering a single payer bill.

My substitute, which will be the text before the subcommittee this Thursday, has been developed as a result of many bipartisan health care hearings that this subcommittee conducted across the country and in Washington. It also includes a number of ideas put forth by Democratic members of the Education and Labor Committee in the caucuses we have held during the last two months.

The major changes from the Health Security Act in my substitute include:

1) <u>replacing mandatory alliances</u> with a new structure requiring states to perform functions previously handled by alliances. States could fulfill these requirements by establishing a single mandatory consumer purchasing cooperative per community-rated area, a single voluntary consumer purchasing cooperative per community-rated area, or no cooperative at all.

2) providing more generous subsidies for all small businesses by targeting the majority of the new support to businesses with fewer than 25 employees and by providing an additional subsidy to employers with 25-75 workers. Under my plan, businesses with fewer than 25 employees, about 4.2 million small businesses, would pay only 8.5 cents/hour for health benefits for a minimum wage worker making $4.25/hour compared to 15 cents/hour

under the President's plan. This is a 43% savings for America's smallest businesses.

3) increasing premium subsidies for workers in low income households by phasing-out the 20% share subsidy at 200% of poverty instead of 150% and increasing the income disregard from $1000 to $2000. By raising the percentage of poverty eligible for the premium subsidy from 150% to 200%,

this plan will assist 19 million more people and 9 million more families. Overall, my plan will help a total of 66.8 million people and 38.4 million families because of the increase in the earned income disregard and the percentage of poverty.

4) providing the same Medicaid wrap around coverage for children under the age of 22 who are in families with incomes below 200% of poverty as was

provided in the President's bill for a smaller group of children

5) providing grants for states to create organized systems of care for mental health and substance abuse services for children under the age of 22

6) increasing mammogram screening without copayments: every two years for women age 40-49, and every year for women age 50 and above

7) providing pap smears and pelvic examinations without copayments for women who have reached childbearing age

8) providing clinical breast exams without copayments

9) adding a rural initiative designed: [A] to increase number of primary care physicians and services; [B] to help hospitals that are dependent on Medicare

populations; and, [C] to expand and improve emergency medical systems

We intend to begin our markup this Thursday and continue on Tuesday and Wednesday, April 26th and 27th.

The Chairman's Mark consists of a substitute for H.R. 3600 (Health Security Act), comprised of the following:

(1) Title I [*Substitute for entire title, attached*]

(2) Title II [As contained in H.R. 3600]

(3) Title III [As contained in H.R. 3600 *with the addition of a part 3 to subtitle F and a subtitle J, attached*]

(4) Title IV [As contained in H.R. 3600]

(5) Title V [As contained in H.R. 3600, *with a substitute for part 1 of subtitle C, attached*]

(6) Title VI [*Substitute for entire title, attached*]

(7) Title VII [As contained in H.R. 3600]

(8) Title VIII [As contained in H.R. 3600, *with a substitute for subtitles E and F, attached*]

(9) Title IX [As contained in H.R. 3600]

(10) Title X [As contained in H.R. 3600]

(11) Title XI [As contained in H.R. 3600]

Description of Chairman's mark

The base document will be H.R. 3600. Except as noted below, the Chairman's mark will reflect the introduced bill.

Changes include:

-- **structure:**

* replace mandatory alliances with new structure requiring states to perform functions previously handled by alliances. States could fulfill these requirements by establishing a single mandatory consumer purchasing cooperative per community-rated area, a single voluntary consumer purchasing cooperative per community-rated area or no cooperative at all. The state could also establish one or more private sector clearinghouses to perform certain functions (e.g., enrollment or premium collection).
* provide more generous subsidies for all small businesses: target majority of new assistance to businesses with fewer than 25 employees; provide additional subsidy to employers with 25-75 workers
* increase premium subsidies for workers in low income households by increasing the subsidy to those at 200% of poverty instead of 150% and increasing the income disregard from $1000 to $2000
* require the membership of the National Board to reflect the diversity of the population served
* preclude states from certifying health plans designed to serve boarder areas from discriminating against out-of-state providers
* expand the duties of the consumer ombudsman; assure that consumers have adequate information and assistance in making choices of plans, getting information from plans; assure that adequate procedures and remedies exist to enforce consumer rights to items, services, and treatment for benefits.
* ensure that boards of consumer purchasing cooperatives are directly accountable to the people they represent by establishing strong fiduciary obligations for members of the boards
* establish transition rules for states that have already enacted significant health care reform
* clarify that health plans may be sponsored by groups of providers organizing themselves into integrated health networks

-- **benefits:**

* provide grants for states to create organized systems of care for mental health and substance abuse services for children under the age of 22
* create comprehensive managed mental health programs by giving flexibility to the States to develop integrated delivery systems
* increase mammogram screening without copayments: every two years for women age 40-49, and every year for women age 50 and above
* provide pap smears and pelvic examinations without copayments for women who have reached childbearing age
* provide clinical breast exams without copayments
* clarify that necessary dental care as part of treatment for adults with seizure disorders is covered immediately
* explicitly cover "outpatient vision-related rehabilitation services for the purpose of restoring or preventing deterioration in independent functioning" (pending receipt of cost estimate showing little additional cost)
* include a hearing aid benefit for children under 18 (pending receipt of cost estimate showing little additional cost)
* broaden the definition of durable medical equipment to include items such as bath tub lifts, grab bars and mobility canes
* clarify that coverage for accessories and supplies used with durable medical equipment includes all things that directly relate to the equipment (e.g., drip bottles), replacement of worn out or damaged equipment, and equipment repair
* expand coverage to include devices or equipment which "minimize" or "stabilize" deterioration, rather than just those which "prevent" further deterioration in function
* broaden the "illness or injury" criteria for outpatient rehabilitation eligibility to include "disorder, or other health condition" to assure coverage for chronic or congenital conditions
* broaden definition of enabling services to include transportation for person accompanying a patient who would otherwise be unable to travel along (e.g., child or incapacitated adult)

-- **providers:**

* designate OB/GYNs as primary care providers
* lengthen the sunset provision for essential community providers from 5 years to 7 years
* add medical assistance facilities, Native Hawaiian Health Centers, and others to the list of providers designated as essential community providers
* require the National Board in developing the rules for risk adjustment to develop a payment system to assure that increased payments for serving high-risk patients and persons with disabilities are passed along to the provider, rather than kept by the plan
* require that plans using gatekeepers designate one or more specialists to serve as gatekeepers for persons with disabilities
* include a non-discrimination rule prohibiting plans from refusing to include an entire class or type of provider (e.g., chiropractors)

-- **underserved and special populations:**

* provide the same Medicaid wrap around coverage for children under the age of 22 who are in families with incomes below 200% of poverty as was provided under the President's bill for a smaller group of children
* establish a fee for service plan for migrants and seasonal farm workers administered by DOL and HHS and using Medicare payment rates
* require all consumer purchasing cooperatives and health plans to have outreach programs for underserved populations
* assure uninterrupted coverage for victims of domestic violence
* provide for special rules to assure uninterrupted coverage for runaway and homeless youth

-- **rural initiative:**

* increase number of primary care physicians and services
* help hospitals that are dependent on Medicare populations
* expand and improve emergency medical systems

DESCRIPTION OF VOLUNTARY ALLIANCES IN CHAIRMAN'S MARK

General principles:

1. Each state would be required to divide the state into one or more community-rated areas (CRA). Every part of the state must be in one and only one CRA, but no CRA could be smaller than a metropolitan statistical area (MSA).

2. Residents of the state who are self-employed, non-workers, part-time workers, or full-time workers of employers with 5,000 or fewer employees would be covered under community-rated health plans. Individuals and their families, not employers, would choose which health plan to join. Community-rated health plans could not be self-funded.

3. Residents of the state who work for "large group sponsors" would be covered under experience-rated health plans. Large group sponsors would be: employers with more than 5,000 employees nationwide, employers who contribute to Taft-Hartley plans covering more than 5,000 employees nationwide, and employers who contribute to rural electric or rural telephone cooperative plans covering more than 5,000 employees nationwide.

4. Large group sponsors could either self-fund their plans or insure the benefits, but they must offer three different plans, at least one of which is a fee-for-service plan.

Alternative structure for regional alliances:

In addition to the duties assigned to states under H.R. 3600, states would also be required to perform or delegate certain functions that were previously assigned to the regional alliances under H.R. 3600. These functions include:

* **enrollment** - establish an open season and provide for one or more public points of enrollment for all individuals and families eligible to enroll in community-rated plans.

* **premium collection** - collect employer and family premiums and pay all community-rated plans (like the President's plan, this assures that small employers can write one check, rather than having to pay each plan chosen by one or more of its employees separately).

* **distribution of consumer information and oversight of marketing practices** - prepare and distribute booklet describing all community-rated plans, their prices, provider networks and delivery sites, and consumer quality information; responsible for enforcing the marketing restrictions on community-rated plans (similar to the fair marketing rules which have been developed by the National Association of Insurance Commissioners (NAIC)).

* **enforce quality standards and data collection - assure** that carriers and plans meet quality standards, data collection and privacy of medical information requirements.

* **determination eligibility for and payment of subsidies -** determine eligibility, notify families and employers, conduct end-of-year reconciliation to assure that correct subsidy was received.

* **enforcement of insurance reforms** - assure that all community-rated plans observe the insurance reforms (e.g., guaranteed issue, guaranteed renewability, no preexisting conditions, community rating, portability and continuation of coverage). As under the President's plan, the Department of Labor would enforce the insurance reforms with respect to large group sponsors.

States could perform these functions in one of three ways:

1. A state could set up a single mandatory consumer purchasing cooperative per community-rated area.

2. A state could establish a single voluntary consumer purchasing cooperative per community-rated area so that individuals and families could choose either to purchase through the cooperative or in the marketplace. Sign-ups could be handled directly or through agents, but if an agent was used, the consumer would have to pay the agent directly; no agent compensation through the plan selected would be permitted. Additional rules governing market conduct to prevent risk selection would be necessary.

3. A state could delegate one or more of the functions to private-sector clearinghouses, overseen by the state.

This structure would achieve the same goals as the President's proposal but without requiring mandatory alliances.

2/28/94 –

• Ed/Labor – real results

• Sandy week –
• Prints/Bubble

– repeat state of of union address – gave gave away whole bill

– realize want to support the president

→ – private insurance –
• Pres will do w/ the ~~insurance~~ insurance co's want
• Pres gave up on alliances/
or mandated coverage 20 years from now

No one understands what health alliances ~~[illegible]~~ are

HIAA ads were extremely effective raising doubts

Pres not responding –

ND ads

Cooper – getting away w/ murder –

attacking insurance industry not enough

→ Must have alliances to achieve the goals –

~~Explain w/~~

• Not clear whether the results will keep health alliances

Alliances:
• we have lost the the issue
• are choice (loss of choice the under current system)

choice plan – right of the ~~[illegible]~~ person to choose a health plan –

⊛ ↓ health alliance permits this

{people think the alliance is the plan}

Karen

② * Attack Cooper
→ worse uncertainty ~~[illegible]~~ position in 20 years

This –

③ Walking the plank –
⊛ need to tell them the bottom lines so they can be helpful to us rather than irrelevant

P to Phyllis

Cooper -- represents the auto center
→ McCurdy 60
- will shift to the right
- want to attract ~~Cooper~~ Cooper to prevent McCurdy et al from moving right -

Don't have interest to do a sub committee process -
- If we want ~~a~~ as pure a bill as possible, then ~~not~~ would ~~go~~ not go to sub committee
- If have to ~~go~~ do sub committee process w/ lots of amendments ~~to~~ from [illegible] ~~there~~ & then [illegible] amendments at full committee, he ~~does~~ don't want sub committee

* Rural health issues ^
- ° big rural constituent
- ° don't think there are enough $

Teaching hospitals want all of $.
↑ represented on the committee

(*) Administration needs to provide a stronger lead