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Welcome to Womble Carlyle's Capitol Connection e-newsletter, a weekly look at politics on Capitol Hill created by our Federal and State Government Affairs group for our Members and select clients they wish to send it to.

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PRESIDENT OBAMA ADMINISTRATION

Barack Obama officially took office as the nation's 44th President at noon on Tuesday Jan. 20, 2009. The Senate then proceeded immediately after the swearing-in ceremony to approve by unanimous consent 7 of President Obama's nominees; Energy Secretary Steven Chu; Education Secretary Arne Duncan; Homeland Security Secretary Janet Napolitano; Interior Secretary Ken Salazar; VA Secretary Eric Shinseki; and Ag Secretary Tom Vilsack as well as Peter Orzag as OMB Director. Hillary Clinton's nomination as Secretary of State passed 94-2 on Wednesday. Eric Holder's nomination as Attorney General has been delayed a week due to Judiciary Committee Ranking Member Specter's desire to more thoroughly review Holder's past actions. Tim Geithner's nomination as Treasury Secretary is still undergoing hearings in the Senate Finance Committee after it was revealed that he had failed to pay payroll taxes in the past. Brief delays are expected for Lisa Jackson to head EPA and Nancy Sutley to lead the White House Council on Environmental Quality due to an anonymous hold by Republicans. In a related note, FCC Chairman Kevin Martin resigned from the Commission last Thursday and is widely expected to be replaced as Chairman by top Obama technology advisor Julius Genachowski.

Various Senate Committees are expected to hold confirmation hearings and report them out as quickly as possible for other members of President Obama's Cabinet and other nominees including: former Congressman and Clinton Chief of Staff Leon Panetta as head of the CIA; retired Admiral Dennis Blair as Director of National Intelligence; current Rep. Hilda Solis (CA) to be Secretary of Labor; former Illinois Rep. Ray LaHood as Transportation Secretary; former Senate Majority Leader Tom Daschle as HHS Secretary; Shaun Donovan as HUD Secretary; New Jersey EPA head Lisa Jackson as EPA Administrator; Susan Rice as UN Ambassador; former Dallas Mayor Ron Kirk to be United States Trade Representative; Harvard Law School Dean Elena Kagan as Solicitor General; veteran regulator Mary Schapiro as SEC Chairman; Lawrence Summers as Director of the National Economic Council; former Treasury official Gary Gensler to head the CFTC; and Karen Gordon Mills, a private equity investment adviser, to head the Small Business Administration.

The President based on his campaign promises is expected to quickly deal with issues from "day one" such as clarifying the government's stand on torture and closing the Guantanamo detention camp; providing the Joint

Chiefs of Staff a “new mission” to end the Iraq war and begin withdrawing U.S. troops; deepening U.S. involvement in the Middle East peace process and for that purpose has named former Senate Majority Leader George Mitchell as his envoy to the Middle East; putting holds on and reversing numerous Bush administration policies, and instituting an economic plan for the country as soon as possible.

ELECTION MUSICAL CHAIRS ENDING

While the election saga continues in court in Minnesota, Roland Burris was sworn in as a Senator last Thursday, replacing President Obama in the Illinois Senate seat, finally ending the controversy over his appointment by embattled Gov. Blagojevich. Ted Kaufman was sworn in Friday to fill Delaware’s open Senate seat to replace now Vice President Joe Biden.

Denver’s public schools superintendent Michael Bennett will soon be appointed to replace Sen. Ken Salazar (D-CO) now that Salazar has been confirmed as Sec. of Interior. Meanwhile, the Governor of New York is expected to announce Saturday his choice for replacing Hillary Clinton in New York’s Senate seat from a list of interested candidates that includes N.Y. Attorney General Andrew Cuomo, Reps. Kirsten Gillibrand, Steve Israel, Brian Higgins, and Carolyn Maloney among others after Carolyn Kennedy dropped her name from consideration.

111th CONGRESS – PROCESS

The Senate leadership announced committee and funding ratios last week despite the election uncertainty in Minnesota while the House this week named the last committee chairman for the 111th Congress with Rep. Zoe Lofgren (D-CA) taking over as Chairwoman of the Committee on Standards of Official Conduct, replacing Rep. Gene Green who stepped down after having temporarily replaced Rep. Stephanie Tubbs Jones last year after her untimely death.

111th CONGRESS – SCHEDULE

Last Week – During the second week of the 111th Congress, the Senate passed (73-21) an omnibus package of lands bills (S.22) held up in the last Congress by Sen. Coburn and others for various reasons. The Senate also rejected (42-52) a resolution that would have prohibited the release of the second half (\$350 billion) of the TARP (Troubled Asset Relief Program) funds. The House last week passed its version (HR 2) of the SCHIP bill (289-139) to reauthorize the program for four and a half years and expand it by \$35 billion, on top of the \$25 billion cost of simply extending the current program without change. The Senate Finance Committee reported out its version of SCHIP (S. 275) after amending it to more closely reflect the House bill – mainly by allowing legal immigrants into the program – and reauthorizing the program for four and a half years such that the total cost of both extending and expanding the program will be almost \$60 billion over 5 years. The increased funding in both bills is paid for by a 61 cent increase in the federal cigarette tax – to a \$1 a pack.

This Week – After passing 7 of Obama’s nominees by voice vote on Tuesday, the Senate debated for 3 hours and then voted to confirm Hillary Clinton as Sec. of State on Wednesday. After that vote, the Senate resumed consideration of S. 181, the Lily Ledbetter Fair Pay Act, a bill that reverses a Supreme Court decision limiting the time a claimant has to bring pay discrimination claims. Once that bill is finished the Senate is expected to take up S. 182, the Paycheck Fairness Act, which would allow claimants to sue for punitive as well as compensatory damages; shifts the burden to employers to show any pay inequities are based on job performance factors; and prohibits firms from retaliating against employees who share salary information. The House passed versions of both bills 2 weeks ago and the Senate is expected to follow suit soon after overcoming Republican objections and procedural delays on the bills. Both bills had stalled in the Senate last year because they could not garner the 60 votes needed to cut off debate. The Senate could also begin debate on its bill expanding the SCHIP program this week. Senate Committees are also continuing to hold numerous nomination hearings over the course of the week as well.

On Wednesday the House passed by a vote of 260-166 HR 384 that makes changes to the TARP program – more clearly defining the purposes for which such funds can be used and modifies and adds to the conditions placed on institutions receiving TARP funds relating to executive compensation, dividends, and other business actions. On Thursday of this week, the House will take up a privileged motion to “disapprove” the release of the second \$350 billion for the TARP program – which is expected to fail and thus put the House on record the same as the Senate as approving the disbursement of the additional funds.

111th ISSUES

Stimulus Bill: While it has been supplanted by SCHIP as the first major bill likely to be signed by President Obama, both chambers still hope to complete and pass an Economic Stimulus bill by Friday, Feb. 13, before the Presidents' Day Recess. The House has released the details of both the spending and tax portions of its stimulus proposal on the House Appropriations and the House Ways and Means Committee websites and both committees are expected to mark-up and pass their respective measures this week. The cumulative price tag for the bills is approximately \$825 billion at present. The Republicans on the House Appropriations Committee were not included in the drafting of that portion of the bill and may object to its passage to the extent they can.

Spending in House Proposal:

- **Clean, Efficient Energy**
 - Smart Electricity Grid/Other Energy Distribution Systems – \$32 Billion
 - Public Housing Energy Efficient Retrofits – \$16 billion
 - Weatherize Modest Income Homes – \$6 billion
- **Science and Technology**
 - Construct and Equip Science and Research Facilities – \$10 billion
 - Rural/Underserved Broadband Expansion – \$6 billion
 - DTV Converter Coupon Program Funding – \$650 million
- **Modernize Roads, Bridges, Transit and Waterways**
 - Highway Construction – \$30 billion
 - Federal and Public Infrastructure Modernization – \$31 billion
 - Clean Water, Flood Control, Environmental Restoration – \$19 billion
 - Transit and Rail Modernization – \$10 billion
- **Education**
 - Aid to Local School Districts – \$41 billion: Title I \$13 billion, IDEA \$13 billion; School Modernization/Repair \$14 billion, Ed Technology \$1 billion.
 - Higher Ed Modernization – \$6 billion
 - Direct Aid to Schools – \$54 billion; Local school districts/public colleges, universities \$39 billion via current formulas; bonus grants to states \$15 billion
 - PELL Grant \$500 Increase – \$15.6 billion
- **State Government Assistance**
 - Public Safety, Other Urgent High Priority Needs – \$25 billion
 - Police, Fire, Teachers, Public Employee Expenses – \$4 billion
- **Lower Healthcare Costs**
 - Health IT for Doctors/Hospitals – \$20 billion through Approps. Medicaid, Medicare
 - Preventative Care – \$4.1 billion
- **Help for Workers**
 - Food Stamp 13% Increase – \$20 billion
- **Unemployment Insurance Expansion/ Extension** – \$7.5 billion
- **Additional SSI Payments for Disabled Elderly** – *No cost estimate provided*
- **Additional TANF Funds to States** – *No cost estimate provided*
- **COBRA Subsidy and Medicaid Enrollment Authority for Unemployed Workers** – *No cost estimate provided*

House Tax Elements for 2009-2010:

- **Tax Credits for Workers/Families** – \$500 single, \$1,000 married tax credit retroactive to Jan. 1, 2009 provided thru changes in withholding to avoid cost/delay in sending rebate checks. (10 yr cost \$145 billion)
- **Increase Earned Income Tax Credit** – Increase credit to 45% from 40% of first \$12,570 of income for families with 3 or more children and increase the phase out limit to \$21,420 from \$19,540 for married couples with any number of children. (10 yr cost \$4.7 billion)
- **Increase Refundable Child Tax Credit** – Makes child credit refundable regardless of having earned income. Eliminates floor that credit refundability is limited to 15% of income over \$8,500. (10 yr cost \$18 billion)

- **American Opportunity (College Tuition) Tax Credit** – Credit for first \$2,000 of tuition/expenses and 25% of next \$500 of tuition/expenses with 40% of credit refundable and phased out for singles over \$80K/couples over \$160K. (10 yr cost \$14 billion).
- **Refundable First Time Homebuyer Credit** – Eliminates requirement that first time homebuyers repay interest free loan of up to \$7,500 (via the tax credit created last year for home purchases from April 2008 to July 2009) for those who buy homes after Jan. 2009. (10 yr cost \$2.5 billion)
- **Allow Businesses 5-Year Loss Carry Back** – For 2008, 2009 allow 5- year versus current 2-year carry back allowing businesses immediate tax refunds from prior years, not available to companies receiving TARP funds. (10 yr cost \$20 billion)
- **Bonus/Accelerated Depreciation** – Would allow accelerated 50% business depreciation for acquiring new assets passed for 2008 to extend into 2009. (10 yr cost \$5 billion)
- **Tax Credits to Hire New Workers** – Adds veterans and disconnected youth to list of employees entitling employers to the work opportunity tax credit. (10 yr cost \$208 million)
- **Increased Small Business Section 179 Expensing** – Until end of 2010 allows small business to write off up to \$250K in capital expense in year of acquisition instead of depreciating up to phase out threshold of \$800K. (10 yr cost \$41 million)
- **Repeal Treasury Section 382 Notice** – Eliminates ability of an acquiring company to claim losses incurred prior to an acquisition by companies that are acquired. (raises \$7 billion over 10 years)
- **Green Recovery/Renewable Energy** – Create new economic recovery zone bonds for use by states; tribal economic development bonds; extend placed in service date for wind, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, closed and open loop biomass, and marine renewable facilities and option for such facilities to claim invest instead of production tax credit; eliminate dollar limits on energy tax credits; additional Clean Renewable Energy/Qualified Energy bonds; extend home energy efficiency tax credits and alternative fuel pump credits; and enhance R&D credits for technology related to fuel cells, battery technology, renewable energy, conservation, electricity transmission and carbon capture and sequestration. (10 yr cost \$22 billion)
- **Tax Related Assistance to States** – A combination of school construction bonds, increase in QZAB authority, direct federal payments using tax credit bond mechanism instead of issuing municipal bonds, repeal 3% withholding on government contractors, elimination of AMT costs on private activity bonds, etc. (10 yr cost \$45 billion)

NEAR-TERM AGENDA ISSUES FOR THE 111th CONGRESS

2009 Omnibus Appropriations: Passing the remaining FY2009 Appropriations bills not passed in the last Congress. Those bills contain more than \$400 billion in spending that mirrors the spending proposed in the Stimulus such as transportation, energy, scientific research. Other than the Defense, Vet Affairs, and Homeland Security departments, the other federal agencies and departments are being funded at FY2008 levels under a Continuing Resolution (CR) which expires March 6. Congress will have to pass legislation before March 6th to keep those parts of the government operating past that date. Republican leaders have suggested this bill in lieu of a stimulus bill.

Digital TV Transition: President-elect Obama announced his support for a 3-month delay in the Feb. 17, 2009 date for the nation's TV stations to transition to digital instead of analog broadcasts after the NTIA announced that federal funding for the DTV Coupon transition program was running out with more than a month to go before the transition. The House Energy and Commerce Committee is marking up a bill that would delay the transition to June 12th while Sen. Rockefeller tried but failed to pass a similar proposal by unanimous consent in the Senate this week as well. The Ways and Means portion of the House economic stimulus plan includes \$650 million in additional funding for the government's DTV converter coupon program. More than 1 million people are already on, and up to 4 million more are expected to join, the waiting list for the coupons which they can redeem for up to \$40 off the price of a converter that will translate over-the-air digital broadcasts into an analog signal that works with their analog TV sets.

2009 Iraq/Afghanistan Supplemental Appropriations: Defense Sec. Gates asked for \$70 billion in Supplemental funding for the wars this year, but House Appropriations Defense Subcommittee Chair Murtha is looking for \$16-\$18 billion on top – including a \$500 monthly salary bonus for soldiers held past their deployment commitments – which would bring total spending on the war in FY2009 to \$150 billion.

“Card Check” Bill: This bill is expected to be considered in late February or March after the Presidents' Day recess and would eliminate the requirement for a secret ballot election by workers before a union can be organized at a workplace – elections that unions contend are easily manipulated by employers. Timing for the bill

is unclear since it has become a litmus test for Republicans as to the willingness of Democrats to work across the aisle to address their concerns.

Industry Support for Bankruptcy “Cramdown” Bill: Sens. Chris Dodd and Charles Schumer reached agreement with Citigroup and the National Assn. of Homebuilders to support a bill allowing federal bankruptcy judges to modify the terms of home mortgages during bankruptcy proceedings.

OTHER ISSUES ON THE AGENDA FOR THE 111th CONGRESS

Broad-Based Health Care Reform; Tax Reform and Middle Class Tax bill; SEC/Financial Sector Regulatory Restructuring bill; Immigration Reform; Family and Medical Leave Act Expansion; New Housing/Home Foreclosure Assistance bill; Energy Reform bill; Guantanamo Bay Prison Closure; Torture Ban; Trade Adjustment Assistance Extension and Expansion; Patent Office Reform and Overhaul; Music Royalty Reform (eliminating AM/FM royalty exemptions); Endangered Species Act Reform; No Child Left Behind Education Act Reform; Early Childhood and After School Education Reform; Elimination of Anti-Trust Exemption for Railroads; Medical Device and Prescription Drug Labeling Non-Preemption Acts (reversing Supreme Court decisions opposed by trial lawyers ruling that federal medical device and drug labeling laws preempt state liability laws); and an increase in the Federal Debt Ceiling.

USEFUL LINKS FOR THE WEEK

- **Obama Administration** – <http://www.whitehouse.gov/>
- **Official House Schedule for 111th Congress, 2009** – <http://www.majorityleader.gov/docUploads/2009-FINAL-CALENDAR120508.pdf>
- **Official Senate Schedule for the 111th Congress, 2009** – <http://www.cq.com/flatfiles/editorialFiles/temporaryItems/2008/2009Recesscalendar.pdf>
- **Stimulus Bill Links** –
<http://waysandmeans.house.gov/MoreInfo.asp?section=50>
<http://waysandmeans.house.gov/media/pdf/110/sbill.pdf>
<http://appropriations.house.gov/pdf/RecoveryBill01-15-09.pdf> (Bill Text)
<http://appropriations.house.gov/pdf/RecoveryReport01-15-09.pdf> (Report Language)

If you would like additional information on any of these items or have any comments on how we can improve this product for you, please contact either John Mashburn at jmashburn@wcsr.com or Mark Harkins at mharkins@wcsr.com.

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