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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

On Jan. 29th the new President signed his first bill into law, S. 181 – the Lilly Ledbetter Fair Pay Restoration Act – which extends the time workers have to file pay discrimination claims. The President also issued four Executive Orders related to employment law regarding the use of project labor agreements on federal construction projects, the non-displacement of qualified workers under service contracts, the treatment of labor relations costs in government contracting, and the notification of employee rights under federal law. On Feb. 4th, the President signed his second bill into law the same day H.R. 2 passed the House – the reauthorization and expansion of the State Children's Health Insurance Program (SCHIP) that had been vetoed twice by former President Bush. The bill provides an extra \$33 billion (funded by increased tobacco taxes) for a total of almost \$60 billion for the program over the next four and half years – adding another 4.1 million children for a total of 11 million children that will be covered by the program.

On the nominations front, former Democratic Senate Majority Leader Tom Daschle withdrew his nomination to be Health and Human Services Secretary as did Nancy Killefer, Obama's pick to be the White House chief performance officer – both because of issues related to unpaid taxes. Rep. Hilda Solis' nomination to be Labor Secretary is facing similar problems, but are related to taxes owed by her husband, not her, so the nomination may still move forward. In contrast to Daschle's surprise withdrawal, President Obama surprised Washington by picking Republican Senate Budget Committee Ranking Member Judd Gregg as his choice for Commerce Secretary – a replacement for Obama's earlier pick, New Mexico Gov. Richardson who withdrew in January when questions were raised about his role in the award of some state contracts. Major nominations approved by the Senate so far include Eric Holder as Attorney General, Sen. Hillary Clinton as Secretary of State, Tim Geithner as Treasury Secretary, former Republican Rep. Ray LaHood to be Transportation Secretary, Shaun Donovan as Secretary of Housing and Urban Development, Arne Duncan as Education Secretary, Steven Chu as Energy Secretary, Janet Napolitano as Homeland Security Secretary, Sen. Ken Salazar as Interior Secretary, former Gov. Tom Vilsack as Agriculture Secretary, Gen. Eric Shinseki as Veterans Administration Secretary, Peter Orzag as Director of OMB, Susan Rice to be U.N. Ambassador, Dennis Blair as National Intelligence Director, Mary Schapiro as Chair of the SEC, and Lisa Jackson to be EPA Administrator.

On a related note, the announcement last week that Supreme Court Justice Ruth Bader Ginsburg underwent surgery for pancreatic cancer raises the possibility of a potential Supreme Court nomination battle much earlier in the Obama administration than expected.

## MUSICAL CHAIRS CONTINUED

As part of Republican Sen. Gregg's selection as the next Commerce Secretary, a deal was secured whereby New Hampshire Democrat Gov. John Lynch would appoint moderate Republican Bonnie Newman – Gregg's Chief of Staff when he served in the House and a Lynch re-election supporter – to fill his seat to maintain the current 58-41 ratio of Democrats to Republicans in the Senate. Newman has stated that she would not seek re-election in 2010. New York Gov. David Patterson in turn selected Rep. Kirsten Gillibrand (D-NY) to take Hillary Clinton's Senate seat and a special election will be held to replace Gillibrand in the House – since she has already been sworn in by the Senate. The election saga in Minnesota between Sen. Norm Coleman and challenger Al Franken continues as a state court ruled that it would review almost 5,000 additional absentee ballots that were rejected to see if they should be counted. Additional changes in the composition of the House and Senate are possible as Senators Mikulski, Baucus, and Stabenow and Rep. Rosa DeLauro are among possible HHS replacements for former Sen. Daschle – as is Kansas Gov. Kathleen Sebelius.

The 2010 election season is getting an early start with candidates from both parties announcing runs to replace not only Senators Kit Bond, Mel Martinez, Sam Brownback, and George Voinovich who have announced their retirements, but for the former seats of Senators Biden, Gregg, Clinton, and Salazar who have or will join the administration. While no one has yet announced that they would take on newly installed Illinois Senator Roland Burris, his controversial appointment by now impeached former Illinois Gov. Blagojevich is sure to draw challengers from both sides of the aisle in 2010. The House faces similar races including a special election in the Chicago area to replace Rep. Rahm Emanuel, President Obama's new Chief of Staff, and again, in New York to replace Rep. Gillibrand.

Republicans also recently elected former Maryland Lt. Gov. Michael Steele as the new Chairman of the Republican National Committee on the sixth ballot, replacing current Chairman Mike Duncan. Steele is the first African-American Chairman of the RNC and ran against four other Republicans including Duncan for the post.

## 111th CONGRESS – SCHEDULE

Last Week – After approving the release of the second half of the \$700 billion originally approved for the Troubled Assets Purchase Program (TARP) the previous week, the House and Senate last week finished passing – and the President signed – both S. 181, the Lilly Ledbetter Fair Pay Restoration Act, and H.R. 2, the SCHIP bill. The Senate and House also passed and sent the President S. 352, the DTV Delay Act which will delay by four months the date for the transition from analog to digital television broadcasts – from February 17, 2009 to June 13, 2009. President Obama has supported the delay in the switchover due to funding and other problems in the federal government's digital converter coupon program and is expected to sign the bill early this week.

This Week – The Senate began its debate of the so-called Stimulus Bill – H.R. 1, the American Recovery and Reinvestment Act – last week and continued voting into the weekend on Saturday. After agreeing to vote on an amendment championed by Sen. Bill Nelson and Sen. Susan Collins to scale the cost of the bill back by more than \$100 billion dollars, a final passage vote on the bill was locked in to occur sometime on Tuesday, Feb. 10. Once the Senate passes the bill, Democrats in the House and Senate will then have to quickly negotiate compromises on major differences between the House and Senate versions of the legislation during a formal conference – in order to get it to the President for his signature as hoped before Congress adjourns for the President's Day recess at the end of the week. While the House awaits the arrival of the "Stimulus Bill" from the Senate, it is expected to take up and consider S. 22, an omnibus package of lands bills that is often referred to as the "Tomnibus" because most of the bills in the package are ones held up in the last Congress by Sen. Tom Coburn and others for various reasons.

## NEAR-TERM AGENDA ISSUES FOR THE 111th CONGRESS

**Stimulus/American Recovery Bill:** The Senate struck a deal Saturday night for 3 Republican votes (Olympia Snowe, Susan Collins and Arlen Specter) that entails a cloture vote Tuesday morning with a passage vote later that day, and then the appointment of conferees. Both votes require 60 votes to pass and the deal as reported includes:

1. Cutting the base bill back to \$780 billion – a reduction of approximately \$86 billion in spending and \$25 billion in tax relief compared to the original version reported out of the Finance Committee.

2. Adding all the Senate passed floor amendments back in – which will add more than \$47 billion back into the bill for a grand total of \$827 billion, \$7 billion more than the House-passed version of the stimulus. Democrats are proposing to cut the Isakson housing tax credit by approximately \$20 billion from its original \$35 billion to help make up for adding the other spending back in. That amendment, adopted by voice vote last week, would double a tax credit for homebuyers to \$15,000 and allow all homebuyers – not just first-time purchasers – to take advantage of it.

**Potential “DEAL CUTS” to the Original Finance Committee Bill:** \$100 million FSA modernization; \$50 million CSERES Research; \$65 million Watershed Rehab; \$30 million SD Salaries; \$100 million Distance Learning; \$98 million School Nutrition; \$50 million aquaculture; \$2 billion broadband; \$100 million NIST; \$100 million NOAA; \$100 million Law Enforcement Wireless; \$50 million Detention Trustees; \$25 million Marshalls Construction; \$100 million FBI Construction; \$300 million Federal Prisons; \$300 million BYRNE Formula Grants; \$140 million BYRNE Competitive Grants; \$10 million State and Local Law Enforcement; \$50 million NASA; \$50 million Aeronautics; \$50 million Exploration; \$50 million Cross Agency Support; \$200 million NSF; \$100 million Science; \$1 billion Energy Loan Guarantees; \$4.5 billion GSA; \$3.5 billion Federal Buildings Greening; \$89 million GSA Operations; \$300 million Federal Fleet Hybrid Vehicle purchases; \$50 million from DHS; \$200 million TSA; \$122 million for Coast Guard Cutters (modifies use); \$25 million Fish and Wildlife; \$55 million Historic Preservation; \$20 million working capital fund; \$200 million Superfund; \$165 million Forest Service Capital Improvement; \$90 million State & Private Wildlife Fire Management; \$75 million Smithsonian; \$1 billion Head Start/Early Start; \$5.8 billion Health Prevention Activity; \$2 billion HIT Grants; \$600 million Title I (NCLB); \$16 billion School Construction; \$3.5 billion Higher Ed Construction (Eliminated); \$1.25 billion project based rental; \$2.25 Neighborhood Stabilization (Eliminated); \$1.2 billion in Retrofitting for Project 8 Housing; \$40 billion State Fiscal Stabilization; \$7.5 billion of State Incentive Grants.

Senator Levin has been quoted in the press as saying that Democrats hope to add all the spending back in during conference negotiations with the House.

#### **Significant Differences Between Senate and House Bills with “Deal” Included:**

- \$70 billion AMT patch – Senate bill has it while House bill does not. However, everyone acknowledges that the AMT patch will be passed this year whether or not it is part of the “Stimulus Bill.”
- \$20 billion for school construction – included in House bill, none in Senate. Obama’s top economic adviser, Lawrence H. Summers, indicated Sunday the administration wants all or some of that restored.
- \$79 billion state fiscal stabilization fund – in House bill, Senate bill will be far less, around \$40 billion. Summers said President wants some of that funding restored in conference.
- \$2,400 suspension of tax on unemployment benefits in 2009 – Senate bill includes at a cost of \$4.7 billion, House has none and Ways and Means Democrats rejected a Republican amendment in Committee on the issue.
- Reduction in number of low-income families qualifying for refundable child tax credit – Senate bipartisan agreement included many tax changes that make it far less generous in this regard than the House version.
- Bonds for areas with high unemployment – Senate provides \$15 billion versus \$25 billion in House-passed bill.
- Home weatherization services for low-income families – Senate allocates \$2.9 billion, House bill has \$6.2 billion.
- FutureGen, near-zero-emissions coal-fired power plant for Mattoon, Ill – Senate has \$2 billion for this Sen. Durbin/Sen. Obama priority, House has no funds for it.

**2009 Omnibus Appropriations Bill:** The House was prepared to consider this bill last week, but it has now been officially pushed off until after the President’s Day recess so the appropriators can concentrate on the “Stimulus Bill.” The bill contains the remaining FY2009 Appropriations bills not passed in the last Congress. Those bills contain more than \$400 billion in spending that mirrors much of the spending proposed in the “Stimulus Bill” such as spending for transportation, energy, research, education, etc. Other than the Defense, Veterans 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 6th. Congress must pass legislation before March 6th to keep those parts of the government operating past that date. Republican leaders had earlier suggested passing this bill in lieu of a “Stimulus Bill.”

**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 of that, 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 still 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.

**Bankruptcy “Cramdown” Bill:** Would allow federal bankruptcy judges to modify the terms of home mortgages during bankruptcy proceedings. Speaker Pelosi and others had considered including such legislation in the “Stimulus Bill”, but now appear to have abandoned the idea.

## ISSUES ON THE AGENDA FOR THE 111th CONGRESS

Broad-Based Health Care Reform: House Majority Leader Steny Hoyer (D-MD) promised a conference of health advocates a week ago that health care overhaul would be considered in the 111th Congress, he did not commit to or promise that it would be acted on this year. The President’s promise during the campaign to reform the nation’s health care system to guarantee coverage for every American and reduce the costs of care had made such a reform a top priority for achievement early in the administration. But since taking office, Obama and the Democratic Majority in Congress have had to focus instead on the economic crisis – slowing the momentum for comprehensive health care reform. In the alternative, Democrats have added billions of dollars to existing government health care programs such as Medicaid through the Stimulus Bill and the recently passed expansion of the State Children’s Health Insurance Program (SCHIP) that the President signed into law last week.

Other Issues: 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; 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

### Stimulus Bill Links:

- Senate  
[http://appropriations.senate.gov/News/2009\\_02\\_08\\_UPDATED\\_Appropriations\\_Provisions\\_of\\_American\\_Recovery\\_and\\_Reinvestment\\_Act.pdf?CFID=4043629&CFTOKEN=40573040](http://appropriations.senate.gov/News/2009_02_08_UPDATED_Appropriations_Provisions_of_American_Recovery_and_Reinvestment_Act.pdf?CFID=4043629&CFTOKEN=40573040) (Nelson/Collins Stimulus Outline)  
<http://finance.senate.gov/sitepages/leg/LEG%202009/020209%20complete%20legislative%20text%20of%20American%20Recovery%20and%20Reinvestment%20Act.pdf> (Text of Original Senate Bill Text)
- House  
<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)

Obama Administration - <http://www.whitehouse.gov/>

Executive Orders - [http://www.whitehouse.gov/briefing\\_room/PresidentialActions/](http://www.whitehouse.gov/briefing_room/PresidentialActions/)

WCSR Client Alert - Executive Order To Reduce "Disruption" of Service Contract Performance: Is It De Facto Unionization? <http://www.wcsr.com/default.asp?id=680&objId=246>

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>

***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 Mark Harkins at [mharkins@wcsr.com](mailto:mharkins@wcsr.com), or John Mashburn at [jmashburn@wcsr.com](mailto:jmashburn@wcsr.com).***

### **Federal and State Government Affairs Team**

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|                          |                |  |
|--------------------------|----------------|--|
| Broughton, James W.C.    | (202) 857-4468 | <a href="mailto:JBroughton@wcsr.com">JBroughton@wcsr.com</a>         |
| Cozort, Jack L.          | (919) 755-2126 | <a href="mailto:JaCozort@wcsr.com">JaCozort@wcsr.com</a>             |
| Ehrlich, Jr., Robert L.  | (410) 545-5807 | <a href="mailto:Robert.Ehrlich@wcsr.com">Robert.Ehrlich@wcsr.com</a> |
| Fawell, Henry            | (410) 545-5830 | <a href="mailto:Henry.Fawell@wcsr.com">Henry.Fawell@wcsr.com</a>     |
| Vicki Hicks              | (202) 857-4485 | <a href="mailto:VHicks@wcsr.com">VHicks@wcsr.com</a>                 |
| Harkins, Mark B.         | (202) 857-4426 | <a href="mailto:MHarkins@wcsr.com">MHarkins@wcsr.com</a>             |
| Hunt, Jr., James B.      | (919) 755-2105 | <a href="mailto:JHunt@wcsr.com">JHunt@wcsr.com</a>                   |
| Kahl, James A.           | (202) 857-4417 | <a href="mailto:JKahl@wcsr.com">JKahl@wcsr.com</a>                   |
| Harry Katrichis          | (202) 857-4494 | <a href="mailto:HKatrichis@wcsr.com">HKatrichis@wcsr.com</a>         |
| Leonard, Kevin G.        | (919) 755-2161 | <a href="mailto:KLeonard@wcsr.com">KLeonard@wcsr.com</a>             |
| Mashburn, *John K.       | (202) 857-4519 | <a href="mailto:JMashburn@wcsr.com">JMashburn@wcsr.com</a>           |
| Mitchell, Jr., Burley B. | (919) 755-8166 | <a href="mailto:BMitchell@wcsr.com">BMitchell@wcsr.com</a>           |
| Norton, Lawrence H.      | (202) 857-4429 | <a href="mailto:LNorton@wcsr.com">LNorton@wcsr.com</a>               |
| Rep. Deborah Pryce       | (202) 857-4413 | <a href="mailto:DPryce@wcsr.com">DPryce@wcsr.com</a>                 |
| Sands, III, Alexander P. | (919) 755-2111 | <a href="mailto:SSands@wcsr.com">SSands@wcsr.com</a>                 |
| Scholtes, James Patrick  | (410) 545-5870 | <a href="mailto:JP.Scholtes@wcsr.com">JP.Scholtes@wcsr.com</a>       |

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