



ELECTION UPDATE

The Electoral College vote is still 364-163 for Obama. Nearly two weeks after the elections there are still about 6,300 provisional ballots statewide in Missouri that county officials are still reviewing, but unofficial results show McCain winning Missouri's 11 votes. Counties must send final results to the state by Nov. 18.

In the Senate, Democrats now have 57 seats since Sen. Gordon Smith conceded to Democrat Jeff Merkley. Three Senate races are still too close to call in Alaska, Minnesota, and in Georgia -- where there will be a runoff election on December 2nd between incumbent Republican Saxby Chambliss and Democrat Jim Martin.

In the Alaska Senate race, with another 24,000 votes to be counted, Democrat Mark Begich now leads incumbent Ted Stevens by 1,022. In Minnesota, Sen. Norm Coleman the incumbent Republican has a 206-vote lead over his Democrat challenger Al Franken. The vote total is well within the half-of-one-percent margin to trigger an automatic recount which began last Thursday, though the outcome will not be official for at least another month -- and could end up being decided by a vote in the Senate itself.

PRESIDENTIAL TRANSITION UPDATE

President-elect Obama formally resigned his Senate seat on Sunday which leaves the decision of picking a replacement to Gov. Rod Blagojevich from among numerous potential candidates, including Rep. Jesse Jackson, Jr. Former Obama primary opponents Hillary Clinton and Bill Richardson have both been mentioned as candidates for Secretary of State. John Boyd, the president of the National Black Farmers Association is being vetted as a potential Secretary of Agriculture while Obama is reportedly considering keeping Bush's current Secretary of Defense Robert Gates as part of the new administration.

John Podesta, co-chairman of the White House transition team, which could number as many as 450 people, clarified the self-imposed ethics regulations that members of the team will be subject to. They prohibit lobbyists from donating funds for the transition effort, require former lobbyists working for the transition to deregister and prohibit them from working on policy issues they lobbied on in the previous 12 months. Anyone working for the transition will be prohibited from lobbying the Obama administration for a year on issues they handled as part of the transition. The transition phone number is 202-540-3000.

CONGRESS THIS WEEK

Lame Duck Session: Congress' Lame Duck session starts this week on Monday, November 17th in the Senate and Wednesday the 19th in the House.

Organizational Meetings: Both political parties in the House and Senate will conduct their organizational meetings on Tuesday the 18th to choose their leaders.

While most leaders will stay put on the Democrat side with the exception of Rahm Emanuel in the House, the Republican side will see several changes. Rep. Dan Lundgren has announced a challenge to House Republican Leader Boehner while Republican Whip Roy Blunt and Republican Conference Chairman Adam Putnam are not running again. On the Democrat side of the aisle, Rep. Waxman's challenge to sitting Chair John Dingell for the Energy and Commerce Committee Chairmanship has become a proxy battle to some extent between the more moderate New Democrat and Blue Dog members and the more liberal elements of the caucus for influence on the direction of public policy and legislation. Another possible indication of the same struggle is the announcement by House Judiciary Committee Chairman Conyers that all intellectual property issues will now be handled at the full committee level, instead of at the subcommittee level where current Courts, the Internet, and Intellectual Property Subcommittee Chairman Berman is leaving to take over as Chair of the full Foreign Affairs Committee.

In the Senate, Sen. Coleman has announced that he will not challenge Sen. Cornyn to take over at the Republicans' NRSC campaign committee to focus on his election recount, while Sen. Ensign will replace Sen. Hutchison at the Republican Policy

Committee. On the Democrat side, all the leaders will stay except for Sen. Schumer who will most likely leave the DSCC to take the Chairmanship of the Rules Committee. Senate Democrats will also hold a secret vote on whether Homeland Security and Governmental Affairs Committee Chairman Lieberman will be allowed to keep his post after campaigning for McCain. Republicans will have a similar dilemma in deciding whether to expel Sen. Stevens or strip him of his committee posts, should he win reelection, after being convicted in federal court in October.

See last week's edition for more details regarding the various races and candidates to fill the musical chairs on each side of the political aisle.

Legislative Action: The first item of business in the Senate is a proposal to provide the "Big Three" automakers \$25 billion from the federal government's TARP program either as a loan or a possible capital infusion. Automobile dealers and local municipalities are also hoping to gain some economic aid as well. Majority Leader Reid has stated that he will likely attach the automaker proposal to an unemployment benefits extension bill which passed the House back in September that was opposed by President Bush, and that a vote will likely occur on the package Wednesday. President Bush and some Republicans are opposed to the current proposals for giving aid to the automakers making its passage unlikely at present. The Senate at some point will also consider an omnibus lands bill which is an effort to overcome procedural objections, primarily from Sen. Coburn (OK), to passing each bill separately. It is unclear if the House will consider the automakers' bill unless the Senate passes it first.

Both chambers may also consider a second economic stimulus bill, but only if the President seems likely to support it. Such a package could include a second round of stimulus checks for individuals, infrastructure projects, economic aid for city and county operating expenses and pension obligations, and numerous other proposals. The White House has indicated it is unlikely to support an economic stimulus package unless it is sweetened by passage of the free trade agreements with Colombia and South Korea.

Hearings: A small number of hearings will occur. The highlights are TARP oversight by House Financial Services Committee on Tuesday; the collapse of Fannie and Freddie by House Oversight on Thursday; the economics of health care system overhaul in Senate Finance on Wednesday; stabilization of the auto industry in House Financial Services on Wednesday; and a handful of confirmation hearings in the Senate on Monday, including the inspector general for the TARP program in Senate Banking.

CONGRESS LAST WEEK

Even though Congress is out of session, in light of the world financial crisis the House Financial Services Committee held a hearing on Mortgage Foreclosures, the House Oversight Committee on the role of Hedge Funds in precipitating the financial crisis, and the Senate Banking Committee held one on Oversight of Capital Injections by the Treasury Department.

Bipartisan Congressional concern bordering on outrage was also expressed as a result of Treasury's decision not to use the \$700 billion rescue package funds to buy "toxic" mortgages -- which served as the motivating rationale for Congressional passage of the Emergency Economic Stabilization Act on the eve of the election -- and to use the money instead to buy up consumer credit debt and provide additional capital infusions for banks. Shelia Bair, head of the FDIC, has proposed a \$25 billion relief plan for mortgagees using TARP funds that is gaining traction in Congress. The U.S. Chamber of Commerce weighed in on the broader financial crisis by arguing for federal regulation of credit rating agencies.

Oversight of the federal government's economic stabilization program also progressed last week as the President nominated Neil Barofsky -- a federal prosecutor in New York -- as the IG for the program. His nomination will be taken up by the Senate Finance Committees at 2 pm on Monday, Nov. 17. Bush also nominated Steve Linnick -- deputy chief of DOJ's criminal fraud division -- as the IG for the Federal Housing Finance Agency which now oversees Fannie Mae and Freddie Mac. Three of the 5 members of the Congressional panel created to oversee the bailout were announced last week as well. Speaker Pelosi picked Richard H. Neiman (a NY State bank superintendent) and Majority Leader Reid chose Elizabeth Warren (Harvard law professor) while they jointly tapped Damon Silvers (Assoc. Gen. Counsel at the AFL-CIO) to serve on the oversight panel.

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

A few useful links for the week:

<http://www.change.gov/> -- link to all things Obama-Biden. Links to transition team members and ethics rules for serving.



November 2008

<http://www.politico.com/politico44/> -- gives up to minute information on the Obama transition.

<http://www.presidential-inauguration.com/> -- link for information on the how, where, and how much related to inaugural balls in January.

The purpose of this communication is to provide a general summary of significant legal developments to our clients and friends. It is not intended as and should not be construed as legal advice on any specific facts and circumstances.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).