



**PUBLIC POLICY COUNCIL News Briefing Feb. 20, 2009
3418**

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LOCAL

Downtown Green Bay:

On February 3 Green Bay sent back to committee an ordinance that would limit the number of downtown bars to 15 and impose a moratorium on allowing new liquor licenses until the number is reduced to 15 in an area bounded by Elm and Porlier Streets, and by Monroe Avenue and the Fox River. The downtown area now has 19 bars, not including restaurants with liquor licenses.

Economic Development:

On February 16 a consultant reported to the Green Bay Redevelopment Authority that the KI Convention Center is no longer large enough to accommodate groups that have traditionally been its clients. The consultant recommended adding 26,00 square feet to the existing 44,000 square foot facility to allow the facility to capture 61% of available business it is now not getting and 40,000 square feet to capture 81% of available business. More information on how and where the center could be expanded, how much that could cost and how it could be paid for will be delivered by the consultant next month.

Environment:

- **Al Shea, WDNR air and waste management division administrator, said Brown County's 2008 data on air quality has shown a significant improvement, which should lead to a recommendation by Gov. Jim Doyle that the county be removed from a non-attainment designation on the federal government's grading of particulate standards. The EPA announced last month that Brown County was one of 54 counties in the United States added to the non-attainment list. Counties are measured on soot standards for three successive years. Shea said the modeling shows we'll continue to improve over the next seven years based on regulations that have been put in place. The EPA has indicated that if Wisconsin submits quality assured data by February 20, 2009 demonstrating that Brown County and others meet the 24-hour PM2.5 standard based upon 2006-2008 data, the agency will make a "technical correction" to its final designation. If this occurs, Brown County, Dane County and Pacific Township would be considered "attainment," and would avoid the costly regulatory burden associated with a nonattainment designation.**
- **A Brown County judge has upheld a 2008 jury verdict that decided nine insurance companies are liable for PCB cleanup costs of the lower Fox River through their contracts with the paper company Appleton. The case is expected to be appealed, but the companies could be required to pay up to \$750 million, depending on Appleton's share of the cost, which hasn't been determined. The other paper companies expected to incur cleanup costs are Georgia-Pacific, NCR Corp., P.H. Glatfelter Co., Riverside Paper Corp., U.S. Paper Mills Corp. and Wisconsin Tissue Mills Inc. The companies have not reached an agreement to divide financial responsibility for the cleanup. Dredging of the river is scheduled to begin in May with the sediment going through a dewatering process at a treatment facility under construction near Georgia-Pacific's Broadway plant. The sediment will then be trucked to the Hickory Meadows landfill in the Town of Chilton in Calumet County. The project is expected to take nine years to complete.**

Transportation:

- **Following a nearly 5-hour meeting on February 3 the Green Bay City Council adopted (7-5) a plan for Military Avenue reconstruction that calls for four lanes and six roundabouts. Preliminary votes rejected a six-lane alternative and a proposal to hold a referendum on the idea on April 7. The Military Avenue Business Association had advocated a four-lane street controlled by signal lights. On February 8 one alderman voting in favor of the proposal announced he would move for reconsideration at the February 16 council meeting, although he may not change his vote. Following a second all-nighter, the council reaffirmed its earlier vote with the same vote totals. Opponents of the roundabouts threatened to take bonding for the project to referendum.**
- **Local governments throughout the region are beginning to take up resolutions supporting the reclassification of Hwy 41 to I-55 when it becomes an interstate highway. I-55 runs from New Orleans to the south side of Chicago, passing through Memphis and St. Louis. Economic and tourism development officials in the area are concerned by reports that federal transportation officials might designate the highway as I-243, making it a spur of I-43 which is located entirely in Wisconsin. Interstate highways are designated by one or two digit numbers with east/west routes carrying even numbers increasing from south to north, and north/south routes**

carrying odd numbers increasing from west to east. Three digit numbers represent bypasses attached to a primary interstate highway.

- Valley Transit and Green Bay Metro Transit are in talks to establish inter-community bus service. The plan calls for 16 daily trips, eight from Green Bay and eight from Appleton with stops at various park-and-ride locations. The Brown County Planning Commission is recommending the formation of a Regional Transit Authority in an effort to recoup more federal dollars. Commission staff is also investigating a second hub in Ashwaubenon, expansion of routes in Howard and takeover of the paratransit system. State enabling legislation would be required to form an RTA, and various approval mechanisms are being considered in Madison for the new ½% sales tax to fund it, including vote by each independent RTA, authorization by the participating municipalities, or by referendum.

STATE

Business and Economic Development:

State budget director Dave Schmiedicke estimated that Wisconsin could be in line to receive \$2.5 billion in federal stimulus money for education and medical assistance programs. Schmiedicke also said that estimates show the state could receive \$575 million for transportation and infrastructure projects. On January 23 Governor Jim Doyle named Madison Gas and Electric president Gary Wolter as director of the state's new Office of Recovery and Reinvestment. In that unpaid job, he'll be in charge of working with state and local governments to facilitate the use of the billions of dollars the state expects to get in federal stimulus money to help the economy. Wolter's assistant will be Alan Fish, who is a vice chancellor at the University of Wisconsin-Madison and the husband of Doyle's chief of staff Susan Goodwin. Doyle said about 15 state employees will be assigned to work in the office. Democrats and Republicans alike say the federal money — up to \$4.3 billion or more for Wisconsin — is so vast and will move through the state treasury so rapidly that the Legislature has a responsibility to make sure the money is used appropriately. "Russ wants to make sure that there is oversight," said Carrie Lynch, a spokeswoman for Senate Majority Leader Russ Decker (D-Weston). Sen. Tim Carpenter (D-Milwaukee) said February 2 that he would introduce legislation requiring the Joint Finance Committee to review the Doyle administration's planned expenditures of federal stimulus money. Decker and Senate Minority Leader Scott Fitzgerald (R-Juneau) gave their tentative approval to the proposal. Rep. Mark Pocan (D-Madison) Joint Finance Committee co-chairman, said a proposal similar to Carpenter's was slated to be included in a state economic stimulus bill Democrats are working on. Meanwhile, Assembly Republicans introduced a plan to create a new 10-member legislative committee, controlled by Democrats, to oversee state spending of the federal stimulus money. But without power in either chamber, it's unlikely that proposal will gain traction.

Consumers:

On February 12 Federal judge Rudolph Randa of the Wisconsin Eastern District declared Wisconsin's 70-year-old minimum markup law an unconstitutional restriction of the federal Sherman Act. He said that the state's lack of a clear policy and program to monitor pricing made the minimum markup law a violation of US anti-cartel and monopoly laws. The state's Justice and Ag Trade & Consumer Protection Departments said their agencies would not bring any enforcement actions while the judge's order stands. The ruling was made in the case of Flying J v. Lotus Business Group with Lotus arguing that Flying J's gas stations did not mark up gasoline as required by law. The ruling may be appealed.

Education:

On February 3 a new coalition of educators, the School Finance Network (SFN) unveiled a proposal to increase school funding across the board by increasing per-pupil aid from \$264 to \$350 per student and then tying future increases to state economic growth; by targeting additional categorical aid to special needs and low income students and additional money to rural school districts and those with declining enrollments; and by modifying revenue controls to a five-year rolling average of state personal income growth. The plan would also modify the QEO (qualified economic offer) by aligning increased teacher compensation with the revenue controls number rather than the current 3.8% total salary and benefits package cap. Governor Doyle said he could not back the package this year because of the cost. He said his rough calculations show it could cost an additional \$300 million. The SFN said the state should fund the proposal by closing corporate tax loopholes, eliminating tax breaks and subsidies for companies that do not keep jobs in Wisconsin, changing the sales tax system and eliminating sales tax exemptions. It also suggested that the state urge districts to reduce spending by pooled purchasing of energy, employee insurance and pharmaceuticals, by combining districts and by coordinating social services with their local municipal and county governments. For more information see www.sfnwisconsin.org.

Energy:

The PSCW's "Wind on the Water" report released January 15 notes the state lacks power lines needed to support wind farms on Lake Michigan. According to the report, if Wisconsin wants to generate more than 600 megawatts from a lake wind farm, the state will need a new power line parallel to the lake shore. Ability to connect to transmission line is the number one factor determining where wind farms are built, and the state could make a lake option more attractive to developers by permitting building of such a power line,

Health Care:

- **SB-3 Autism Mandate** was unanimously reported out of committee on February 10. The Chamber opposes the bill, arguing health care mandates raise health care costs, jeopardize the affordability of health care insurance, and thereby undermine access to coverage. Last legislative session, according to a fiscal estimate prepared by the Wisconsin Department of Employee Trust Funds, such a mandate will raise government employee healthcare costs by up to \$9.5 million, annually. Based on this analysis, WMC estimated last legislative session that such a new mandate would raise private-sector employee healthcare costs by up to \$80 million annually. An Assembly committee hearing was held on February 19 to receive public testimony on the Assembly companion bill, AB-15.
- **"BadgerChoice"** is a healthcare reform initiative being discussed within the Governor's administration which could require small businesses which provide healthcare benefits to purchase their benefits plan through a state-administered "connector-type" model. WisconsinEye, the Wisconsin version of "C-SPAN," taped the forum. You may view the forum, from your computer, on the <http://www.wiseye.org/> (under "Video on Demand" Archive) and on local cable channels, see: http://www.wiseye.org/wisEye_programming/wisEye_ChannelInfo.html. On February 3 the Governor's office announced that he would not include the measure in his forthcoming budget, but we continue to monitor its possible introduction as a stand-alone measure.
- As part of his 2009-11 proposed state budget Gov. Doyle included a statewide workplace smoking ban.

Labor and Workplace:

- Wisconsin's Unemployment Reserve Fund is expected to deplete its cash balances by end of February and could see a more than \$1.2 billion shortfall by the end of 2010, a state projection shows. The huge fund deficits expected from now to at least 2013 will likely mean repeated rounds of borrowing from the federal government to ensure the state makes its required payments to the jobless, the report from the Wisconsin Department of Workforce Development projected. In the first round of that borrowing, the state has requested a federal loan of \$400 million to be delivered within weeks, the first time it has done so in more than two decades. The projected deficits in the fund come in spite of increases already set to take effect this year and the next several years in the employer payroll tax which finances the fund. This year, the state is increasing the amount of employee wages subject to that payroll tax of up to 9.8 percent from the first \$10,500 to the first \$12,000, the first such increase since 1986. The state's unemployment rate, though lower than the 7.1% national rate, climbed half a percentage point in December to 5.8%, the highest in more than two decades.
- **SB-1 Minimum Wage** was passed by the State Senate on February 10, increasing the state minimum wage to \$7.60, indexing a state minimum wage for inflation and permitting the enactment of local living wage ordinances. Business groups in general support a consistent state and federal minimum wage, and oppose any further increase in the Wisconsin minimum wage beyond the federal rate; they also oppose any indexing of the state or federal minimum wage.
- **SB-2 Employee Wage Protection Act**, passed by the State Senate on February 10, eliminates the \$3,000 cap and six-month time limit so that under the bill a wage claim lien covering any amount of wages earned at any time takes precedence over a lien of a commercial lending institution, regardless of whether the lien of the commercial lending institution originated before or after the wage claim lien takes effect. Business groups are saying that financially stressed business entities need to be able to access capital from willing lenders. Protecting the lien right priority of lenders provides greater certainty that the loan will be repaid, at least in part. Removing any lien priority of a lending institution will cut off access to capital for the most financially stressed business at the time they are most in need of access to capital, resulting in a greater loss of employment in more situations. The current statute reflects a good faith attempt to balance the interests of lenders, businesses and their employees in keeping financially distressed businesses in operation. Here is an example from WMC of how the proposed change could affect business:

<http://www.wmc.org/PDFfiles/WageLien.pdf>

- **SB-20 / AB-31 Wisconsin Fair Employment Act Damages** calls for compensatory and punitive damages awards for Wisconsin workplace discrimination claims. The bill creates a two tiered system for awarding discrimination damages, by creating a process for circuit court review after an administrative law judge has determined that discrimination occurred. If the circuit court judge determines that compensatory or punitive damages should be ordered, then the judge is also required to impose a ten percent surcharge, in addition to the award, that will be used to fund the operations of the Wisconsin Department of Workforce Development. Organized labor has indicated passage of this legislation is a top priority.
- **AB-22 Employment Discrimination Arrest & Conviction** is a proposal to criminalize employers' violations of the Wisconsin Fair Employment Act's (WFEA) protection from workplace discrimination for persons with arrest and conviction records. While the WFEA protects workers from employment discrimination based on a record of arrest or conviction, it provides an exception to that protection where the arrest or conviction "substantially relates" to the job. In those circumstances the employer may legally choose not to employ a worker. Litigation under this WFEA provision typically centers on facts involving application of the "substantial relatedness" test. AB-22 would make it a Class I felony under Wisconsin law for employers who violate this WFEA provision.
- On February 6 Milwaukee County Circuit Judge Thomas Cooper granted a temporary injunction request against implementation of the City of Milwaukee's new paid sick leave mandate. The city told the court that it was not ready to enforce the ordinance. An attorney for the city said "Our main concern is that the city could expend considerable resources on implementing these rules and regulations without knowing what the ultimate outcome of this law suit will be. That could mean vast amounts of wasted resources in an era that frankly, we can't afford to be wasteful in." The injunction order means that the new mandate will be blocked from taking effect until the court has had the opportunity to rule on the complaint by the Metro Milwaukee Association of Commerce alleging that the new ordinance is not constitutional under Wisconsin law and must be overturned. "This is such an important issue for the city that we better do it right from the start...I have no doubt that the court of appeals and the Supreme Court will eventually get to weigh in on this decision," Cooper said. He is the fourth judge to be appointed to this case after Judge John DiMotto, Judge Elsa Lamelas, and Judge William Sosnay, recused themselves from the assignment. The Circuit Court will consider the legality of the ordinance during an evidentiary hearing scheduled for May 11, 2009. The Circuit Court's decision could also be appealed to the Wisconsin state appellate courts.

State Budget & Spending:

- Two bills were introduced relating to state procurement: AB-1 Wisconsin First Act makes it a goal that at least 5% of all state and local government purchases are from Wisconsin-based businesses. AB-2 American Jobs Act requires that all state contracts for services be performed within the United States. Both bills were voted out of committee on January 22 and passed the Assembly on January 27.
- Gov. Jim Doyle introduced his state budget proposal for the 2009-11 biennium on February 18. Link to a 94-page "summary" of the budget here: http://www.doa.state.wi.us/debf/pdf_files/bib.pdf.

Revenue proposals included:

Cigarette and Other Tobacco Products: \$344 million
 1% Increase on Income Earned above \$300,000: \$312 million
 Other Corporate Income Tax Changes: \$257 million
 Combined Reporting: \$215 million
 Capital Gains Exclusion Changed from 60% to 40%: \$181 million
 Streamlined Sales Tax: \$82 million
 Improved Debt Collection Measures: \$19 million
 Internal Revenue Code Updates: -\$46 million
 Business Tax Credits: -\$12 million

From the federal economic stimulus:

Enhanced Federal Share of Medicaid Costs: \$1.1 billion
 State Stabilization Fund: \$875 million
 Other Budget Impacts: \$56 million

Spending:

Net Reductions from Agency Requests and Other Re-estimates: \$1.7 billion
 GPR Spending Cuts \$597 million (including 1% cut to shared revenue paired with a 3% local levy limit: leave 3600 positions unfilled; freeze wages and require employees to make larger pension and health care contributions; end the QEO)

Other Cuts and Lapses to General Fund: \$334 million

Key GPR Investments (schools, financial aid, children and families) -\$444 million (increase)

The Governor's plan does not include funding for Phase II of the UW System Growth Agenda, including Northeastern Wisconsin's Growth Agenda for UW-Green Bay. That means Phase II of the Growth Agenda is on hold for the time being. However, the budget proposal continues to fully fund the Growth Agenda's Phase I, which was initially part of the 2007-09 state budget. There was no funding for NWTC's Next Generation Workforce initiatives.

- **Adjusted for timing issues, state general fund tax collections fell 7.4% in December. Since July 2008 (beginning of the biennium) they are up 0.8%. Corporate tax collections have been hardest hit, down 25.2% since then. Legislative budget experts predicted that state general tax revenues would be down 4.2% in 2009 and 2.3% in 2010. In fact, collections in 2010-11 are projected to be only 1.1% above what they were in 2006-7. That is being driven by falling corporate income tax collection (projected down 18.5%) and miscellaneous, mostly real estate transfer fees (projected down 35.3%).**
- **SB-62 Budget Repair: A day after introduction, on February 18 the Senate (18-15) and Assembly (51-48) both passed the bill on virtually a party-line vote with only two Assembly Democrats (one was Rep. Ziegelbauer from Manitowoc) voting against. The measure would produce \$700 million in savings and revenue, \$600 million of which is needed to balance the current two-year budget that ends June 30. The measure includes:**
 - **A hospital assessment paired with more federal aid to pay for low-income patients as part of the deal, garnering the support of the Wisconsin Hospital Association.**
 - **Combined reporting, a system that would tax businesses based on the profits of parent companies rather than separately taxing all subsidiaries. Critics have said the current structure creates a "Las Vegas loophole" that allows Wisconsin businesses to avoid taxes by saying their operations are based in another state.**
 - **\$125 million in cuts to state spending which could result in job reductions. Doyle has said he hopes to reduce jobs by leaving positions open rather than laying off state workers.**
 - **Giving legislators oversight of federal economic stimulus money and approving road and building projects that will be funded with the federal money. The Doyle Administration would be required to submit to Joint Finance plans for how federal infrastructure money would be spent. The Legislature would also not have to approve the construction, remodeling or repair of new buildings if the work is done exclusively with federal stimulus money. This process would not apply to \$300 million in state road projects laid out in the budget repair bill, which would get regular legislative approval.**
 - **A "streamlined sales tax" that would lead to more Internet retailers charging sales taxes and reverse a recent state Supreme Court decision in the Menasha case that said some computer software is not subject to the sales tax.**
 - **\$3.6 million for worker training programs.**
 - **Increased oversight of child care programs and increased regulations to protect homeowners and tenants during foreclosure proceedings.**

A detailed report of the budget adjustment legislation can be found at:

<http://thewheelerreport.com/releases/Feb09/feb16/0216LFBsummary.pdf>

Taxation & Fees:

- **The biennial budget bill will determine state spending priorities for the next two years, building on whatever new dollars the stimulus bill generate. Some of the more significant tax and fiscal policy issues likely to see action in 2009-2010: combined reporting, the QEO and property taxes, corporate income tax disclosure, gross receipts tax on oil companies, sales tax on services, and streamlined sales tax.**
- **On the question of possible restoration of gas tax indexing, Sen. Tim Carpenter (D-Milwaukee) proposed January 14 that a spring 2009 referendum question ask voters if Wisconsin's gas tax should automatically increase each year based on inflation and fuel consumption or if increases should be approved by legislators.**
- **Assembly Majority Leader Tom Nelson (D-Kaukauna) said in an interview January 15 that he will draft legislation to alter the machinery and equipment (M&E) tax exemption in the upcoming legislative session. In 2006, M&E exempted \$12 billion in machinery and equipment from property taxation, and a similar exemption for computers and related equipment exempted \$3.2 billion from property taxation that year, reports the Wisconsin Council on Children and Families. M&E was signed into law by Democrat Governor Patrick Lucey in the 1970s with the support of business and labor. Exempting machinery, equipment, and**

computer equipment was intended to encourage businesses to reinvest and to make Wisconsin more competitive.

Transportation:

- *The Legislative Council Special Committee on Regional Transportation Authorities met February 10 for the first time since October. The chair of the committee, Sen. Robson (D-Beloit), explained to committee members that since Governor Doyle's budget proposal will include comprehensive regional transportation authority provisions specific to the southeast part of the state, Dane County and the Fox Valley, the committee's goal will be to develop authorizing legislation for the rest of the state. At its meeting last week the committee discussed the latest version of the RTA bill and Sen. Robson instructed Legislative Council staff to make further revisions to the draft based on comments and suggestions made by committee members.*
- *Gov. Jim Doyle signaled for the first time February 18 that he would be open to charging tolls on Wisconsin highways, possibly for express lanes, as the state seeks to replace falling gas tax revenue in the years ahead. "I hate the idea of tolls," but the state must find new ways to pay for roads and other transportation, Doyle said.*

FEDERAL

Communications:

On January 26 the Senate voted (voice vote, no totals) to delay until June 12 the nationwide shutdown of analog TV signals, scheduled for February 17, and similar legislation passed the House on February 4 (264-158, Kagen & Petri both yes). President Obama had expressed concerns that too many Americans with analog sets would not be ready after all available \$40 coupons to pay for converters ran out, and he said he would sign the bill.

Broadcasters objected to the additional cost they would incur with a delay. Some stations may petition the Federal Communications Commission (FCC) to make the digital switch on schedule. The FCC said 276 stations (including WFRV, and WIWB locally) have notified the agency of plans to end analog broadcasts on or before February 17, and 143 stations already have turned off their analog spectrum.

Economy:

- *The conference committee working on a compromise version of the American Recovery and Reinvestment Act brought a \$787 billion measure back for final passage in both houses. It passed the House (246-183, Kagen yes, Petri no) and the Senate 60-38 (Kohl & Feingold both yes) on February 13. The bill was signed into law by President Obama on February 17. About 35% of the plan is dedicated to tax cuts (\$276.3 billion) for individuals and businesses with the rest consisting of spending increases. Small businesses with revenue under \$5 million a year will be able to use current losses to reduce taxes paid over the past five years, up from two. The bill also contains \$70 billion to ensure that middle class taxpayers aren't hit by the alternative minimum tax (AMT). There is a \$400 payroll tax credit for low and middle income workers of \$400 per person, \$800 per couple. The spending portion of the bill includes expanded unemployment benefits and food stamps, construction of roads and bridges, water-treatment facilities and high-speed Internet, and electronic health record incentives for physicians.*
- *The proposed plans for restructuring of General Motors and Chrysler will be reviewed by Ron Bloom, key advisor to the Obama Administration's new auto industry task force, to be led by Treasury secretary Timothy Geithner and top economic advisor Lawrence Summers. On February 17 the two companies submitted plans to show how they will repay \$17.4 billion in government loans. The two auto makers said they need at least \$21.6 billion more in combined bailout loans to recover, and outlined possible scenarios should they have to file for bankruptcy protection, which they say could ultimately be more costly for the country than a government-funded restructuring. The plans described only a few restructuring steps they would take to cut costs and downsize operations, including eliminating some brands and closing additional plants. The plans must be finalized by March 31 or else the government could pull its financing, effectively forcing bankruptcy.*

Environment:

- *President Obama on January 26 directed the EPA to reconsider a Bush-era decision that stopped California and more than a dozen other states from setting their own stricter limits on auto emissions. With a waiver from federal rules, states could require automakers to increase the fuel efficiency of cars and trucks far above current limits. A waiver would be a defeat for the auto industry, which had for years contested the implementation of the California rules and had applauded the Bush administration decision in December 2007 to deny a state waiver for California. At least 17 other states have adopted or are considering California's rules, and a waiver also would allow them to regulate tailpipe emissions. Altogether, those states, which*

include New York and Florida, represent about 40% of the population, according to auto industry estimates. The agency is expected to take several months to reach a final decision on whether to reverse the Bush denial.

- After more than 30 months of review, the EPA has finally approved Wisconsin's New Source Review (NSR) reform rules. The rules are based upon federal reforms promulgated by the EPA and upheld under federal court review back in 2005, and apply to new or expanded sources of air pollution. The NSR reforms, which have been available to companies in many states since 2003, will streamline and simplify the construction permit process through the use of an "actual-to-future actual" applicability test for emissions. These reforms will remove regulatory barriers to economic expansion projects, and will provide an incentive to make modifications resulting in emission reductions. The EPA's lengthy review and approval was primarily a result of adverse comments submitted by the Sierra Club, which sought to prevent NSR reforms from being implemented in Wisconsin.
- Lisa P. Jackson, the new EPA administrator, said February 18 that the agency would reconsider a Bush administration decision not to regulate carbon dioxide emissions from new coal-burning power plants. In announcing the reversal, Ms. Jackson suggested that the EPA was considering additional measures to regulate greenhouse gases. The environmental agency is under order from the Supreme Court to make a determination whether carbon dioxide is a pollutant that endangers public health and welfare, an order that the Bush administration essentially ignored. Jackson said that she had asked her staff to review the latest scientific evidence and prepare the documentation for a so-called endangerment finding. She said she had not decided to issue such a finding but she pointedly noted that the second anniversary of the Supreme Court decision, *Massachusetts v. EPA*, is April 2, and there is the wide expectation that she will act by then.

Finance:

- On January 15, two days after personal lobbying by then president-elect Obama, the Senate narrowly turned aside (52-42) an attempt to block release of the second \$350 billion in financial industry rescue funds. The vote followed a commitment by Obama to use as much as \$100 billion to help homeowners facing foreclosure. The Obama administration's proposal for a second phase financial rescue using the remaining half of the \$700 billion Congress appropriated last year was announced on February 10. It calls for the creation of a joint Treasury and Federal Reserve program, at an initial cost of \$250 billion to \$500 billion, to encourage investors to acquire soured mortgage-related assets from banks. The Fed will use its balance sheet to provide the financing, and the Federal Deposit Insurance Corporation might provide guarantees to investors who participate in the program, which some people might call a "bad bank." A second component of the plan would broadly expand, to \$500 billion to \$1 trillion, an existing \$200 billion program run by the Federal Reserve to try to unfreeze the market for commercial, student, auto and credit card loans. A third component would involve a review of the capital levels of all banks, including projections of future losses, to determine how much additional capital each bank should receive. The capital injections would come out of the remaining \$350 billion in the Troubled Asset Relief Program, or TARP. A separate \$75 billion initiative to enable up to 5 million homeowners facing imminent foreclosure to renegotiate the terms of their mortgages was announced February 18. It will also renew a legislative proposal giving bankruptcy judges greater authority to modify mortgages on more favorable terms to borrowers and over the objections of banks. Banks are now struggling with consumer debt that has gone bad with the downturn of the economy. These proposals are aimed at attracting private capital back into the banking system. Economists estimate that banks have thus far only recognized about half of the bad debt losses facing them, and this is scaring off investors that might provide needed capital and making banks reluctant to extend any new loans. The only remaining source of capital may be the government.
- The US Chamber issued a set of principles it believes should be followed in promulgating regulatory reforms in the nation's financial systems. Download a four-page version of the report: http://www.uschamber.com/assets/ccmc/081114ccmc_principles.pdf The Chamber's seven key principles include: (1) promotion of economic stability, efficiency and growth; (2) management of systemic risk; (3) internationalization; (4) comprehensive regulation and oversight; (5) increased transparency; (6) investor opportunity, capital formation, and consumer protection; and (7) sustaining and enhancing financial reporting. Of particular interest are the recommendations for developing an effective approach for systemic risk regulation.

Health Care:

Gov. Jim Doyle put forward a formal request on February 11 to the U.S. Department of Health and Human Services for an extension of the state's prescription drug assistance program, SeniorCare, through 2012.

Labor & Workplace:

- On January 9 the House passed both H.R. 11, the Lilly Ledbetter Fair Pay Act (247-171), and H.R. 12, the Paycheck Fairness Act (256-163). The Senate passed its version of the Ledbetter Fair Pay Act on January 22 (61-36) and President Obama signed it into law on January 29. This act overturns a 5-4 Supreme Court decision and clarifies that every paycheck resulting from discrimination would constitute a new violation and would extend the 180-day statute of limitations for filing a discrimination claim. H.R. 12 is pending in the Senate.
- Facing legal pressure from business groups, the federal government again pushed back a deadline by which federal contractors must comply with mandatory electronic verification of their employees. The E-Verify implementation date was delayed until May 21, 2009, to give the new administration time to review the rule. Earlier this month, the federal government agreed to a request to delay a January 15, 2009, implementation date until February 20, 2009, in order to accommodate a lawsuit challenging the rule.
- The Obama Administration issued a notice (see: http://www.constangy.net/nr_images/fr-notice-i9-30jan08.pdf) on February 2, 2009, that it is suspending use of the new I-9 form until April 3, 2009. The Administration is reviewing the new form as part of its general reassessment of all regulations issued by the Bush Administration that had not taken effect prior to the Presidential inauguration. Reports that employers who use the new form will face fines may be exaggerated, but the prudent course now appears to be to continue to use the old forms until further notice.

People:

On February 3 President Obama nominated New Hampshire senator Judd Gregg for commerce secretary following the withdrawal last month of New Mexico governor Bill Richardson from consideration for the post. On February 12 Gregg too withdrew his name from consideration and the administration is "back to the drawing board." Former congressman Tom Daschle withdrew his name from consideration for Health and Human Services secretary following allegations over unpaid taxes and conflicts of interest.

Social Security:

President Obama pledged on January 15 to shape a new Social Security and Medicare "bargain" with the American people, saying that the nation's long-term economic recovery cannot be attained unless the government finally gets control over its most costly entitlement programs. That discussion will begin in February, Obama said, when he convenes a "fiscal responsibility summit" before delivering his first budget to Congress.

Trade:

President Obama recently issued three executive orders that may have a significant impact on labor relations for federal government contractors. An analysis and link to each executive order follows:

- **Notification of Employee Rights Under Federal Labor Laws**
(see <http://www.shopfloor.org/wp-content/uploads/2009fedlaboreorel.pdf>): This order instructs "all Government contracting departments" to include provisions in every government contract that require companies contracting with the government to post notices informing employees of their rights under federal labor laws that encourage collective bargaining. The order indicates that employees should know their rights to "avoid disruption of federal contracts."
- **Nondisplacement of Qualified Workers Under Service Contracts**
(see <http://www.shopfloor.org/wp-content/uploads/2009nondiseofinalrel.pdf>): This order requires that service contracts with the federal government shall include a clause that requires successor contractors of federal contracts to hire the predecessor contractor's employees. This order further details that the contractor, and its subcontractors, under a contract that succeeds a contract for performance of the same or similar services at the same location, to offer those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract, a right of first refusal of employment under the contract in positions for which they are qualified. The order states that "here shall be no employment openings under the contract until such right of first refusal has been provided."
- **Economy in Government Contracting**
(see <http://www.shopfloor.org/wp-content/uploads/2009econgoveorel.pdf>): This order prohibits funds paid to government contractors to be used to reimburse employers for expenses incurred that influence union organizing or collective bargaining.

The President also repealed Executive Order 13201 signed by former President George W. Bush that intended to ensure that employees of federal contractors were informed of their rights under the U.S. Supreme Court case



Communication Workers v. Beck (1988). Won by attorneys at the National Right to Work Foundation, Beck held that private-sector employees may be compelled to pay certain union dues, but may not be compelled to pay any dues or fees earmarked for union political action, lobbying, and other non-bargaining activities.