Kibble & Prentice
A USI Company

HEALTHCARE REFORM UPDATE
January 20, 2010

A CHANGING TIDE – REPUBLICAN VICTORY IN MASSACHUSETTS

In a stunning turn of events, Republican Scott Brown has won the Massachusetts Senate seat held by the late Senator Kennedy for the past 47 years. Brown defeated Massachusetts Attorney General Martha Coakley by a margin of 52% to 47%. There appear to be no complicating factors with the election results, as Brown's margin of victory was sufficient to avoid a recount and Coakley has publically conceded defeat.

Brown campaigned on a platform that opposed the current healthcare reform legislation in Congress. His election may have significant ramifications on the success of a reform proposal because, once seated, Brown will be the 41st Republican in the Senate, thus eliminating the filibuster-proof Democratic majority.

What Happens to Healthcare Reform Now?

It is not clear what the future will hold for healthcare reform legislation. Congressional Democrats and Obama Administration officials are meeting behind closed doors to come up with a strategy to keep the reform bill alive. Republicans are touting Brown's win as evidence of the lack of public support for the bill and the need to start over on healthcare reform.

We see a number of possible outcomes from Brown's election, all of which will have significant implications for the success of passing a bill this year.

- *Reform is stalled*. A final merged bill negotiated by the Democratic leadership will likely face a filibuster by Senate Republicans. As a result of the election, the Democrats lose the 60-vote majority to invoke cloture, and will not be able end a Republican filibuster on a party line vote. In order to pass legislation, the bill may need to be retooled to garner the support of at least one Republican to reclaim the needed 60 votes. It is unclear whether a moderate Republican, like Olympia Snowe, would be willing to cross party lines in order to pass the legislation.
- *The House agrees to Senate bill*. The House could vote to accept the Senate's reform package "as is", thus not requiring another vote in the Senate. This would avoid the filibuster issue described above, but may not be possible given significant differences between the current House and Senate legislation. Progressives in the House are strongly opposed to many provisions in the Senate bill and have indicated they may not be willing to support approving the Senate's legislation. Some observers see a possible compromise with Progressives, where the House votes to approve the current Senate bill, and the

House leadership and the Administration agree to push through additional changes in the Spring, perhaps using the reconciliation process in the Senate, which only requires a simple majority of 51 votes. However, the prospects for meaningful changes through reconciliation are laden with procedural and substantive difficulties.

- *Delay tactics*. Initial reports were that Democrats may seek to delay seating Brown until after a final vote by the Senate on healthcare reform. This procedural maneuver has come under criticism from both the sides of the aisle. One Democratic Senator has publically expressed the view that no votes should be taken in the Senate before Mr. Brown is seated. Further, Massachusetts interim Senator Kirk indicated that his work in the Senate is now concluded, implying that if delay tactics are used to pass a reform package, he may not provide the 60th vote. As this develops, it will be interesting to see whether the Senate leaders use such tactics and what political fallout may ensue from such maneuvers.

As you can see, we are far from an end in the healthcare reform debate. We will continue to monitor the situation in Washington – and provide you with timely updates as information becomes available.

Disclaimer Statement:
These materials are produced by Kibble & Prentice for educational purposes only. Certain information contained in these materials is considered proprietary information created by Kibble & Prentice and/or their licensed and appointed insurance carriers. Such information shall not be used in any way, directly or indirectly, detrimental to Kibble & Prentice and/or their affiliates.

Neither Kibble & Prentice nor any of its respective representatives or advisors has made or makes any representation or warranty, expressed or implied, as to the accuracy or completeness of these materials. Neither Kibble & Prentice nor their respective representatives or advisors shall have any liability resulting from the use of these Materials or any errors or omission therein. These materials provide general information for the use of our clients, potential clients, or that of our clients' legal and tax advisors.

IRS Circular 230 Disclosure: Kibble & Prentice Holding Co. and its affiliates do not provide tax advice. Accordingly, any discussion of U.S. tax matters contained herein (including any attachments) is not intended or written to be used, and cannot be used, in connection with the promotion, marketing or recommendation by anyone unaffiliated with Kibble & Prentice Holding Co. of any of the matters addressed herein or for the purpose of avoiding U.S. tax-related penalties. Also, the information contained in this document should not be construed as medical or legal advice.

Copyright © 2010 Kibble & Prentice Holding Company. All Rights Reserved.