



## Strategies Key Contacts

Shane Doucet  
202-220-6929  
sdoucet@lockelord.com

Douglas P. Faucette  
202-220-6961  
dfaucette@lockelord.com

Denise Hanna  
202-220-6992  
dhanna@lockelord.com

Brian Heindl  
202-220-6994  
bheindl@lockelord.com

Harriet Miers  
202-220-6925  
hmiers@lockelord.com

Jim Moriarty  
202-220-6915  
jmoriarty@lockelord.com

Phil Rivers  
202-220-6927  
privers@lockelord.com

Mark Siegel  
202-220-6926  
msiegel@lockelord.com

[www.lockelord.com](http://www.lockelord.com)

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## JUNE 28 - JULY 2: THIS WEEK

**Sen. Robert Byrd (D-W.Va.)** passed away Monday, June 28, after a serious illness. Byrd, 92, was the longest serving senator in U.S. history. Funeral services for Sen. Byrd will be held next Tuesday, and

he will be interred at Arlington National Cemetery. Governor Joe Manchin will appoint his successor.

Congress will recess for July 4, and return on July 12.

## Banking/Financial Services

House and Senate Democratic negotiators reached consensus on financial regulatory reform, H.R. 4173, after an all-night session beginning Thursday, June 24. Notably conferees softened Senate language, especially curbs on derivatives trading pursued by **Sen. Blanche Lincoln (D-Ark.)**. A potential key Republican vote for the conference report, **Sen. Scott Brown (R-Mass.)**, expressed concerns with the bill Friday, June 25. Senator Brown was wary of a fee on large banks added late in the bill that would raise as much as \$19 billion to

help cover the costs of the reforms. It was expected that the House and Senate would both take up the bill by the end of this week. However, that schedule is now more uncertain with Senator Byrd's death. In a highly unusual move, the Conference Committee announced plans to reopen Tuesday, June 29 principally to consider the removal of the \$19 billion fund in an attempt to garner more Republican support.

## Energy/Environment

**House Natural Resources Chairman Nick J. Rahall II (D-W.Va.)** released draft legislation Thursday, June 24, that would assess new fees on oil and gas production. These fees would fund spending increases for preservation efforts. The legislation would modify offshore drilling regulations and would impose a fee of \$2 per barrel on oil and \$.20 per million BTU on natural gas in order to provide \$900 million to the Land and Water Conservation Fund. The legislation also would divide the Interior Department's offshore regulatory agency into three separate divisions to handle inspection, royalty collection, and leasing and permitting.

renewed pledges to pass the bill a number of issues continued to divide Democratic Senators. The caucus still had not decided whether to include caps on greenhouse gas emissions.

**U.S. District Judge Martin C. Feldman** ruled that **President Barack Obama's** six-month drilling moratorium was invalid. The administration indicated that it would appeal Feldman's ruling.

On Thursday, June 24, the **Senate Judiciary Committee** approved a measure that would increase penalties for environmental crimes. The bill, **S. 3466**, would direct the **U.S. Sentencing Commission** to toughen sentencing guidelines for violations of the **Clean Water Act, PL 92-500**, and would recommend that the commission consider actual jail-time in addition to increased fines.

Senate Democrats caucused Thursday, June 24, and renewed support for an energy bill. **Senate Majority Leader Harry Reid (D-Nev.)** expressed his hope that a bill could be brought to the floor in July. Despite

## Budget/Appropriations

House Democratic leaders acknowledged that a full five-year budget resolution would not be brought to the floor this year. Instead they announced a plan for a one-year spending cap.

**The White House Budget Director, Peter Orszag**, announced plans to leave the White House. He would be the first Cabinet member to leave the Obama administration.

**Defense**

On Friday, June 25, **House Majority Whip James Clyburn (D-S.C.)** sent an email to the Democratic Caucus to gauge support for the \$37.1 billion supplemental spending bill for FY2010. He asked for a response by Monday, June 28. The House plans to vote on an amendment to the Senate's \$58.8 version of the bill sometime this week. According to Clyburn's email, the House could include \$24 billion in domestic spending and almost \$12 billion in rescissions of defense and discretionary spending to offset the new domestic spending.

The House **Homeland Security Appropriations Subcommittee** approved by voice vote on Thursday, June 24, a draft measure that would provide \$43.9 billion in discretionary spending for the **Department of Homeland Security**. This is the first of 12 measures to be considered by the appropriators. The bill generally reflects the President's request for the department, but includes a \$38.5 million increase in funds for the **Coast Guard** and a \$45 million increase for **Customs and Boarder Protection** officers.

On Wednesday, June 23, the **House Homeland Security Committee** approved **HR. 5498, WMD Prevention and Preparedness Act of 2010**, by a vote of 26-0. The bill would strengthen security at laboratories that handle substances likely to be used in bioterrorism and would improve interoperability among relevant federal agencies.

**Education**

During a hearing by the **Senate Health, Education, Labor and Pensions (HELP) Committee**, on Thursday, June 24, key Democrats said they plan to start clamping down on questionable practices at for-profit colleges. **Sen. Tom Harkin (D-Iowa)** released a study that found students from for-profit institutions are more likely than those from non-private and public institutions to graduate with debt exceeding \$20,000, while the industry reaps record profits. At Thursday's hearing, witnesses testified that some for-profits use inappropriate tactics to increase revenues, including fictitious enrollment, the forging of student signatures and credit-hour inflation.

**Tax**

Senate Democratic leaders tried unsuccessfully to pass a tax extenders bill last week. The bill included a package of tax-cut extensions and unemployment benefits. Majority Leader Reid, said he would pull the bill after it failed to garner the 60 votes needed to invoke cloture. He will now focus on a small business jobs bill, but stated that none of the provisions from the tax extenders bill will migrate to the small business bill.

**Transportation and Infrastructure**

The Senate on Friday, June 25, confirmed by voice vote the nomination of John S. Pistole to head the **Transportation Security Administration (TSA)**. Pistole has been with the **Federal Bureau of Investigation (FBI)** for 27 years and is currently the deputy director. Senators cited his FBI experience with counterterrorism as ideal for the TSA spot.

As the current expiration date for the **Federal Aviation Administration (FAA)** reauthorization draws near (July 3), the **House Transportation and Infrastructure Committee** is beginning to consider an extension. It is highly unlikely that the long-term reauthorization bill, **HR. 1586, Aviation Safety and Investment Act of 2010**, will make it through the legislative process and to the President's desk for signature before the July 3 deadline.

**Telecommunications**

On Monday, June 28, President Obama issued a presidential memorandum that ordered the **Commerce Department** and the **Federal Communications Commission (FCC)** to work together to make available 500 MHz of spectrum frequencies during the next decade. The Administration hopes to double the amount of commercial spectrum available for smartphones and other wireless devices. The President supports legislation that would give broadcasters part of the proceeds from auctioning off such spectrum as an incentive to relinquish it.

Last week, **Sens. Christopher Bond (R-Mo.)** and **Orrin Hatch (R-Utah)** introduced **S. 3538, National Cyber Infrastructure Protection Act of 2010**. The bill would give new oversight authority to the **Energy and Natural Resources Committee** and the **Armed Services Committee**. The Bond-Hatch bill would create a national center to lead the nation's cyber security efforts within the **Department of Defense**.

On Friday, June 25, 31 representatives from major technology companies and trade associations met with House and Senate staffers to begin writing major new communications legislation. The topic of the meeting was the FCC's authority to regulate broadband. The staff-level discussions are scheduled to continue with another meeting on July 2, and further meetings are expected to occur next month as well. Other topics for future meetings include spectrum policy and broadband deployment.

**Health Care**

On Thursday, June 24, the House passed a measure, by a vote of 417-1, to reverse a deep cut in Medicare reimbursement to physicians. The bill, **HR. 3962, Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010**, a six-month "doc fix," is now awaiting the President's signature.

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## Transportation and Infrastructure (cont'd.)

A year after a crash on Washington's Metro system killed 9 people and injured 50 more, the **Senate Banking, Housing and Urban Affairs Committee** announced its plan to take up legislation creating national safety standards for transit systems. **Sen. Barbara A. Mikulski (D-Md.)**, who is not on the committee but has been pushing for such a bill, introduced **S. 1506, National Metro Safety Act**, that would direct the

**Transportation Department** to implement and enforce national safety standards. Sen. Mikulski said she expects the committee to mark up a bill within the next 10 days.

## Insurance

The following insurance related provisions are included in Title V of the **Dodd-Frank Wall Street Reform and Consumer Protection Act (HR 4173)** as passed out of the Conference Committee on June 25.

1) **Federal Insurance Office (FIO)** - Establishes the FIO within the Treasury Department with authority to monitor all aspects of the insurance industry. Provides that the FIO may collect information from insurers and affiliates and shall submit annual reports to Congress on actions taken by the FIO. The FIO shall also submit reports on the U.S. and global reinsurance market and shall study and report on how to modernize and improve insurance regulation in the U.S. Provides that the FIO Secretary and the U.S. Trade Representative are authorized jointly to negotiate and enter into covered agreements on behalf of the U.S.

2) **Nonadmitted and Reinsurance Reform** - Provides that no state other than the home State of an insured may require any premium tax payment for nonadmitted insurance and the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home state. Requires participation in the National Producer Database. Imposes uniform standards for surplus lines eligibility. Streamlines application for commercial purchasers. Provides the Comptroller General shall conduct a study of the nonadmitted insurance market.

3) **Regulation of Credit for Reinsurance and Reinsurance Agreements** - Provides that if the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer's ceded risk, then no other State may deny such credit for reinsurance and such State of domicile shall be solely responsible for regulating the financial solvency of the reinsurer. Preempts the extraterritorial application of State law.

The **Financial Stability Oversight Council**, established in Title 1 of the Act, made up of 10 federal financial regulators, an independent member with insurance expertise and five nonvoting members is charged with identifying and responding to emerging risks throughout the financial system. The five nonvoting members include **Office of Financial Research**, FIO, and state banking, insurance, and securities regulators.

The **Coalition for a Domestic Insurance Industry (CDII)**, a group of domestic insurers, has posted its own YouTube video in response to the YouTube video "The New Insurance Tax" that the Coalition for Competitive Insurance Rates (a group of companies and associations representing the foreign reinsurance sector) recently posted in opposition to HR 3424. HR 3424, introduced by **Representative Richard Neal (D-Mass.)** disallows the deduction for excess non-taxed U.S. risk reinsurance premiums paid to affiliates of foreign insurers. In its video "Close the Foreign Insurance Tax Loophole," CDII states that HR 3424 is not a new tax on foreign reinsurers, but rather legislation aimed at closing a loophole that allows U.S. subsidiaries of foreign-owned insurance groups to avoid taxes that apply to U.S. companies.

On June 23, the House passed **HR 5569 the National Flood Insurance Program Extension Act of 2010**. HR 5569 extends the NFIP through September 30, 2010, and is retroactive to May 31, (the day the program expired).