



Strategies Key Contacts

Roy Coffee
202-220-6930
rcoffee@lockelord.com

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

Denise Hanna
202-220-6926
dhanna@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

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DECEMBER 14 - 18: THIS WEEK

This week, the House and Senate both reconvene on Monday for legislative business. Both chambers face busy schedules as they try to wrap up business before the end of the year.

The Senate continues to debate **HR 3590**, the health care reform bill. **Senate Majority Leader Harry Reid (D-NV)** hopes to hold a vote on the bill this week.

Both chambers are expected to take up **HR 4284**, the extension of the Andean Trade Preferences Act, with the House considering the bill on Monday and the Senate later in the week.

House and Senate leadership continue negotiations on the final spending bill of FY 2010, the Defense Appropriations Act. The current continuing resolution funding the government expires on Friday.

Also this week, the **Senate Banking Committee** is expected to approve the nomination of **Federal Reserve Chairman Ben Bernanke** for a second term. However, **Sen. Bernard Sanders (I-VT)** has placed a hold on the nomination that will delay floor action.

CONGRESSIONAL UPDATE BY ISSUE

Budget/Appropriations

On Sunday, the Senate passed the omnibus appropriations bill that had been cleared by the House on Thursday. The package included six regular appropriations bills that had not yet been finished: Commerce-Justice-Science, Financial Services, Labor-HHS-Education, Military Construction-Veterans Affairs, State-Foreign Operations, and Transportation-HUD. The bill moves now to the President's desk for signature.

Lawmakers are expected to begin moving the Defense Appropriations bill, which is the last remaining appropriations measure for FY 2010, early this week. Other legislation may be attached to the bill including

the debt limit increase, provisions to extend unemployment benefits, food stamp programs, subsidies to employer sponsored health benefits available to unemployed workers under COBRA, and an extension of the PATRIOT Act. Some disagreements arose last week between House and Senate leadership over statutory pay/go language.

The current continuing resolution that funds government operations will expire on Friday, December 18th. Leaders hope to have the Defense Appropriations bill completed before then in order to avoid passing another continuing resolution.

Education

The Labor-HHS-Education Appropriations bill which was passed by both chambers as part of the omnibus package included \$68.2 billion for the Department of Education. Of that sum, \$46.3 billion is for 2010 and \$21.9 billion for advance funding in FY 2011. Pell Grants for higher education are funded at \$17.5 billion, which equals the President's request and exceeds last year's funding by about \$207 million. Additionally, programs to assist state and local agencies in educating students with disabilities would be funded at \$12.6 billion, which includes \$11.5 billion for state grants.

Last week, **Reps. Allen Boyd (D-FL), Stephanie Herseth Sandlin (D-SD), and Michael McMahon (D-NY)** sent a

letter to **Education Secretary Arne Duncan** expressing their concern at the Obama Administration's advice to colleges and universities to abandon private student lenders in favor of the Federal Direct Loan program sponsored by the Department of Education. The lawmakers are troubled by the administration's aggressive push to end the Federal Family Education Loan Program, despite lack of congressional action on the issue. The House passed a bill in September to end the FFEL program however it has stalled in the Senate. Some banks, including Bank of America, have stopped offering FFEL loans and at least 575 colleges and universities announced they are planning to switch to Federal Direct Loans in 2010 regardless of the legislation.

Tax

Last week, the House passed a permanent extension of the estate tax at 45 percent with an exception for up to \$3.5 million in inherited assets per spouse. However, the Senate is unlikely to follow that route, as the House bill is not paid for. **Senate Finance Chairman Max Baucus (D-MT)** said Thursday that the

Senate will likely pass a shorter extension and will deal with permanence later. If there is no agreement between the two chambers on the extension, the tax will lapse in 2010 before being reinstated at 55 percent in 2011.

Banking/Financial Services

On Friday the House passed HR 4173, the Wall Street Reform and Consumer Protection Act of 2009 by a largely party line vote of 223-202. Final passage of this sweeping reform package marks the culmination of a year's work by **Financial Services Chairman Barney Frank (D-MA)** and is the most significant attempt at reform of the financial services industry since the Great Depression. The package, which incorporates eight separate bills, places restrictions on executive compensation, creates a new federal agency, the Consumer Financial Protection Agency, to regulate mortgages and credit cards and expands the government's authority to handle failing financial institutions and oversee credit reporting agencies, among other items.

Late on Thursday, the House approved by a 240-182 vote Chairman Frank's massive manager's amendment to H.R. 4173 containing dozens of changes to the original legislation. Among other changes, the amendment contained altered language on when the Office of the Comptroller of the Currency can preempt state laws. The language is the result of an agreement between House Democratic leaders, Frank and **Rep. Melissa Bean (D-IL)** and would restore some preemption for national banks that the original Consumer Financial Protection Agency proposal took away.

On Friday, the House debated a variety of amendments which contained minor and drastic changes to the final legislation. Two of the major amendments included:

- An amendment by **House Judiciary Committee Chairman John Conyers (D-MI)** that would have given bankruptcy judges the broad power to unilaterally reduce ("crum down") the remaining balance on a mortgage and modify or change the interest rate or term of the loan, was defeated by a vote of 188-241.
- An amendment introduced by **Rep. Walt Minnick (D-ID)** that would have eliminated the proposed Consumer Financial Protection Agency and replaced it with a council of existing federal regulators, composed of the heads of the existing five federal banking regulators, as well as the Treasury Department, the Department of Housing and Urban Development and the SEC. The council would have coordinated between them to write consumer protection and safety and soundness rules. It would have also given the council the authority to write rules for bank capital, but it would have kept power over consumer protection at the Federal Reserve and other bank regulators. The amendment was defeated by a narrow vote of 208-223.

With the passage of the House financial reform bill, the focus now shifts to the Senate. **Senate Banking Committee Chairman Chris Dodd (D-CT)** introduced a draft bill in November. Dodd's draft had very little support, so he has established bipartisan teams to work on the major issues, such as the Consumer Financial Protection Agency, executive compensation, derivatives, etc. The Senate's efforts are expected to continue well into 2010.

Insurance

The financial services reform package passed on Friday includes a surplus lines and reinsurance provision that specifies (a) only the tax, licensing and regulatory requirements of the home state of the policyholder govern a surplus lines transaction, (b) permits sophisticated commercial entities direct access to the surplus lines market, and (c) provides that credit for reinsurance shall be governed only by the ceding company's domiciliary state and regulation of reinsurer solvency shall be governed only by the reinsurer's domiciliary state. **HR 4173** also prohibits states from voiding established contractual arbitration agreements between reinsurers and primary companies. The provisions are similar to **HR 2571, the Nonadmitted and Reinsurance Reform Act of 2009**, which was passed by the House earlier this year. The primary sponsors of the surplus lines and reinsurance provisions are **Rep. Dennis Moore (D-KS)** and **Rep. Scott Garrett (R-NJ)**, and these provisions had bipartisan support.

In addition to the surplus lines and reinsurance provisions, other provisions in HR 4173 as passed by the House that affect or potentially affect the insurance industry, are the establishment of a national regulator of systemically risky financial firms including large insurance holding companies, the creation of the Federal Insurance Office, the creation of an inter-agency Financial Services Oversight Council and the creation of a Consumer Financial Protection Agency to regulate the provision of consumer financial products or services. The exception for the business of insurance in the Consumer Financial Protection Agency provisions is included in the bill as passed by the House.

Health Care

Debate on health care reform continued in the Senate last week. On Tuesday, the Senate rejected an amendment that would have strengthened restrictions for federal funding of abortion. **Sen. Ben Nelson (D-NE)** has threatened to support a Republican filibuster if those restrictions are not included in the final bill.

The vote on four healthcare amendments was held up on Thursday. One amendment, introduced by **Sen. Frank Lautenberg (D-NJ)** was almost 100 pages long, causing Republicans to call for more time to review the language. The Lautenberg amendment was a side-by-side resolution to an amendment by **Sen. Byron Dorgan (D-ND)**. Lautenberg's amendment would make it more difficult to lift limits on drug importation. Dorgan's amendment would allow consumers to import prescription drugs from other countries. Democrats fear that if the Dorgan amendment is approved, it will unravel an agreement between the White House and the pharmaceutical industry reached earlier this year. Some Senators also expressed concerns about the safety of imported drugs. Another amendment, sponsored by **Sen. Mike Crapo (R-ID)** would send the bill back to committee to remove all taxes on individuals that earn less than \$200,000 and families that earn less than \$250,000.

A compromise on a public option is becoming more likely to occur, as some House Democrats appear open to having a trigger in place for the public option while expanding Medicare coverage. Senate Democrats are awaiting CBO scores before offering support. Details have yet to be released on the proposed deal.

Energy/Environment/Climate Change

The United Nations Climate Change Summit kicked off last week in Copenhagen, and by Friday the first draft agreement had been released. Top US delegate Todd Stern called the draft a constructive step but also said it did not do enough to require major developing nations to cut emissions. Stern said that a basic element for a US supported agreement would be a mandate that such nations set forth their own actions. The six-page draft called upon major developing nations to cut emissions between 15-30 percent compared to 1990 levels by 2020. Wealthy nations were given a range of potential emission reduction goals between 25-45 percent to take compared to 1990 levels by 2020.

President Obama and over 100 other heads of state will arrive in Copenhagen by this Friday. Attendance by Congressional leaders is dependent upon action in the House and Senate this week. **House Speaker Nancy Pelosi (D-CA)** wants to attend the last few days of the conference, but is at the mercy of the House schedule, while **Senate Foreign Relations Chairman John Kerry (D-MA)** has stated that he will definitely attend, even if it is only for one day.

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Defense

Late last week, House and Senate appropriators wrapped up negotiations on provisions to be included in the Defense Appropriations bill that they hope to pass this week. The bill, HR 3326, will include \$129 million in funding for the VH-71 presidential helicopter program, despite a veto threat from the White House over this program. Congressional aides said the program was kept in place in order to sustain the 250

person workforce that it requires. Additionally, the bill provides \$500 million for the F-35 alternative engine program, which also prompted a veto threat earlier this year, however lawmakers contend they have overcome this issue with the Obama Administration. The bill also includes funding for mine-resistant vehicles for US troops in Afghanistan and funding for Afghan security forces.

Immigration

On Thursday, **Alejandro Mayorkas, Director of the U.S. Citizenship and Immigration Services**, outlined steps to improve immigration programs, including one in which citizens and legal permanent residents will be able to check the E-verify system to verify that their citizenship information and Social Security numbers are correct. This way individuals could correct any errors before applying for a job. Currently, only employers can access E-verify. The agency also plans to issue new guidelines for the EB-5 Immigrant Investor Regional Center pilot program, which allows wealthy foreigners to get a green card if they invest at least \$500,000 into the U.S. in a way that creates at least 10 new jobs.

During a **Senate Judiciary Committee** hearing on Wednesday, Republicans expressed concern over Democratic plans to revamp the nation's immigration laws. **Ranking Member Jeff Sessions (R-AL)** raised objections over previous immigration legislation that allowed foreign farm workers to come to the US for up to three years and then apply to stay longer. His suggestion is to allow temporary farm workers to enter the country for a season or up to 10 months before leaving. **Sen. Dianne Feinstein (D-CA)** disagreed, saying the farm industry depends on foreign workers and further restrictions on foreign workers would destabilize the agriculture industry.

Telecommunications

On December 31, a five-year extension of the Satellite Home Viewer Act, a satellite television law governing the transmission of broadcast signals to customers of DirecTV and Dish Network ends. The **Commerce and Judiciary Committees** in both chambers are working to reach an agreement on a consensus reauthorization that could possibly be added to the Defense Appropriations bill this week. The consensus bill would combine a bill passed by the House on December 3, a version passed by the **Senate Commerce Committee**

in November, and a version passed by the **Senate Judiciary Committee** in September. Any last minute problems may force Congress to utilize a three month to one year extension. Congress has been working on reauthorization since February. Industry officials are hoping for a quick solution and passage of the bill. It is unlikely Congress would let the current law expire on December 31, as it would cause at least 1.5 million viewers to lose broadcast TV signals.

Trade

House Republicans are objecting to a one-year extension of trade preferences for Andean countries and the 130 countries that receive duty-free benefits under the Generalized System of Preferences. They particularly question Ecuador's status, and want language in the extension bill directing the Obama administration to review Ecuador's eligibility in six months. If an extension does not pass before

December 31, a wall of tariffs would arise. **House Ways and Means Ranking Member Dave Camp (R-MI)** wanted a two-year extension, but **Senate Finance Ranking Member Charles Grassley (R-IA)** would not go that far. House and Senate Democrats have offered to move up the date of the statutory review of the entire Andean program to June 30, almost a year earlier than in existing law.

Transportation and Infrastructure

The Transportation-HUD Appropriations bill which was passed as part of the omnibus package includes \$76 billion in funding for the Department of Transportation. The bill included \$42 billion for highway programs, \$15.6 billion for the Federal Aviation Administration, \$10.7 billion for transit spending such as grants for light rail and bus lines, and \$1.6 billion for Amtrak. Conferees also agreed to an appropriation of \$2.5 billion in grants for the creation of a national high-speed rail network, one of President Obama's

signature transportation priorities. This figure more than doubles the White House request and splits the difference between the \$4 billion contained in the House Transportation-HUD spending bill and the \$1.2 billion in the Senate version. Previously, \$8 billion was provided in the economic stimulus package to jump-start high speed rail programs.