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California Capitol Hill Bulletin

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To expand communications between Washington and California, the California Institute provides periodic news bulletins regarding current activity on Capitol Hill that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.

BUDGET: HOUSE PASSES ONE-WEEK CR

Before leaving for the weekend, the House on Thursday, December 13, 2007, passed another extension of the Continuing Resolution to keep the government funded in the absence of enacted appropriations for FY2008. This CR, H.J.Res. 69, will extend federal funding through Friday, December 21, 2007. The vote was 385-27. The Senate was expected to follow suit later on Thursday night.

The House leadership announced that it hopes to adjourn by the middle of next week. It expects the Rules Committee to post the final omnibus spending bill on its website by Sunday night, with the House voting on the measure on Monday night. In addition to the FY08 spending bill, the House and Senate have several other important bills left to consider including: the energy bill, the terrorism insurance bill, the AMT, SCHIP, and possibly the pending cut in Medicare reimbursement to physicians.

TAXATION: HOUSE PASSES ANOTHER AMT PATCH; SENATE PROGNOSIS UNCLEAR

By a vote of 226-193, the House on Wednesday, December 12, 2007, again passed a bill to exempt millions of middle-income Americans from the Alternative Minimum Tax (AMT) in tax year 2007. This attempt, H.R. 4351, includes a one-year exemption from the AMT and also extends and expands the child tax credit to include 12 million low-income families. The bill also includes \$55.7 billion in revenue-raising offsets. No Republicans voted for the measure.

The prognosis for the House leadership's latest attempt, however, is doubtful in the Senate. There, Republicans have consistently opposed increasing other taxes in order to pay for the revenue loss associated with the AMT patch. But on the House side, the Blue Dog Democrats are equally adamant that the bill comply with pay-go rules.

The bill also does not include extensions of other expiring tax credits, including the R&D credit which is strongly supported by California's cutting-edge industries that rely heavily on research and development to remain globally competitive. The R&D tax credit expires December 31, 2007.

Failure to reform the AMT will expose as many as 25 million taxpayers to the tax on their 2007 income, up from 4 million in 2006. California is by far the state whose taxpayers have been most affected by the AMT. Of the nation's AMT-paying payers, 18.6 percent are from California (despite the fact that only 11.5%

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of the nation's returns come from the state). Even more strikingly, 22.3 percent of AMT tax dollars are paid by California taxpayers.

The California Institute has posted on its website a table showing state-by-state AMT comparisons for 2003-2005, at <http://www.calinst.org/datapages/AMTbyState-2003-05.htm> . A similar two-year pdf version is available at <http://www.calinst.org/datapages/AMT-2005-2004.pdf> .

HEALTH: PRESIDENT AGAIN VETOES SCHIP BILL

On Thursday, December 13, 2007, President Bush vetoed, for a second time, legislation, H.R. 3963, aimed at expanding the State Children's Health Insurance Program (SCHIP). The bill would have added about \$35 billion to the program over five years, enough to cover 10 million children, proponents estimate. A vote to override the veto is expected around January 23, 2008. While Democrats and Republicans battle over how best to renew the program, temporary extensions are keeping it funded at the FY 2007 level.

California uses SCHIP funding to support its Healthy Families Program, which provides low-cost health insurance to children whose families have an income too high to qualify for MediCal yet too low to afford many private insurance plans. California ranks 46th out of 50 states and the District of Columbia in its percentage of uninsured children.

ENERGY: SENATE RETOOLS ENERGY BILL AFTER FAILING TO INVOKE CLOTURE

Having failed on Thursday, December 13, 2007, by one vote, 59-40, to invoke cloture on H.R. 6, the Clean Energy Act of 2007, the Senate retooled the bill before bringing it back to the floor. The new version strips the bill of \$21.8 billion in tax incentives for conservation and renewable energy that had elicited a veto threat from the President. The leadership had already agreed to drop another controversial provision that would have required electric utilities to produce 15 percent of their power from alternative sources by 2020. The bill still calls for raising fuel efficiency standards (CAFÉ standards) for all vehicles from the current 27.4 mpg to 35 mpg by 2020, and requiring 36 billion gallons of biofuels to be blended with gasoline by 2022.

With the tax incentives and alternative sources provisions removed, the bill is now expected to be enacted.

For more information visit www.senate.gov .

AGRICULTURE: SENATE CONTINUES FARM BILL CONSIDERATION; 40 AMENDMENTS PROPOSED

On Tuesday, December 11, 2007, the Senate resumed debate on The Farm Bill Extension Act of 2007, H.R. 2419, also known as the Food, Nutrition, and Bioenergy Act of 2007. The \$288 billion bill renews farm programs for the next five years.

In an agreement made by the Senate leadership, each side was allowed to submit up to 20 amendments to the bill. On Wednesday, December 12, 2007, an amendment to cut farm subsidies in favor of stronger crop insurance, sponsored by Sens. Richard Lugar (IN) and Frank Lautenberg (NJ), was

rejected 37-58. On Thursday, December 13, 2007, Senators Byron Dorgan (IA) and Charles Grassley (ND) proposed an amendment to cap annual farm payments annually to \$250,000 a year from \$360,000 a year. The amendment failed 43-56. Also on Thursday, an amendment to bar farm subsidy payments to full-time farmers making more than \$750,000 a year and part-time farmers making more than \$250,000 a year failed by a vote of 37-48. Senators Feinstein and Boxer voted in support of both amendments.

Following are additional amendments expected to be considered:

- To cut more than \$2 billion in spending from the federal crop insurance program and use the savings to fund improvements to conservation programs and nutrition programs, and to reduce the federal budget deficit.
 - To prevent duplicative payments for agricultural disasters already covered by the Agricultural Disaster Relief Trust Fund.
 - To prohibit federal, state, and local governments from using eminent domain to take farmland or grazing land and use it for parks, open space, or similar purposes.
 - To expand the required use of renewable fuels in the nation's fuel supply.
 - To provide technical and financial assistance to farmers who grow crops for biofuels. Crops covered by traditional commodity subsidies, like corn, wheat, or soy, would not be eligible.
 - To provide tax incentives for the production of all biofuels made from "cellulosic" sources, such as wood chips or grasses.
 - To increase the Environmental Quality Incentives Program by \$480 million over five years; increase funding for the Farmland Protection Program by \$65 million; and increase funding for the Grasslands Reserve Program by \$60 million. The provision would be paid for by making cuts to crop insurance funding.
- The Senate hopes to complete consideration of the bill this week.
For more information visit www.senate.gov.

BASE CLOSURES: HOUSE ARMED SERVICES ADDRESSES BASE REALIGNMENT AND CLOSURES

On Wednesday, December 12, 2007, the House Readiness Subcommittee held a hearing to address the implementation of the 2005 Base Realignment and Closures legislation.

Rep. Solomon Ortiz (TX), Chair of the Subcommittee stated that it was his opinion that the "BRAC 2005 planning process was flawed. It did not obtain realistic data upon which to base sound business decisions...and it was tainted by the politics that were supposed to be removed by the authorizing legislation." His chief concerns were the lack of actual cost savings compared to the expected cost savings from the implementation, and the practical basis on which decisions were made to close certain bases, and leave others open.

The primary testimony was delivered by Philip Grone, Deputy Under Secretary of Defense for Installations and Environment with the Department of Defense, and Brian Lepore, Director, Defense Capabilities Assessment with the Government Accountability Office. Mr. Grone testified that this round of BRAC will affect over 800 locations across the Nation and include 24 major closures, 24 major realignments, and 765 lesser actions. He said that the realignment involved allowed for a broad realignment in military operations. In reference to the cost savings, he stated that inflation alone was responsible for a \$2 billion difference in expected cost savings. He further stated that the cost avoidance resulting from reducing military personnel was not included in the figures addressing cost savings. The mechanism used to make cost estimates, he argued, was not the best method to predict the outcomes of this realignment; it failed to take in several important factors.

He commented: "In arriving at its original estimates, the Department and Commission used the Cost of Base Realignment Actions (COBRA) model, which is a tool for comparative analyses of a variety of options using standard factors applicable during the timeframe within which the BRAC analysis was conducted. As such, COBRA was not designed to, nor does it produce, budget quality estimates.... For instance,...COBRA

displays financial information in constant dollars in the initial year of implementation, which are unaffected by inflation.

He further stated, "While savings are certainly an important benefit of BRAC – the primary focus, as required by law, remains on maximizing military value.... Maximizing military value does not always result in costs and savings." He affirmed that the Department would, despite funding concerns, meet the implementation period, which ends on September 15, 2011.

Mr. Lepore testified that the "DOD plans to spend more and save less than originally estimated for the 2005 round. Based on DOD's fiscal year 2008 BRAC budget submission, estimated onetime costs have increased by 48 percent through the 6-year implementation period compared to the Commission's cost estimates and could continue to increase."

Additionally, the GAO found that estimated one time costs have increased and could continue to increase, but conceded that around 25% is due to inflation. Another notable concern GAO raised is that annual savings have decreased and may be overstated.

For more information www.armedservices.house.gov .

WILDFIRES: SUBCOMMITTEE ON DOMESTIC POLICY HEARS TESTIMONY ON CALIFORNIA WILDFIRES

On Monday, December 10, 2007, the House Oversight and Government Reform Subcommittee on Domestic Policy held a field hearing addressing Southern California's preparedness for natural disasters. The hearing, entitled "*What the October Wildfires Reveal About Preparedness In Southern California*" was held in the aftermath of the devastating recent wildfires, which resulted in ten deaths, the burning of 368,000 acres of land, and the destruction of 1,700 homes.

The Committee Chairman, Rep. Dennis Kucinich (OH), commented: "The damage caused by 2007 Southern California wildfires could have been much worse were it not for the capable response efforts of local, state and federal emergency responders. The absence of additional fires in San Diego's surrounding counties and in Northern California also helped make the story of Southern California's October wildfires a success." He cautioned, however, that this success will need to be repeated and improved upon, as "according to the Wildfire Research Network, the frequency and ferocity of wildfires will increase in the near future due to global warming, increasing wildland-urban interface, and aging vegetation." The Chairman said he called the hearing to learn from the witnesses what more could be done to ensure future success in dealing with wildfires.

Testimony was presented by: Tony Morris, Founder and Researcher, Wildfire Research Network; Jeffrey Bowman, Former Fire Chief, City of San Diego Fire-Rescue Department; Tracy Jarman, Fire Chief, City of San Diego Fire-Rescue Department; P. Michael Freeman, Fire Chief, Los Angeles County Fire Department; Chip Prather, Fire Chief, Orange County Fire Authority; Ruben Grijalva, Director, Department of Forestry and Fire Protection; and Ron Roberts, Chairman, Board of Supervisors, County of San Diego.

Ms. Jarman expressed frustration that when her department initially sought out additional resources, they were without support for up to 48 hours into the first fire. She stated that "historically, the County of San Diego has and still lacks the firefighting resources necessary to protect its residents and visitors during significant firestorms.... In a previous hearing the blame and burden seemed to be placed primarily on the City of San Diego to solve this regional issue; specifically, the immediate availability of additional fire suppression resources.... This is a much larger regional issue and solving this issue is the responsibility of the County, the State, and potentially the Federal government."

Despite her frustration, she acknowledged that once efforts were underway, there was a respectable amount of coordination among the necessary agencies. She said, "although we are by far the largest firefighting agency in the County, the City of San Diego Fire-Rescue Department should by no means be considered a "silver bullet" with a responsibility to provide a majority of the additional firefighting services needed in this County.... I acknowledge the greatly improved cooperation between Federal, State and local fire agencies."

Mr. Freeman testified to the readiness efforts currently employed by the Los Angeles County Fire Department: "Our Department's continual focus on pre-planning better enabled us to meet the needs of these simultaneous incidents. At the core of our pre-deployment planning is our focus on operational readiness so that we have the right training and equipment to fight these fires when they do occur. In preparation for each year's wildland fire season, all County firefighters participate in annual Departmental wildland training. Training exercises involve wildland fire suppression tactics, fire behavior, weather, structure protection and actions used to protect firefighters while working in a firestorm."

For more information visit www.domesticpolicy.oversight.house.gov/ .

WATER: SENATE ENERGY EXAMINES "SECURE" WATER ACT

On Tuesday, December 11, the Senate Energy and Natural Resources Committee held a hearing on S. 2156 (the SECURE Water Act). The bill is intended to facilitate the improvement of water management by the Department of Interior's Bureau of Reclamation, and to provide new investments in water resources . Among other provisions, it would require the Interior and Energy Departments to increase the acquisition and analysis of water-related data to assess the long-term availability of water resources for irrigation, hydroelectric power, municipal, and environmental uses.

Witnesses included: Robert Johnson, Commissioner of Bureau of Reclamation, U.S. Bureau of Reclamation; Dr. Robert Hirsch, United States Geological Survey; John D'Antonio, New Mexico State Engineer, Representing Western States Water Council; Patrick O'Toole, Family Farm Alliance; Jon Lambeck, Metropolitan Water District of Southern California; Brian Richter, The Nature Conservancy; and Dr. David R. Wunsch, representing the National Groundwater Association.

Commissioner Johnson, while stating that many of the bill's provisions are consistent with initiatives and research areas that Interior is pursuing, expressed strong concern that many of the funding initiatives envisioned in S. 2156 are not contained in the President's budget. He also noted some concerns regarding specific language in the bill, "particularly relating to the need for consistent terminology usage and definition of key terms that may be defined differently in other environmental and natural resources statutes." Nevertheless, he said, "the goals of this bill - expanding data acquisition and analysis to improve water management and ensuring that decision makers have reliable information about water resources and climate change impacts on water availability and energy production - are critically important. We support these goals...."

Mr. Lambeck testified on behalf of MWD, the nation's largest provider of imported water to an urban area; now serving a population of over 18 million, the region is expected to increase to 25 million over the next 25 years. He called S. 2156 "essential to define and authorize the crucial role the federal government must play in obtaining vital information to better understand the situation we are facing, to assist in evaluating alternative solutions, and to support the changes that will successfully mitigate the challenges of climate change to the water industry." He focused his testimony on the relationship of water resources and power generation, noting the need to understand how to optimize power production with reduced water supply. He suggested "the federal government could undertake the studies itself, or support studies by others, to create models and help develop and improve the design of more efficient turbines. This would allow the most benefit and value to be obtained from existing federal hydropower assets under adverse storage conditions. This would also provide power contractors and water agencies with the technical means and credibility to finance the constructing of new facilities." Lambeck also testified that "other studies might address operational modifications under reduced water levels or the potential for physical changes, such as dredging, at existing hydroelectric facilities." While making specific suggestions on changes to the bill, Lambeck concluded: "S. 2156 does an admirable job of covering many of the issues that will allow water systems to respond to the effects of climate change, and we support the bill for that reason."

For the testimony of all the witnesses, go to: <http://energy.senate.gov/> .

INTELLECTUAL PROPERTY: HOUSE SUBCOMMITTEE CONSIDERS STRONGER IP ENFORCEMENT

The House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property, chaired by Rep. Howard Berman (North Hollywood), held a hearing on Thursday, December 13, 2007 on H.R. 4279, the "Prioritizing Resources and Organization for Intellectual Property Act of 2007 (PRO IP)." Among other provisions, the bill would strengthen enforcement provisions and increase criminal penalties for copyright piracy and counterfeiting.

The Committee heard from the following witnesses: Sigal P. Mandelker, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice; James P. Hoffa, General President, International Brotherhood of Teamsters; Gigi B. Sohn, President and Co-Founder, Public Knowledge; and Rick Cotton, Executive Vice President and General Counsel, NBC Universal.

Ms. Mandelker delineated Justice's continuing efforts to halt piracy and counterfeiting of U.S. intellectual property. On H.R. 4279, she lauded the Subcommittee for incorporating several proposals that DOJ has previously recommended, including:

- increasing the maximum penalty for counterfeiting offenses from 10 years to 20 years imprisonment where the defendant knowingly or recklessly causes or attempts to cause serious bodily injury, and increases the maximum penalty to life imprisonment where the defendant knowingly or recklessly causes or attempts to cause death;
- providing stronger penalties for repeat-offenders of the copyright laws;
- implementing forfeiture reforms to ensure the ability to forfeit property derived from or used in the commission of criminal intellectual property offenses;
- strengthening restitution provisions for certain intellectual property crimes;
- clarifying that registration of copyright is not a prerequisite to criminal prosecution; and
- ensuring that the exportation and transshipment of pirated goods through the U.S. is subject to criminal penalties, just as the exportation of counterfeit goods is now subject to criminal penalties.

However, she also expressed concern that the bill did not contain certain provisions recommended by DOJ, such as: criminalizing attempts to commit criminal copyright infringement, harmonizing the forfeiture and restitution provisions for Digital Millennium Copyright and Economic Espionage Act offenses with those of other IP crimes, and amending 18 U.S.C. § 2516 to include criminal copyright infringement and trafficking in counterfeit goods or services as predicate offenses for which a wire or oral intercept may be obtained.

Ms. Sohn expressed serious concerns with several provisions in the bill, including that it would: disaggregate the parts of a compilation or derivative work for the purpose of calculating damages; expand the forfeiture provisions attached to four different types of IP violations, while applying the same standards to each; and, eliminate the requirement that copyrights be registered before criminal copyright enforcement proceeds. She believes that these provisions would merely increase penalties while removing safeguards against disproportionate awards.

For the testimony of all the witnesses, go to: <http://judiciary.house.gov> .

DEMOGRAPHICS: PEW HISPANIC CENTER CALLS HISPANICS POTENTIAL "SWING VOTE" IN 2008 ELECTIONS

The week of December 10, 2007, the PEW Hispanic Center released a report calling Hispanics voters a possible "swing vote" in the 2008 Presidential election. The report looks at data showing that the trend of Hispanic voters toward supporting the GOP has begun to wane, returning to near 1999 levels.

The data show, according to PEW, that "57% of Hispanic registered voters now call themselves Democrats or say they lean to the Democratic Party, while just 23% align with the Republican Party – meaning there is now a 34 percentage point gap in partisan affiliation among Latinos. In July, 2006, the same gap was just 21 percentage points – whereas back in 1999, it had been 33 percentage points."

The report concludes that the Hispanic population may constitute a potential “swing vote” because of their concentration in certain key places on the 2008 Electoral College map. Specifically, “Hispanics constitute a sizable share of the electorate in four of the six states that President Bush carried by margins of five percentage points or fewer in 2004 – New Mexico (where Hispanics make up 37% of the state's eligible electorate); Florida (14%); Nevada (12%) and Colorado (12%).”

Hispanics are the nation's largest and fastest growing minority group in the U.S. at 46 million persons, roughly 15% of the U.S. population.

For more information visit <http://pewhispanic.org/reports/report.php?ReportID=83> .

ECONOMY: CCSCE RELEASES ANNUAL COUNTY PROJECTIONS

The Center for Continuing Study of the California Economy recently released *County Projections 2007*. The report features growth projections for the next ten years as well as discussion of key trends and issues facing the state.

The objective of the report, according to CCSCE, is to present a consistent, timely, and credible set of projections for key market variables for each county in California. Seven market characteristics are covered for each county: population, households, total personal income, per capita personal income, average household income, median household income, and total taxable sales. This report projects out to 2016.

Several significant trends will affect California’s labor and housing markets over the next ten years, CCSCE finds. Among them, baby boomers will begin to retire, with nearly 60% of the state’s population growth in the 55+ age group. There will be little growth in the 35-54 range, on the other hand. Additionally, the growth of the Hispanic and Asian populations in California will continue and account for 90% of the state’s population increase.

For more information, or to purchase the report, visit www.ccsce.com .