TAXES: COMPROMISE REACHED ON TAX EXTENDERS AND JOBS BILL; FLOOR CONSIDERATION EXPECTED SOON

House and Senate negotiators on May 20, 2010 reached a compromise on the conference agreement to H.R. 4213, the American Jobs and Closing Tax Loopholes Act. The original legislation, the Tax Extenders Act of 2009, passed the House of Representatives on December 9, 2009. The Senate passed a similar package, the American Workers, State and Business Relief Act, as an amendment to that bill on March 10, 2010.

The House hopes to garner sufficient support for the measure from moderate Democrats to allow it to pass the bill early next week. The Senate will need to find at least one Republican supporter to reach the 60 votes it will need to overcome a filibuster. Leaders of both bodies hope to secure final passage of the bill before the beginning of the Memorial Day recess, which begins on May 28, 2010.

Among the numerous provisions contained in the bill, the cost of which could total in the neighborhood of $200 billion, are the following:

- extend eligibility for unemployment insurance benefits and COBRA health care tax credits through December 31, 2010;
- extend the American Recovery and Reinvestment Act small business lending program that eliminates the fees normally charged for loans through the SBA 7(a) and 504 loan programs and increases the government guarantees on 7(a) loans from 75% to 90%;
- extend the Build America Bonds (BABs) program for two years (through 2012);
- exclude bonds financing facilities that furnish water and sewage facilities from state volume caps;
- extend for one year (through 2010) the expensing of costs associated with cleaning up hazardous “brownfield” sites;
- distribute the Projects of National and Regional Significance (PNRS) and National Corridor Infrastructure Improvement (National Corridor) surface transportation program funding among all States.
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based on each State’s share of FY 2009 highway apportioned funds rather than to only 29 States and Washington, D.C., that had PNRS and National Corridor projects under SAFETEA-LU; the bill would also distribute “additional” highway formula funds (which the bill makes available in lieu of additional Congressionally-designated projects) among all of the highway formula programs rather than among just six formula programs;
- reinstate for one year (through 2010) the research and development tax credit;
- extend for one year (through 2010) the designation of certain economically depressed census tracts as Empowerment Zones;
- support over 300,000 jobs for youth ages 14 to 24 through summer employment programs;
- expand the Trade Adjustment Assistance for Communities – Community College and Career Training Grant Program to include individuals who are eligible for unemployment insurance, or are likely to be eligible for unemployment insurance, or have exhausted their unemployment insurance;
- extend for one year (through 2010) the election to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction permitted for State and local income taxes;
- extend for one year (through 2010) the above-the-line tax deduction for qualified education expenses;
- extend for one year (through 2010) the $250 above-the-line tax deduction for teachers and other school professionals for expenses paid for books, supplies, and other supplementary materials;
- extend for one year (through 2010) the $1.00 per gallon production tax credit for biodiesel and the small agri-biodiesel producer credit of 10 cents per gallon, and also extend for one year (through 2010) the $1.00 per gallon production tax credit for diesel fuel created from biomass;
- extend for one year (through 2010) the provision that allows film and television producers to expense the first $15 million of production costs incurred in the United States ($20 million if the costs are incurred in economically depressed areas in the United States);
- prevent 20 percent reduction in Medicare physician payment rates in June and allow rates to increase in 2012 and 2013 if spending growth on physician services is within reasonable limits, with an extra allowance for primary and preventive care; and
- provide a 6-month extension of the temporary 6.2 percent increase in Federal Medicaid Matching Rate (FMAP), as well as the additional percentage points for states with high unemployment.

Detailed information on the bill can be found at:

**Justice Issues: House Passes Juvenile Justice Grants Program**

The House on May 19, 2010 passed H.R. 1514, the Juvenile Accountability Block Grants Program reauthorization. The vote was 364-45 under suspension of the rules. The reauthorization through fiscal 2014 retains the current authorization level of $350 million annually.

The program provides grants to state and local governments to assist in reducing juvenile offenses. Programs funded under the bill are “accountability-based” because they hold offenders responsible for their behavior through sanctions and other consequences. Grants can be used to hire additional juvenile court
judges, probation officers and court-appointed defenders. State and local governments also use the funding to establish programs designed to reduce recidivism or to enhance school safety by focusing on bullying and gang prevention.

The Senate has not yet taken any action on a similar measure, S 2866.

Additional information can be found at: http://thomas.loc.gov/cgi-bin/thomas.

**SCIENCE AND R&D: COMPETES ACT AGAIN BLOCKED ON FLOOR**

Under suspension on Wednesday, May 19, 2010, the House again failed to pass the COMPETES Act, despite inclusion of some provisions aimed at responding to the successful motion to recommit passed on May 11th. The House did not muster the required two-thirds majority to pass the bill (HR 5325, originally introduced as H.R. 5116) under suspension of the rules, which limits debate and is generally reserved for non-controversial legislation. The vote was 261-148, with 273 votes needed to meet the two-thirds threshold.

During floor consideration, Rep. Bart Gordon (TN), Chair of the Science and Technology Committee, said: “I understand the concern of many of my colleagues about the overall size of a five year authorization, and this reduction is my sincere attempt at compromising on an issue that is very important to me. The bill (now) includes an overall funding reduction of almost 50 percent from H.R. 5116, as introduced.”

What was a five-year, $85.6 billion authorization is now a three-year bill authorizing about half as much spending. The measure defunded the Advanced Research Projects Agency for Energy (ARPA-E), which is aimed at developing new clean energy technology and eliminated other programs aimed at economic development and job creation. The bill now also incorporates 52 amendments that were adopted May 13, during the initial House debate.

More information can be found: http://science.house.gov.

**RESOURCES: WAXMAN’S AQUA BILL APPROVED BY SUBCOMMITTEE; CONTAINS ESHOO’S LEAD STANDARD**

The House Energy and Commerce Subcommittee on Energy and Environment on Wednesday, May 19, 2010, approved legislation to reauthorize the drinking water state revolving fund (SRF) and amend the Safe Drinking Water Act (SDWA). The bill, sponsored by Rep. Henry Waxman (Los Angeles), also includes the language of H.R. 5289, introduced by Rep. Anna Eshoo (Atherton), which would establish, based on California and Vermont laws, a more stringent national lead content standard in addition to the lead leaching performance standard already in place. The Subcommittee approved the bill by a vote of 18-13. The bill reauthorizes EPA’s Drinking Water State Revolving Fund at $14.7 billion over five years.

More information on the legislation can be found at: http://energycommerce.house.gov.

**EDUCATION: HEARINGS CONTINUE ON ESEA**

On May 18, 2010, the Senate Health, Education, Labor and Pensions Committee (Chairman Harkin, Iowa), held a hearing in preparation of the reauthorization of the Elementary and Secondary Education Act. The hearing explored programs supporting student health, physical education and well-being, specifically how such programs can enhance students’ ability to succeed in school and in life, and included testimony from: Russell Pate, Professor, Department of Exercise Science, and Associate Vice President for Health Sciences, and Director, Children’s Physical Activity Research Group, Arnold School of Public Health, University of South Carolina, Columbia, S.C.; Timothy Shriver, Chairman and CEO, Special Olympics; Antronette Yancey, Professor, Department of Health Services, School of Public Health, University of California-Los Angeles (UCLA), and co-director, UCLA Kaiser Permanente Center for Health Equity, Los Angeles, Calif.; Barbara Levin, CEO, Chota Community Health Services, Madisonville, Tenn.; and Beth Kirkpatrick, co-director, Grundy Center PE4life Academy, Grundy Center, Iowa.

“It alarms me that many health experts now predict that today’s generation of kids will be the first to have a shorter lifespan than their parents,” stated Chairman Harkin. “Our young people are confronted by a
twin epidemic of obesity and diabetes. And many children are now experiencing health problems that used to affect adults almost exclusively, including adult-onset diabetes.” According to the Committee, studies show that students who are physically active are healthier, feel better, experience improved self-image and perform better in school.

The committee discussed the importance of using the ESEA reauthorization to ensure the health and well-being of the 30 million students receiving free and reduced-price lunches. For low-income children – who are disproportionately victims of the twin epidemic of obesity and diabetes – access to enough food and access to nutritious food are both imperative, witnesses said.

The Committee also discussed issues pertaining to students with disabilities, both physical and intellectual disabilities, who can also benefit from increased physical activity and wellness initiatives. Chairman Harkin requested the General Accounting Office examine the athletic and physical education opportunities available to students with disabilities in elementary and secondary schools, and encouraged the GAO to ensure health promotion and wellness initiatives be tailored to include the specific challenges faced by students with disabilities.

Professor Yancy emphasized approaches tailored to the needs of sedentary population subgroups to reduce health disparities. She highlighted that helping at-risk communities be more active should generate the greatest organizational and individual return on investment. She also encouraged the Committee to rely less on individual motivation, supportive cultural values, or widespread access to active leisure opportunities. “Telling individuals to “just do it” cannot work when many Americans live in activity deserts and PE and recess have been taken out of schools,” she stated.

More information can be found at: http://help.senate.gov.

ENERGY: CALIFORNIA UTILITIES RANK HIGH IN SOLAR ENERGY UTILIZATION

Five California utilities ranked within the top ten of national utilities adding solar megawatts to their grids in 2009. The rankings were announced on May 18, 2010 by the Solar Electric Power Association (SEPA), an educational and research non-profit focused on helping utilities integrate solar into their energy portfolios.

Pacific Gas & Electric Company of California (PG&E) topped the list of utilities with the most solar megawatts (MW) added to the grid for the second straight year with 85.2 MW. Southern California Edison ranked number two, adding 74.2 MW in 2009, and San Diego Gas & Electric was fifth with 17.6 MW. The Sacramento Municipal Utility District (SMUD) came in ninth with 4.8892 MWs added, and the Los Angeles Department of Water and Power followed close behind in tenth place with 4.889 MWs.

As part of its analysis of the solar utility market, SEPA also controls for the size of a utility's customer base and presents another Top Ten list based on the solar watts-per-customer of participating utilities. Joining the Top Ten in 2009 for the first time were The City of Santa Clara/Silicon Valley Power (22.3 watts-per-customer), moving up to No. 4 from No. 25 in 2008, and Southern California Edison (15.3 watts-per-customer), which was nineteenth in 2008, and tenth in 2009. PG&E also made the list at number 8 with 16.2 watts-per-customer, after ranking number 5 in 2008. Only Southern California Edison and Pacific Gas & Electric made both annual ranking lists.

The rankings allow utilities to compare their progress with solar integration last year to their peers across the United States.

ENERGY : CALIFORNIA WITNESSES TESTIFY ON RENEWABLE DEVELOPMENT IN CALIFORNIA DESERT CONSERVATION AREA

On May 20, 2010, the Senate Energy and Natural Resources Committee (Chairman Bingaman, NM) held a hearing on pending legislation. The agenda included S, 2921, which would provide for the conservation, enhanced recreation opportunities and development of renewable energy in the California Desert Conservation Area, and require the Secretary of the Interior to designate certain offices to serve as Renewable Energy Coordination Offices for coordination of federal permits for renewable energy projects and transmission lines to integrate renewable energy development.
Witnesses included: Robert V. Abbey, Director, Bureau of Land Management; Dorothy Robyn, Deputy Undersecretary of Defense for Installations and Environment; Faye Krueger, Acting Associate Deputy Chief, National Forest Service, Department of Agriculture; David Myers, The Wildlands Conservancy; Harry Baker, California Association of 4WD Clubs Inc.; Pedro Pizarro, Executive Vice President of Power Operations, Southern California Edison; V. John White, Executive Director, Center for Energy Efficiency and Renewable Technologies; David Hubbard, EcoLogic Partners Inc.; and Johanna Wald, Natural Resources Defense Council.

Mr. Pizarro of Southern California Edison testified in support of the legislation. “I believe the California Desert Protection Act of 2010 will help the state increase its renewable energy resources in a manner that safeguards our state’s natural beauty and resources,” he stated. “The California Desert Protection Act of 2010 protects 1.7 million acres of California desert from development. It should also help speed up renewable development outside of those areas, while preserving a corridor for the construction and upgrade of transmission lines needed to bring renewable power to urban load centers. I want to assure the Committee that SCE would not support this legislation if we believed it would endanger our ability to increase delivery of renewable energy to our customers.”

Mr. Baker of the California Association of 4 Wheel Drive Clubs, on the other hand, voiced strong opposition to the bill stating that the organization opposes legislation that restricts the public’s access to public lands. “We oppose the creation of new National Monuments and Wilderness areas that withdraw lands from public access and close existing routes,” he said. “And, we oppose the creation of new Wilderness areas that do not meet the standards of the Wilderness Act of 1964, which established the National Wilderness Preservation System. We oppose legislation that attempts to close any area or route of travel without verification of the economic impact to the area. And, we oppose legislation that proposes to use public lands for development on private land.”

More information can be found at: http://energy.senate.gov.

TAXES: CLEAN TECHNOLOGY TAX INCENTIVES

On May 20, 2010, the Energy, Natural Resources, and Infrastructure Subcommittee (Chairman Bingaman, N.M.) of the Senate Finance Committee held a hearing titled “Clean Technology Manufacturing Competitiveness: The Role of Tax Incentives.”


The hearing focused on the Advanced Energy Project Credit, the first Federal tax credit for clean-energy manufacturers, which was included in the American Recovery and Reinvestment Act. Under the program, DOE and Treasury awarded $2.3 billion in tax credits to 183 projects in 43 states. Mr. Kelly testified that with the help of the credit, the U.S. is now on pace to double U.S. renewable manufacturing capacity (excluding conventional hydropower) by 2012.

More information can be found at: http://finance.senate.gov.

EDUCATION: ESEA TO INCLUDE A NEW PLAN FOR SCHOOL TURNAROUND SUCCESS, MILLER ANNOUNCES

On May 19, 2010, the House Education and Labor Committee under Chairman George Miller (Martinez) held a hearing titled “Research and Best Practices on Successful School Turnaround.” Witnesses included: Susan Bridges, Principal, A.G. Richardson Elementary School, Culpepper, Va.; Thomas Butler, Superintendent, Ridgway Area School District, Ridgway, PA.; Jessica Johnson, Chief Program Officer,
District and School Improvement Services Learning Point Associates, Naperville, Ill.; Daniel P. King, Superintendent of Schools, Pharr San-Juan Alamo Independent School District, Pharr, Texas; David Silver, Principal, Think College Now Elementary, Oakland, Calif.; and John Simmons, President, Strategic Learning Initiatives, Chicago, Ill.

According to witnesses, Congress should encourage, incentivize and support the universal elements that research and best practices show are working to turn around the country’s lowest performing schools. Research outlined by witnesses shows that successful school turnaround must include flexibility, shared leadership, professional development, capacity building, extended school and learning time, community involvement and beyond. Witnesses also noted that while research outlines best practices, ultimately flexibility and a comprehensive approach are paramount to successful school turnaround.

This hearing was yet another part of a series the Committee is holding as it works to rewrite the Elementary and Secondary Education Act (ESEA). In the hearing, Chairman Miller announced that he plans to include a new plan for school turnaround success as part of the ESEA legislation, focusing on the elements discussed in the hearing.

“Fixing our lowest performing schools requires flexibility, collaboration, and support at every step along the way,” said Miller. “It means proving, planning and preparing for real success in our schools. If the important elements aren’t in place, if communities aren’t on board, if teachers aren’t included, none of this will happen and our nation will suffer the consequences. In this reauthorization, we will focus on the research-based, proven, core elements of successful turnaround identified today by our witnesses. When coupled with a strong use of data and a rigorous planning process, we can help provide local communities the flexibility to succeed.”

Think College Now, a public college-prep elementary school in a low-income area of Oakland, California, employs research-based models to help students succeed and to close the achievement gap, Mr. Silver testified. “Our entire community -- from teachers to staff to families to students -- is united and working toward the same big goal -- to go to college,” said. “If you ask any one of those people at TCN, why are you are here, the answer would be the same: ‘to go to college.’”

According to Silver, when the school opened its doors, only 8% of students were achieving at or above grade-level (Proficient or Advanced) in English Language Arts (ELA) and 23% in Math as measured by the California Standards Test (CST). Now 66% of the students are at or above grade-level in ELA and 81% in math, a gain of over 800% in ELA and over 300% in Math. Every single sub-group–including African-Americans, Latinos, English Language Learners and students receiving free and reduced lunch, all rose over 50% in both math and ELA, Silver testified. Also, the school has gained 263 points to far surpass both district and the state averages with an API of 848, a score close to the API of white students in the state, he said. Because of these dramatic gains, Think College Now was named one of only 50 schools in California to receive both a California Distinguished School and a Title I Academic Achievement Award in 2008.

Silver encouraged the Committee to provide schools autonomy in hiring, budget, curriculum and assessments; expect accountability through data and student achievement outcomes; and support schools with standards-based data systems and increased federal dollars to title I schools.

For more information, visit: http://edlabor.house.gov .

**EDUCATION: ED & LABOR EXAMINES HEAD START FRAUD REPORT**


GAO, which conducted an undercover investigation, testified that some Head Start employees were engaging in fraudulent behavior to allow ineligible children into programs in eight cases in six states and the District of Columbia.
"Head Start is a critical, successful program that provides vital services and a high-quality early education to a million children and their families, many of whom are vulnerable and at-risk," said Committee Chair George Miller (Martinez). "It is unacceptable that some Head Start employees are betraying the integrity of the program. This fraudulent behavior is unacceptable and I am confident Secretary Sebelius will take the right steps to ensure this type of criminal activity never happens again."

More than one million low-income children are served by Head Start each year. One in five children under the age of five live in poverty in America, and less than 50 percent of the children who are eligible for Head Start are able to attend the program.

In 2008 and 2009, GAO received two separate hotline tips from current and prior employees at Head Start programs in the Midwest and the state of Texas alleging fraudulent activities including misappropriation of furniture, qualification of ineligible families and enrollment of too many over-income families, among other allegations.

After the initial investigation into the two hotline tips, GAO conducted an undercover investigation into Head Start enrollment processes. Choosing only from centers with no waiting lists, GAO employees posed as fictitious families in 15 undercover tests at 13 different Head Start programs in California, Maryland, New Jersey, Pennsylvania, Texas, Wisconsin, and Washington D.C. In 13 tests, the fictitious families were over income, in one test they lived outside the service area and in another test they were enrolled in another Head Start center. In seven of the 11 over-income tests, Head Start employees disregarded a portion of the "applicant's" income, thereby making over-income families appear to be under-income. In the test where the "applicant" was not in the service area, the Head Start employee told the "applicant" to lie and provide false documentation.

Upon learning of the investigation, U.S. Secretary of Health and Human Services Kathleen Sebelius immediately referred the matter to the Department's Inspector General. At the hearing, Carmen Nazario, Assistant Secretary for Children and Families at the U.S. Department of Health and Human Services (HHS), testified that the findings of the report were "deeply disturbing." She discussed the steps HHS is taking in response to the investigation.

According to her testimony, HHS' plans include: conducting unannounced monitoring visits to Head Start centers, creating a web-based hotline to allow tips or information about impropriety to be reported, developing new regulations that promote integrity in Head Start, increasing oversight, particularly in programs with higher risk factors and requiring grantees to re-compete for grants when they do not meet program expectations.

For more information, visit: http://edlabor.house.gov

RESOURCES: ENVIRONMENT AND PUBLIC WORKS CONSIDERS LEGISLATION WITH IMPACT ON CALIFORNIA

On May 20, the Senate Environment and Public Works Committee (Chairman Barbara Boxer) marked up three bills of significance to California: S. 3362, which would amend the Clean Air Act to direct the administrator of the Environmental Protection Agency to provide competitive grants to publicly funded schools to implement effective technologies to reduce air pollutants; S. 3374, which would amend the Comprehensive Environmental Response, Compensation and Liability Act of 1980 to establish a grant program to revitalize brown-field sites for the purpose of locating renewable electricity generation facilities on those sites; and S. 3373, a bill to address the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, Calif., by designating air quality empowerment zones.

Ranking Member James Inhofe (OK) raised concerns about S. 3362, stating that the bill would create another unfunded grant program that would not result in increased energy efficiency. He encouraged the Committee to instead consider creating an all-of-the-above energy policy that would provide schools with options. He raised concerns that S. 3373 does not address the air quality attainment needs of all areas and states, and suggested a series of amendments to S. 3374 aimed at broadening the types of Brownfield sites that could benefit from the resources and programs created. He also indicated that he did not believe that
another $50 million authorization for Brownfields was necessary because such programs already exist.

More information can be found at: http://epw.senate.gov.

**REPORT: NEW RESEARCH LINKS DECLINE OF ENDANGERED CALIFORNIA DELTA SMELT TO NUTRIENT POLLUTION**

The University of Maryland released a report on the decline of the delta smelt and other San Francisco Estuary wildlife. The report focuses on those species whose populations have changed significantly in the San Francisco Estuary over the past decade or more: delta smelt, longfin smelt, striped bass, largemouth bass, inland silversides, threadfin shad and sunfish. The report finds that the delta smelt has undergone significant population declines in the past few years, along with longfin smelt, threadfin shad, and striped bass, while largemouth bass, inland silversides, and sunfish, among other species have recently increased in abundance.

The report found that abrupt changes in nutrient loads and nutrient form over the past several decades were correlated with food web changes, including pelagic fish collapse. Remediation of pelagic fish populations should be centered on reduction of nitrogen loads and reestablishment of balanced nutrient ratios delivered from point source discharges, the report argues. Trends have also led to suggestions that increased predation is another factor contributing to declines in smelt and other species, according to the authors.

The report identifies scientific, management and legal issues related to water management in the Bay Delta, and specific management recommendations are suggested for nutrient control that have high probability for success in restoring endangered fish.

The study can be found at: http://www.umces.edu/Glibert%20Reviews%20in%20Fisheries%20Science.pdf

**EVENT: CALIFORNIA STATE SOCIETY TO HOST REP. GARAMENDI AT GOLDEN STATE BREAKFAST**

The California State Society’s Golden State Roundtable will host a breakfast on Tuesday, May 25, 2010, at which Congressman John Garamendi (Walnut Grove) will be the featured speaker. The breakfast will begin at 8:30 am in Room B-339 of the Rayburn House Office Building.

Rep. Garamendi, elected to the House in 2009, is a Member of Armed Services Committee, the Transportation and Infrastructure Committee, and the Science and Technology Committee.

Tickets may be purchased at www.californiastatesociety.com, after clicking on “events tab.”