CONGRESS: SENATE/HOUSE PASS CONTINUING RESOLUTION; ADJOURN UNTIL NOVEMBER 15

After passing a continuing resolution to keep the government funded through December 3, 2010, the House and Senate adjourned until November 15, 2010. The vehicle used for the continuing resolution was H.R.3081, the empty shell of an old appropriations bill, so that the Senate could act first. The Senate vote was 69-30; the House vote was 228-194.

Prior to passage, the Senate rejected, 39-60, an amendment to extend the effective date of the continued funding to Feb. 4. It also rejected, 48-51, an amendment requiring a 60-vote majority that would have reduced spending other than national security spending by 5 percent.

Under the CR, funding will continue at FY 2010 enacted levels for most programs. But, in total, the CR will provide funding at a rate approximately $8.2 billion below the FY 2010 level. The CR extends authorizations or allows for continuous normal operations through December 3, 2010 for certain programs that would otherwise expire or be severely disrupted, including:

- Allowing the Commissioner of U.S. Customs and Border Protection to maintain the level of Customs and Border Protection personnel in place in the final quarter of FY 2010.
- Extends for the duration of the CR the existing Federal Emergency Management Agency (FEMA) authority to provide technical and financial assistance to States and localities for pre-disaster hazard mitigation activities.
- Provides for the continuation of a program included under the Child Nutrition Act which will allow for school feeding activities where year round activities occur.
- Extends the TANF block grant and Child Care Entitlement to States program at their current level through the duration of the CR. Extension is of the basic block grant, child care grant, regular contingency fund, and supplemental grants.
- Extends the current HECM loan limits for high cost areas through FY 2011.
- Extends the current FHA loan limits for high cost areas through FY 2011.
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- Extends the current GSE loan limits for high cost areas through FY 2011.

Congress will have several issues to deal with when it returns after the election, including an omnibus appropriations bill for FY 2011 and the expiring 2001 and 2003 tax cuts.

For more information on the CR, go to: http://appropriations.senate.gov or http://appropriations.house.gov.

**Trade: House Advances China Currency Reform Bill**

The House on September 28, 2010 passed H.R. 2378, the Currency Reform for Fair Trade Act by a vote of 348-79. The bill addresses China’s continued suppression of the value of its currency, the Renminbi (RMB), of which the Yuan is the principal unit. China’s currency policy is estimated to reduce U.S. GDP by 1.4 percentage points annually, and allowing the RMB to appreciate to its real value would make U.S. manufacturers more competitive and perhaps create as many as 500,000 U.S. manufacturing jobs here in the United States.

The bill would make it easier to bring unfair trade cases before the Department of Commerce to prevent competition from cheap Chinese imports and seek imposition of countervailing and anti-dumping duties against those goods. Currently, Commerce balks at finding an unfair export subsidy if the subsidy is not limited exclusively to circumstances of export (i.e., when non-exporters may benefit). H.R. 2378 precludes Commerce from imposing this bright-line rule and, instead, requires Commerce to consider all the facts in making its determination of export contingency.

The bill also provides guidance to Commerce in assessing whether a “benefit” exists in circumstances involving material currency undervaluation resulting from government intervention. Specifically, Commerce is directed to assess “benefit” in terms of the additional currency the exporter receives as a result of the undervaluation and to use International Monetary Fund methods for determining the level of undervaluation.

As amended, the proponents believe that H.R. 2378 is WTO-consistent because countervailing duties may only be imposed when Commerce finds, based on an assessment of all the facts, that the WTO criteria for an export subsidy have been satisfied, i.e., only if: (1) the foreign government’s interventions in the currency markets result in a “financial contribution;” (2) a “benefit” is thereby conferred; and (3) the resulting subsidy is “contingent on export.

Although the bill enjoys wide-spread bipartisan support, some Members and multi-national companies are concerned that China will retaliate against U.S. companies and products if it is enacted.

The House Ways and Means Committee reported the amended bill by voice vote on September 24, 2010. For more information, go to: http://waysandmeans.house.gov or The September 29, 2010 Weekly Whip Pack found at: http://majoritywhip.house.gov. The Senate is not expected to consider similar legislation until after the election.
ENERGY: HEARING HELD ON PIPELINE SAFETY ISSUES AND SAN BRUNO FIRE

On September 28, 2010 the Surface Transportation and Merchant Marine Infrastructure, Safety, and Security Subcommittee of the Senate Commerce, Science and Transportation Committee held a hearing titled “Pipeline Safety: Assessing the San Bruno, California Explosion and other Recent Accidents.” Witnesses included: Cynthia L. Quarterman, Administrator, Pipeline and Hazardous Materials Safety Administration; Christopher A. Hart, Vice Chairman, National Transportation Safety Board Panel; Paul Clanon, Executive Director, California Public Utilities Commission; Christopher Johns, President, Pacific Gas and Electric Co; Rick Kessler, Vice President, the Pipeline Safety Trust; and Jim Ruane, Mayor, San Bruno, California.

The hearing follows the September 9, 2010 natural gas explosion in San Bruno, California that killed eight people, injured at least 66 individuals, destroyed or damaged 55 homes, and produced $50 million in physical damages. Senator Dianne Feinstein testified on legislation introduced with Senator Barbara Boxer designed to strengthen oversight of the nation’s pipelines and increase penalties for violations of federal pipeline safety regulations.

The Boxer-Feinstein bill, “The Strengthening Pipeline Safety and Enforcement Act of 2010,” doubles the number of Federal pipeline safety inspectors, mandates inspections by “smart pigs” trained to smell gas or the use of an inspection method certified by the Secretary of Transportation as equally effective at finding corrosion, and prohibits natural gas pipelines from operating at high pressure if they cannot be inspected using the most effective inspection technology. This legislation also prioritizes old pipelines in seismic areas for the highest level of safety oversight and directs the Department of Transportation to set standards for natural gas leak detection equipment and methods. It would also require automatic shutoff valves on pipelines in densely populated urban areas. It took gas company workers more than an hour after the San Bruno explosion to manually shutoff two valves to halt the flow of gas that was feeding the fire.

The National Transportation Safety Board (NTSB) is investigating the cause of the explosion. The California Public Utilities Commission is creating a plan for a complete safety inspection of PG&E’s natural gas transmission pipeline system and conducting a review of all gas transmission line valve locations, in order to determine prudent locations to replace manually operated valves with automated valves. The NTSB advocated the use of excess flow valves in gas distribution pipeline systems as an effective means of preventing explosions caused by natural gas leaking from distribution systems. In addition to the accident in San Bruno, the NTSB has been investigating three other pipeline accidents that occurred this summer.

The Pacific Gas and Electric Company (PG&E) is one of the largest combined natural gas and electric utilities in the United States. Based in San Francisco, with nearly 20,000 employees, the company delivers electricity and natural gas to approximately 15 million people in Northern and Central California. PG&E is providing the City of San Bruno and affected residents with financial assistance, housing, and direct emergency assistance in the aftermath of the explosion. PG&E has also restored power and gas service to the neighborhood and has conducted in-home safety checks. Mr. Johns asked for additional legislative discussions to address “benchmarking of safety practices among pipeline operators, reassessing the adequacy of current in-line and external testing methodologies and technologies, creating a national standard for setbacks of high-pressure pipes from residential areas, and conducting a broader review of the impacts of urbanization on the safe operation of the nation’s gas transmission system.”

"CPUC views this event as a system accident (an accident that has had serious consequences and has caused major system disruption for natural gas transmission operators, legislators, regulators and the general public). Obviously, a system accident in an industry with a significantly safe operating record is cause for us taking a new look at the elements of the safety system and fixing those elements which failed." Mr. Clanon of CPUC continued, "This is why the CPUC has convened an independent panel of experts to review all elements of the natural gas safety system that exists at the federal level and in California and make recommendations for improvements to that system. We will continue to work cooperatively with those
investigating the accident so that we, policymakers, and others have the information needed to improve pipeline safety."

Mayor Ruane concluded, "I can only say that it’s made a determined and resilient town even more determined and more resilient. San Bruno will honor those who have lost their lives, lost their homes and lost their way by rebuilding."

For more information visit: http://commerce.senate.gov.

TRANSPORTATION: HEARING EXPLORES INNOVATIVE TRANSPORTATION PROJECT FINANCING

On September 28, 2010, the Senate Environment and Public Works Committee held a hearing on innovative financing for transportation projects. These projects included modifications to surface transportation programs, such as the Transportation Infrastructure Finance and Innovation Act (TIFIA) that will encourage additional state, local and private investment in transportation projects. Witnesses included: Roy Kienitz, Undersecretary of Policy, U.S. Department of Transportation, Antonio Villaraigosa, Mayor, City of Los Angeles; Stephanie Kopelousos, Secretary, Florida Department of Transportation; and David Seltzer, Principal, Mercator Advisors LLC.

On September 6, 2010, President Barack Obama announced a $50 billion up-front investment for a comprehensive infrastructure plan to expand and upgrade the nation’s roads, rails, and runways. The plan includes rebuilding 150,000 miles of roads across the country. Undersecretary Kienitz stated, “We need to streamline, modernize, and prioritize our transportation investments, consolidate our dozens of programs into a coherent program structure that reflects national needs, and foster a culture of competition and performance to drive investments that will produce better transportation outcomes.” The committee discussed incentives that would encourage additional state, local and private investments in transportation.

In 2008, the citizens of Los Angeles County approved Measure R, a county-wide half cent sales tax dedicated to transportation. It is estimated to generate $40 billion over the next 30 years, including approximately $13 billion for transit projects throughout the county. Mayor Villaraigosa has advocated the idea that with federal assistance, Los Angeles could speed up delivery of the transit projects expected to be funded with Measure R so they can be funded over 10 rather than 30 years, the “30/10 initiative.” Accelerating projects would create an estimated 160,000 jobs while easing congestion and reducing pollution, the Mayor believes.

In his testimony, the Mayor stated: “It takes a minimum of ten years to develop a new transit project. To help local and state governments develop their infrastructure and create jobs, we need to know that federal financing tools will be available over the course of a decade or longer. We need certainty. Lowering the cost of capital through federal subsidies will enable jurisdictions with multiyear capital programs to deliver projects sooner and reap the associated benefits sooner as well. In the current economic climate, putting quality jobs on the street could not be more urgent.”

The TIFIA program provides credit assistance for up to one-third of the eligible costs of qualified surface transportation projects of regional and national significance. Eligibility is open to large-scale, surface transportation projects—highway, transit, railroad, intermodal freight, and port access—with eligible costs exceeding $50 million. TIFIA credit assistance is available for State and local governments, transit agencies, railroad companies, special authorities, special districts, and private entities. The primary goal of the TIFIA program is to use Federal funds in a way that promotes new and innovative project finance models for large transportation projects; catalyzes regional or national planning efforts; and attracts substantial private and other non-federal, co-investment for critical improvements to the nation's surface transportation system. According to the Federal Highway Administration, every dollar made available through TIFIA can mobilize up to a total of $30 in transportation investments.
Mayor Villaraigosa urged the committee to fund the TIFIA program at a higher level, expand the application process to include transit systems instead of individual projects, and commit to fund loans up front if counties met federally imposed criteria which would allow for greater certainty in multi-year financial planning and programming.

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

**Transportation: Hearing Assesses ARRA Spending On Transportation Projects**

The House Committee on Transportation and Infrastructure met on September 29, 2010, to examine progress to date on implementing the American Recovery and Reinvestment Act (ARRA). The hearing addressed implementation efforts in programs across the Committee’s jurisdiction, including highways, bridges, public transportation, rail, aviation, waterways, flood control, water resource development, wastewater treatment facilities, hazardous waste clean-ups, economic development, and Federal buildings. Witnesses included: Doran Barnes, Executive Director, Foothill Transit, West Covina, CA; Lauren Cohen, Harvard Business School; Joyce Eleanor, CEO, Community Transit, Everett, Washington; James E. McCullough, testifying on behalf of the Association of Equipment Manufacturers; Dave Rock, New Flyer of America Inc, Mentor, MN; and Yancy Wright, on behalf of the U.S. Green Building Council.

According to Committee documents, the nonpartisan Congressional Budget Office (CBO) estimates that during the second quarter of calendar year 2010, the most recent quarter for which data are available, the Recovery Act in its entirety lowered the unemployment rate by between 0.7 percentage points and 1.8 percentage points. CBO further finds that the Recovery Act increased the number of people employed by between 1.4 million and 3.3 million nationwide, and increased the number of full-time-equivalent jobs by 2 million to 4.8 million compared with what would have occurred had Congress not passed the Recovery Act. However, CBO was not able to draw those conclusions using recipient reports alone. According to the report, “estimating the law’s overall effects on employment requires a more comprehensive analysis than can be achieved by using the recipients’ reports.” CBO had to use mathematical models and the impacts of previous similar policies to estimate Recovery Act impact on unemployment and GDP. As of August 2010, the national unemployment rate was 9.6 percent.

Foothill Transit provides public transit services in the San Gabriel and Pomona Valleys of Los Angeles County. Foothill Transit is a Joint Powers Authority governed by local elected officials representing 22 communities and the County of L.A., and all services – from administration to bus operations and maintenance -- are contracted out to the private sector. Congress has designated Foothill Transit as a national public-private model for transit authorities. Mr. Barnes testified, “When Recovery Act funding was made available, we first used as much funding as possible to support our ongoing operations in light of diminished local funding due to the economic slowdown. . . . Next, we advanced a number state-of-good-repair and environmental projects that created and sustained local jobs and helped us reduce our ongoing operating expenses. Targeted at energy efficiency, these projects included installation of solar panels and window replacements, as well as elevator rehabilitation in our various facilities.” There will have been over 40 jobs created and sustained by the end of year in meeting the demands of just one of Foothill Transit's projects, purchases of the Ecoliner heavy-duty electric bus, Mr. Barnes said.

California has been awarded $3.8 billion from the Recovery Act for state transportation projects and has received $1.1 billion for projects thus far.

For more information visit: http://transportation.house.gov/.

**Immigration: House Judiciary Holds Hearing On Guestworkers**

The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, chaired by Rep. Zoe Lofgren (San Jose), held a hearing on September 24, 2010, entitled
“Protecting America’s Harvest,” to examine United States’ agricultural guestworker programs. Witnesses were: Arturo S. Rodriguez, President, United Farm Workers of America, Keene, CA; Phil B. Glaize, Chairman, U.S. Apple Association, Vienna, VA; Carol M. Swain, Ph.D., Professor, Vanderbilt University, Nashville, TN; and Stephen T. Colbert, Host, The Colbert Report. Comedy Central Studios, New York.

In her testimony, Prof. Swain averred that the U.S. does not have a shortage of agriculture workers, but instead that it is a “manufactured crisis.” She testified that low-skilled guestworkers are competing with unskilled, undereducated American workers seeking those jobs. Without the surplus labor provided by undocumented immigrants, she said, American employers would be forced to pay higher wages and provide better working conditions. She also noted that other research shows that American food bills would not increase significantly as a result of using American labor. Dr. Swain also called for federal, state, and local authorities to take aggressive steps to ensure that all businesses, public and private, participate in the federal E-Verify Program.

Mr. Glaize testified that there was a shortage of labor in the apple growing sector as well as in other crops. At least 80,000 acres of high-value vegetable production has left southern Arizona and California for Mexico, he said, and Florida tomato and citrus production is also moving to Mexico and Brazil. In 2008, Texas A&M University noted that 77% of Texas vegetable producers surveyed had reduced the size or scope of their business due to lack of employees, he said. One quarter reported moving some of their operations out of the U.S. and another third were considering such a move because of labor shortages. He stressed the need for legislation to insure an adequate agriculture workforce.

Mr. Rodriguez testified on the UFW’s “Take Our Jobs” campaign. He said that since June 24, 2010 the UFW had received 8,600 inquiries for information through its web site but only seven people have accepted jobs or been trained for agriculture positions. He testified that the campaign was only the latest effort to try to recruit and place Americans into farm jobs, and that the results so far are no surprise. In the late 1990s, after Congress passed welfare reform, Senator Dianne Feinstein worked to have a program established to try to place the unemployed into farm jobs in California’s Central Valley. State and county workforce agencies and grower associations worked together to map out when and where the labor was needed. Much like today, Rodriquez said, unemployment was double-digit regionally, and over 20% in some communities. Yet, fewer than five workers were successfully placed, he testified. He called for passage of the AgJOBS bill as a bi-partisan, employer-employee supported solution to the problem. The bill would provide a “legal, reliable, stable and skilled workforce,” whereas the current H-2A program is dysfunctional, requiring growers to choose between a program that is “bureaucratic, inefficient and downright unreliable, or hire migrant workers who present documents that appear to be ‘good’ but who may or may not be in this country legally.”

Mr. Colbert for the most part testified in his television persona as an angry conservative. However, during questioning, he responded that he was interested in the issue of migrant labor because he was interested in individuals who have no power and the contradiction that exists between wanting migrant workers to work in agriculture, but at the same time wanting to make them leave the United States.

Several California members of the Committee attended the hearing and explored the issue of an agriculture guestworkers program during the question and answer session.

For more information on the hearing, go to: http://judiciary.house.gov.

**Immigration: Judiciary Subcommittee Examines Immigration’s Impact on U.S. Economy**

The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, chaired by Rep. Zoe Lofgren (San Jose), held a hearing on September 29, 2010, entitled “The Role of Immigration in Strengthening America's Economy.” The hearing examined the role that both legal and undocumented immigrants play in meeting the economic needs of the U.S. Witnesses were: Hon.
Michael R. Bloomberg, Mayor, City of New York; Rupert Murdoch, Chairman and CEO, News Corporation; Jeff Moseley, President and CEO, The Greater Houston Partnership; and Steven A. Camarota, Director of Research, Center for Immigration Studies.

Among the issues raised at the hearing were securing the borders, removing illegal aliens, employer sanctions, legitimizing the status of undocumented immigrants, and whether Congress should pursue comprehensive immigration reform or concentrate on passing legislation dealing with discrete immigration issues.

For the testimony of the witnesses, go to: [http://judiciary.house.gov](http://judiciary.house.gov).

**EDUCATION: SENATE HELP HEARING HELD ON STUDENT LOANS AND FOR-PROFIT COLLEGES**

The Senate Health, Education, Labor and Pensions Committee held a hearing on September 30, 2010, titled “The Federal Investment in For-Profit Education: Are Students Succeeding?” This hearing was the third in a series examining the federal investment in for-profit colleges and universities. Witnesses included: Lauren Asher, President, The Institute for College Access and Success, Oakland, CA; Dr. Arnold Mitchem, President, Council for Opportunity in Education; Danielle Johnson, student at Kaplan University; and Kathleen Bittel, The Art Institute of Pittsburgh.

The Institute for College Access & Success (TICAS) is a nonprofit, nonpartisan, research and policy organization based in Oakland, California. According to TICAS, compared to other types of colleges, for-profit colleges have the dubious distinction of the highest share of students with debt, with the highest debt levels for degree completers, the worst federal student loan default rates, and the lowest completion rates for bachelor’s degree programs. For-profit colleges now enroll about one in ten post-secondary students in the U.S., but they absorb a far greater share of federal student aid: one in four federal Pell grant and student loan dollars goes to students in the for-profit sector. At the same time, for-profit colleges also have the highest share of students taking out private (non-federal) student loans, one of the riskiest ways to pay for higher education, according to TICAS.

Ms. Asher testified, “The for-profit college industry’s rapid growth, aggressive recruiting practices, heavy reliance on federal funds, disturbing student debt patterns, and disproportionate enrollment of under-represented students clearly point to high and rising stakes for both students and taxpayers.” According to Senate Committee Chairman Tom Harkin (IA), taxpayers invest $24 billion annually in for-profit colleges.

Student loan debt is rising in all sectors, but the for-profit sector stands out with by far the highest share of students who borrow and the highest average debt levels. A recent Government Accountability Office (GAO) investigation found that personnel misled, pressured, and outright lied to students in order to get them to enroll in for-profit schools and to borrow to cover the costs.

The Senate Health, Education, Labor and Pensions Committee released a report this September titled: *The Return on the Federal Investment in For-profit Education: Debt Without a Diploma.* According to the report, for-profit education companies claim to offer access to higher education to low-income and minority students. Data analysis of 16 for-profit schools indicates that they are more likely to offer their students debt without a diploma.

Committee Ranking Member Mike Enzi (WY), however, expressed concern that the report focused only on for-profit schools, and that the issue of too much student debt extends to public colleges and universities, as well. He left the hearing in protest, arguing: “Today’s hearing appears to have been planned in conjunction with the Department of Education’s proposed gainful employment rule, discriminating against all for-profit schools while ignoring colleges and universities with the same record.”

For more information and the testimony of all the witnesses, visit: [http://help.senate.gov/](http://help.senate.gov/).
BRIEFING: FIRST FOCUS AND PRESCHOOL CALIFORNIA HOST BRIEFING ON EARLY CHILDHOOD EDUCATION

On September 28, 2010, First Focus and Preschool California held a congressional briefing on the state of early childhood education in California. Panelists included: Catherine Atkin, President, Preschool California; Samantha Harvell, Senior Director, First Focus; Susan Sifuentes Trigueros, Southern California Gas Company; Sandra Weese, California Federation of Teachers; Larry Powell, Superintendent of Schools, Fresno County Office of Education; and Helen Blank, National Women’s Law Center.

The first five years of a child’s life are a critical time for social, cognitive, and personal development. According to First Focus, early learning programs not only have been proven to build pre-literacy and math skills, but research also shows that students who have been privy to high caliber early learning programs are less likely to end up in special education or repeat a grade, and are more likely to graduate from high school.

Public preschool programs serve about 40 percent of eligible 3 and 4 year olds in California. Preschool California recently released a poll that shows that only 14 percent of Latino children, who account for more than half of all children under age five in California, are enrolled in high-quality early learning programs. Just 13 percent of low-income children attend high-quality Pre-K, according to research by the RAND Corporation.

Applied Survey Research recently released the results of a study it conducted for San Francisco Unified School District and First 5 San Francisco. The study found that while half of kindergartners in San Francisco last year lacked at least some needed skills, 11 percent were deficient both academically and socially.

Ms. Harvell stated, “In the long-term, early childhood education ensures our country a competitive workforce in future years to come. High quality early care and education programs keep our families earning and our children learning, both critical for present and future economic prosperity.”

Documents provided at the briefing noted that the Obama administration added $2 billion for subsidized child care programs for 2009 and 2010, on top of the expected $5 billion a year. The administration also proposed a $1.6 billion increase for 2011, they noted. Preschool California stresses: “Every dollar put toward early childhood education is both an educational and economic stimulus for American families.”


RECEPTION: SUSTAINABLE ENERGY INDUSTRY RECEPTION

The Business Council for Sustainable Energy is holding a reception on Tuesday, October 5th. The reception will be held from 6:00pm-8:00pm at the Sonoma Restaurant and Wine Bar located at 223 Pennsylvania Ave, Washington, DC. If you would like to attend, please RSVP to the Council via e-mail at bcseservice@bcse.org.

The Business Council for Sustainable Energy was founded in 1992 by executives in the natural gas, energy efficiency, electric utility, and renewable energy industries. The Council offers a business-oriented perspective on energy, environmental and sustainability issues and is focused on implementing market-based approaches to reducing pollution and providing a diverse, secure mix of energy resources.