TAXES: SENATE PASSES $858 BILLION TAX AND UNEMPLOYMENT COMPENSATION BILL; HOUSE ACTION DELAYED

The Senate voted overwhelmingly on December 15, 2010 to pass the tax reduction and unemployment compensation extension bill (HR 4853) negotiated between the White House and Republican leaders. The vote on the $858 billion bill was 81-19, belying the heated dispute over several particular provisions in the bill, including the reinstatement of the estate tax and its effective rate and the extension of reduced tax rates to everyone regardless of income level.

On Thursday, December 16th, the House began debate on the rule to consider the Senate passed bill, but had to delay action. Ardent Democratic opponents were set to vote down the rule because they were concerned it would not allow them to both amend the bill, if possible, and still vote against final passage. They hope to amend the bill to at least change the estate tax provisions (also known as the death tax) to increase the tax rate and lower the exemption level to the 2009 level of 45 percent and $3.5 million, respectively. Changes to the rule were made to appease the opponents and after its passage, the House late Thursday began three hours of general debate leading up to votes on final passage of the bill. Depending on what the House does, the bill may end up going back to the Senate for further consideration, or directly to the President for signature.

The bill extends for two years all of the current income tax rates, which were enacted under President George W. Bush, and set to revert to their prior higher levels on January 1, 2011. It also retains the 15 percent tax rate on capital gains and dividends, which were also due to expire.

The bill will reinstate the estate tax, which lapsed for 2010, but on January 1st will revert to an exemption of $1 million per person and a maximum tax rate of 55 percent. Under the Senate passed bill, the exemption is set at estates valued at $5 million or less per person and $10 million per couple, with a top tax rate of 35 percent for larger estates.

The bill also contains a two-year fix for the Alternative Minimum Tax.

A Social Security payroll/self-employment tax cut of two percent is also included for twelve months beginning January 1, 2011. Employees will pay only 4.2 percent on wages and the self-employed will pay only 10.4 percent on income up to the Social Security wage threshold, which is currently $106,800.
In addition to the tax provisions, the bill will extend federal unemployment insurance benefits for an additional 13 months. The provision will maintain the current extended limits, set to expire on December 31st. The extended benefits now range from 60 weeks in states with less than 6 percent unemployment to 99 weeks in states with 8.5 percent or higher unemployment.

The bill also extends for two years the Research and Development tax credit and the special expensing rules for U.S. film and television productions. Other two year tax extensions include:

- the modified child tax credit.
- marriage penalty relief.
- the expanded dependent care credit
- the third-child Earned Income Tax Credit
- the expanded Coverdell education accounts contributions
- the expanded exclusion for employer-provided educational assistance
- the expanded student loan interest deduction
- the allowance to issue tax-exempt private activity bonds for public school facilities
- the $15 million arbitrage rebate exception for school construction
- the American Opportunity Tax Credit for tuition and related expenses
- the modified child tax credit
- the 50 percent bonus depreciation for investments in new business equipment

One-year tax extensions include:

- the biodiesel and renewable diesel tax credit and the alternative fuels tax credit
- the special rule for sales of electric transmission property
- the energy-efficient new homes credit and the energy-efficient credit for improvements to existing homes
- the designation of Empowerment Zones eligible for special tax incentives

A summary of all the provisions included in the bill, as well as the budgetary effects, can be found at: [http://finance.senate.gov/legislation](http://finance.senate.gov/legislation).

**APPROPRIATIONS: SENATE UNVEILS $1.1 TRILLION OMNIBUS APPROPRIATIONS**

Senate Appropriations Committee Chairman Daniel Inouye (HI) released an omnibus appropriations bill on December 14, 2010 as a substitute amendment to the House passed Continuing Resolution (H.R. 3082) (see, Bulletin, Vol. 17. No. 31 (12/09/10)). The total funding level in the bill is set at roughly $1.1 trillion, about $18 billion more than the House’s CR, and somewhat lower than the $1.11 trillion level that the Senate Appropriations Committee had previously set. The bill also contains about $8 billion in earmarks not included in the House bill.

Discussions are continuing in the Senate on whether the omnibus, the House passed CR, or both will be considered on the Senate floor. Also, the incoming Republican chair for the House Appropriations Committee has indicated his intention to move an $80 billion FY11 rescission bill sometime in the new year. So, FY11 funding levels will continue to be in play in the next year.

Some of the provisions included in the massive bill are:
Labor, HHS, Education:
- an $840 million increase for Head start versus the House’s increase of $314 million
- a $681 million increase for child care for low-income families. The CR includes an increase of about $374 million
- $300 million for the Early Learning Challenge Fund to provide grants to States for early childhood programs
- about $25 billion for student aid, which will be sufficient funding to close the Pell Grant "shortfall" and prevent a cut to the $5,550 maximum award
- $3.1 billion for state grants for job training and employment services, an increase of $141 million over the fiscal year 2010 level
- $14.8 billion for title I grants to local education agencies, a $290 million increase, for education assistance for low-income students
- $11.8 billion under IDEA grants to States for educating students with disabilities. This amount is $290 million more than the fiscal year 2010 level
- almost $31.8 billion, an increase of $750 million, to fund biomedical research at the National Institutes of Health

Commerce, Justice, Science
- $3.8 billion for State and Local Law Enforcement programs, which is $115.5 million above the enacted level and $345 million above the President's budget request
- $519 million for Byrne Justice Assistance Grants (JAG), state formula grants to assist local law enforcement
- $542 million for Community Oriented Policing Service (COPS) programs, including $363 million for COPS Hiring grants to hire or retain roughly 1,500 police officers
- $300 million for the State Criminal Alien Assistance Program (SCAAP)
- $3.58 billion to fully fund 20,500 Border Patrol agents, of whom over 17,000 will be based on the Southwest Border
- $18.9 billion for NASA, $186 million above the Fiscal Year 2010 level and $90 million less than the President’s request

Energy and Water
- restores funding for 172 Corps of Engineers on-going construction projects that were proposed to be cancelled in the President’s budget request, as well as 138 Corps of Engineers’ studies that were also proposed to be cancelled
  - provides funding for ARPA-E at $200 million
  - $4.904 billion for the Office of Science, the same as FY 2010. The funding supports the creation of the new batteries and energy storage innovation HUB.
  - $4 million for ongoing experiments using krypton fluoride lasers to advance inertial fusion energy
  - $50 million for the Bureau of Reclamation’s Central Valley Project Restoration Fund account would receive, which is equal to the budget request.
- $40 million, which is equal to the budget request, for the California Bay-Delta Restoration account

Homeland Security
- $978 million for Urban Area Security Initiative grants, a $91 million increase over the FY 2010 funding level and includes $19 million for non-profit security, $20 million for radiological and nuclear detection, and $18 million for National Special Security Events
- $950 million for State Homeland Security Grants, of which $60 million is for Operation Stonegarden and $10 million is for the Citizen Corps Program
- $350 million for Port Security Grants, a $50 million increase over the FY 2010 funding level
- $574 million for Southwest Border investments for Border Security Fencing, Infrastructure, and Technology (BSFIT), as requested in the President’s budget
- $3.5 million for investigations of intellectual property rights violations
- $339 million, $5 million above the request, for US-VISIT - $50 million is directed to begin to implement a biometric air exit system

**Interior, Environment and Related Agencies**
- $3.5 billion for water and sewer infrastructure and other infrastructure improvement activities, a decrease of $372 million below the FY 2010 enacted level, including $1.9 billion for sewer system improvements through the Clean Water State Revolving Fund program and $1.2 billion for drinking water system improvements through the Drinking Water State Revolving Fund program
- $60 million for Diesel Emission Reduction Act grants, the same amount as the fiscal year 2010 enacted level.

**Transportation, HUD, and Related Agencies**
- $1 billion for investments in intercity and high speed rail grants
- an additional $669 million in funding above the budget request is provided for the Federal-Aid Highway program
- $1.85 billion for the transit “New Starts” program.
- $19.3 billion for housing choice vouchers – $1.1 billion above the fiscal year 2010 enacted level and $250 million below the President’s request
- $9.3 billion for the project-based section 8 program, including over $9 billion for the renewal of all expiring project-based contracts for a full 12 months. The funding is $731 million above the fiscal year 2010 enacted level and $100 million below the President’s budget.
- $2.2 billion for homeless assistance grants, $335 million above the fiscal year 2010 enacted level and $145 million above the President’s request
- $3.99 billion for Community Development Block Grants for States and communities, the same level as the fiscal year 2010 level and the budget request
- $200 million for the HOPE VI program, including $90 million for HUD’s Choice Neighborhoods Initiative (CNI)

The Senate omnibus also includes the food safety bill (S. 510) passed by the House.

For more information, go to: http://appropriations.senate.gov . Detailed summaries of the appropriations can be found at: http://appropriations.senate.gov/news.cfm?method=news.view&id=d57cb89d-ec11-403a-b63c-6400fb896d5e

**Resources: Feds Release Bay-Delta Conservation Plan**

On December 15, 2010, six federal agencies released a coordinated report that calls for the restoration of tens of thousands of acres of marshes, wetlands, and habitat, and the construction of a new $13 billion water conveyance system that would bypass California’s Sacramento-San Joaquin River Delta to deliver water directly to farms and cities in the Central Valley and southern part of the state.

The release of the California Bay-Delta Conservation Plan (BDCP) report came one day after a federal judge in Fresno rejected a Fish and Wildlife Service scientific study that had formed the basis for protecting the delta smelt in the delta. The judge said the US Fish and Wildlife Service's (FWS) biological opinion was “sloppy” and “unlawful” and ordered FWS to revisit the science behind the lowered water flows put in place to protect the smelt.

The federal report, which complements a related report issued this week by the State of California (http://www.resources.ca.gov/), urges continued progress toward completion of the BDCP and supports major elements of the plan as a promising means of addressing the needs of both the Bay-Delta ecosystem
and the state’s water delivery structure. An estimated 25 million Californians rely on the California Bay-Delta for clean drinking water.

“The progress we’ve made together is historic,” California Secretary for Natural Resources Lester A. Snow said, welcoming the federal support. “No group of federal, state and local interests, diverse stakeholders and committed individuals has ever come this far with a strategy to restore the Delta ecosystem and develop a more modern way to deliver our water. This is another important step we take together, but there is more to be done.”

According to the report, Federal agencies will conduct environmental reviews of a proposed conservation plan for the Bay Delta that would include a new diversion system to move water from north of the Delta to water users in the Central Valley and southern California. Currently, water deliveries from northern California to central and southern California are pumped through the Delta and into canals from the southern end of the Delta, which has contributed to the disappearance of wildlife, ecosystem collapse, and risks of severe water supply disruption if an earthquake strikes.

Other next steps for Federal agencies also include: continuing near-term science work in 2011 and beyond that could inform water operations decision-making and the BDCP process; continuing work toward an integrated Biological Opinion by the Fish and Wildlife Service and the National Marine Fisheries Service that would inform the BDCP and continued operation of the Central Valley Project; and continuing development of the Environmental Impact Statement/Report (EIS/EIR) for the Bay-Delta Conservation Plan.

The BDCP process is driven by a concept known on the state level as Natural Community Conservation Planning (NCCP) and on the federal level as Habitat Conservation Planning (HCP), both required to protect habitat and move water under state and federal environmental law.


**Report: Next 10 Reports on Cap and Trade**

Next 10, a nonprofit nonpartisan research organization, released a report on December 15, 2010 entitled “Designing the Allocation Process for California’s Emissions Trading Program: the Multi-billion Dollar Question.” The report was released one week before the California Air Resources Board will vote on whether to approve the new rules for its cap-and-trade program. The program would set up the largest U.S. carbon trading market as a way to enforce a state-wide cap on carbon emissions. Companies that reduce emissions below their capped level could then sell credits on a carbon market to polluters exceeding their cap.

Next 10’s report highlights findings of five research papers from leading academic experts on the subject of creating a cap and trade system within the state of California. The report estimates the state's cap-and-trade program will increase electricity costs by an average of 2.3 percent to 4.1 percent per household by the year 2020. According to the report, the projected value of emission permits in 2012, the first year of California’s cap-and-trade program, will be $2.5 to $7.5 billion. By 2020, the value would rise to an estimated $7.3 to $21.9 billion.

The positive or negative impact of an AB 32 cap-and-trade program on Gross State Product (the value of goods and services produced in California) and the California’s economic growth will be very small, according to the research papers. Each study finds that these impacts might range from very slightly negative to slightly positive depending on assumptions and policy scenario designs. Under the formula embodied in federal legislation that passed the House of Representatives in 2009, the impacts average 0.43 percent of the value of production for the most energy intensive industries facing the greatest international competition.
Next 10 also commissioned a poll from the Field Research Corporation that was completed November 11-23, 2010 among a random sample of 493 registered Californian voters. Top findings of the poll include:

- 66 percent of California voters favor strongly (44 percent) or somewhat (22 percent) the 2006 law to reduce emissions of greenhouse gases that cause global warming (AB 32), up from 58 percent who backed the law when Field Research last polled on this topic in March 2010.

- 64 percent of California voters favor strongly (34 percent) or somewhat (30 percent) creating an emissions trading program wherein businesses would be required to obtain tradeable permits to continue emitting greenhouse gas emissions.

- Just over half of California voters (52 percent) favor distributing these permits for free rather than requiring businesses to purchase them (35 percent).

- If the state did require businesses to purchase the permits, 54 percent of California voters would favor using the resulting revenue to reduce cuts to state services, as opposed to returning the money to residents (39 percent).

- 73 percent of California voters agree strongly or somewhat that California can reduce greenhouse gases that contribute to global warming and expand jobs and economic prosperity at the same time. This is up from 69 percent who agreed with this statement in March.

California voters defeated Proposition 23, which would have suspended AB 32 this past November. However, some industries that would be regulated under the cap and trade program argue that it could put California at a competitive disadvantage with states and countries that do not require such strict and expensive emissions reductions.

For more information, go to: http://www.next10.org.

**BRIEFING: BCSE DISCUSSION ON CALIFORNIA AB32 SCHEDULED FOR JANUARY 6**

The Business Council for Sustainable Energy (BCSE) is hosting a panel discussion luncheon on California AB32 (the 2006 California law to reduce emissions of greenhouse gases) on Thursday, January 6, 2011 from 11 am until 2 pm at the offices of the American Gas Association (AGA), 400 North Capitol Street, 4th floor, Washington, DC.

Panelists will include representatives from Pacific Gas & Electric, the Northern California Power Agency, and Solar Turbines, as well as other groups. The status of the California state renewable electricity standard/renewable portfolio standard will be discussed, as well as lessons learned and the impact on other states and regions.

For further information, contact BCSE at 202.785.0507.

**REPORT: CFTL FINDS CALIFORNIA IS FACING A TEACHER SHORTAGE**

On December 15, 2010, The Center for the Future of Teaching and Learning (CFTL) released their twelfth annual report, "California’s Teaching Force 2010." The report details the impact of the recent budget cuts and policy shifts on California’s teaching workforce. It finds budget cuts over the past three years have made it tougher for teachers to meet increasing expectations for academic achievement, and for the state to recruit new teachers.

The report finds that there are fewer teachers in the classroom, and those who remain face larger class sizes and have less time for planning and instruction. Cumulative cuts of more than $20 billion from California’s schools over the past three years have made it tougher to recruit and prepare new teachers needed for the future. Budget cuts have also reduced the availability of counselors, librarians and instructional aides on whom teachers rely to help support student learning.

Baby boomers are retiring at increasing rates, and about a third of California teachers are older than 50 and likely will retire over the next 10 years, according to the report. Meanwhile, the number of teachers
in the state has dropped to its lowest point in a decade, the report says. The number of first- and second-year teachers in the state dropped from 36,000 in 2007-08 to 18,000 in 2009-10, as many schools stopped hiring new teachers, and novice teachers were the first to be laid off because of seniority policies.

There is a 40 percent decrease in the amount of students choosing to go into the teaching profession. According to the report, budget cuts to California's colleges and universities have capped enrollment in some teacher preparation programs. In contrast, the Center predicts the state will see 200,000 new elementary students in the next few years.

The report’s recommendations include the call for adequate funding for California’s K-12 schools and creation of a teacher evaluation system that balances student performance with other measures and leads to effective teaching.

For more information: http://www.cftl.org.

**Delegation: 112th Congress CA Delegation Contact Information Available**

The Institute has prepared a roster of the California delegation for the 112th Congress, including office addresses and phone numbers. It is available at http://www.calinst.org/pubs/CA112th.pdf and also on our website at: http://www.calinst.org/cadelpages.shtml.