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To expand communications between Washington and California, the California Institute provides periodic faxed bulletins regarding current activity on Capitol Hill which directly impacts our state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods. The e-mail edition is made possible in part by in-kind contributions from Sun Microsystems and IBM Corp.

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CONGRESS ADJOURNS TO RECONVENE JANUARY 23

On Thursday, December 20, 2001, the House and Senate completed work on the outstanding FY 2002 appropriations bills, plus a $20 billion supplemental appropriations package, and adjourned *sine die*, to reconvene at noon on Wednesday, January 23, 2002. Before adjournment, Congress also approved H.Con.Res 79, a continuing resolution to maintain funding for the federal government for several weeks at FY 2001 levels and thereby give President Bush time to review the FY 2002 appropriations bills passed recently.

SENATE FINANCE COMPLETES FAST TRACK BILL

The Senate Finance Committee completed its markup of the fast-track reauthorization bill (also known as trade promotion authority) on Tuesday, December 18. It's first attempt to finish the bill was held up by parliamentary maneuvering last week. *See, Bulletin, Vol. 8, No. 37 (12/13/01)*. As expected the Committee defeated all of the three amendments offered Tuesday. Chair Max Baucus (MT) and Ranking Member Charles Grassley (IA), authors of the bill, had agreed to oppose any amendments in order to preserve the balance reached in their compromise.

Sen. John Kerry (MA) offered one amendment that would have codified that foreign companies do not have any greater rights under NAFTA than U.S. firms in terms of their ability to sue state and local governments for enforcing health and environmental laws. California, for instance, has been sued by a Canadian company for banning MTBE, which can contaminate drinking water. Sen. Baucus argued, however, that the protections in his bill are sufficient to protect U.S. governments from such suits.

Sen. Kent Conrad (ND) offered the other two amendments. One would have given Congress 10 days to review a negotiated trade agreement before it was signed by the USTR; the other would have allowed for renegotiating an agreement if negotiating errors were made that Congress did not anticipate. Both those amendments, as well as Kerry's, were defeated by voice vote.

Senate Majority Leader Tom Daschle (SD) has not set a date for floor consideration of the bill next year.

MEDICARE RULE POSTPONED

The Centers for Medicare and Medicaid Services (CMS) announced on Wednesday, December 19 that it would delay the implementation of its new rule on Medicare pass-through payments by at least three months. The rule would slash by 68.9 percent the pro rata pass-through payments made for innovative medications used in hospital outpatient settings. CMS cited what it term "non-trivial errors" in the calculations it used to arrive at the cuts as the reason for its decision to reconsider the rule.

Last week, Reps. Bill Thomas (Bakersfield) and Pete Stark (Fremont) joined other members of Congress in urging CMS to delay implementation of the rule. *See, Bulletin, Vol. 8, No. 37 (12/13/01)*.

CONGRESS PASSES LABOR-HHS-EDUCATION FUNDING; CA ANALYSIS AVAILABLE

On Wednesday, December 19, by a vote of 393-30, the House approved H.Rept 107-342, the Conference Report to accompany the Labor-HHS-Education Appropriations bill for FY 2002, and the Senate followed suit on Thursday, December 20, approving the report on a 90-7 vote. A complete analysis of the California aspects of the bill is available in text format on the California Institute website at http://www.calinst.org/pubs/lhe02c.htm . A printable version in Adobe Acrobat (pdf) format is also available, at http://www.calinst.org/pubs/lhe02c.pdf .

In total funding for the Education for the Disadvantaged accounts, the bill provides $12.347 billion, higher than the $11.926 billion proposed by the Senate but below the $12.571 billion proposed by the House. This 2002 level is more than $2.3 billion more than the $10.014 billion provided in FY 2001. The amount includes $10.35 billion for grants to Local Education Agencies (LEAs). While the amount is a significant increase in overall Title I funds, the conference report makes major changes in the funding mix for these programs.

The conference agreement adopted the lower numbers as proposed by the Senate for the two existing Title I grants -- basic grants and concentration grants. For the Title I basic grant, the conference agreement provides the Senate's $7.173 billion level, a decrease of $226 million from the FY 2001 level, and well below the House proposal of $8.037 billion. For Title I concentration grants, the agreement provides the Senate's $1.365 billion level for FY 2002, which is roughly the same as the FY 2001 level and is $319 million below the level which had been proposed by the House.

The tight lid on spending for basic and concentration grants which was adopted in conference had been added by an amendment by Sens. Mary Landrieu (LA) and Thad Cochran (MS) on the Senate floor on November 1 in order to provide funds to two Title I components which had been authorized but never funded: targeted grants and education finance incentive grants (EFIG). The bill appropriates $1.018 billion for newly-funded targeted grants, and $793 million in first-time funding for EFIG.

During reauthorization of the Elementary and Secondary Education Act in December 2001, Congress made formula changes for targeted grants and EFIG, which are likely, in the aggregate, to increase California's share of those grants. A past analysis of the four primary grant components of Title I (basic, concentration, targeted, and EFIG) showed that California generally would receive the highest portion of funds from targeted grants, and the lowest from EFIG. However, in December Congress changed a key formula factor for EFIG funding by counting only children in poverty, as opposed to all children -- a shift which will improve California's share of the program considerably. (California houses a higher percentage of poor children than of children overall. While California was home to 12.5% of the nation's school-age children in 1999, the state housed 15.6% of the nation's poor children.) Nevertheless, EFIG grant funding is still calculated partially based on state average per-pupil expenditure and tax effort for education, both of which cut California's share, and state per capita income is also a factor in the grant formula, which serves to reduce the state's share.

In an odd quirk, California probably would have received more money if the bill provided increased funding to basic grants. California and other growing states have been hampered for years by a Senate-imposed "100% hold harmless," which guaranteed states their prior year's funding level and thus artificially propped up funding in states with less acute needs than those, like California, with very rapid child poverty growth. Only once there was new money above the prior year's levels would the new funds go to alleviate growth states' needs, and those first new dollars would go exclusively to the growth states (with more than 20% to California). Since there are no new basic or concentration grant funds in the conference report, that extra boost to California will not occur.

Nevertheless, California's share of funds from the newly-funded EFIG and targeted grants is likely to be substantial. Precise formula runs to predict state-by-state shares of the newly devised formulas were not available at press time, but Senator Dianne Feinstein issued a statement predicting that California would receive $300 million more for Title I programs than it did in FY 2001. "California will receive $1.45 billion in FY 2002 in Title I funds while it received $1.15 billion in FY 2001. This represents a 26 percent increase over last year. The national average increase was 21% in Title I grants," according to the statement.

It is encouraging that the FY 2002 conference report appears finally to be free of the 100% special hold harmless language that has plagued past years' bills, but the statutory hold harmless provisions (at 85% to 95% of the prior year's level) will still reduce some of the shift of funds to California and other growth states.

The ESEA reauthorization bill revised the funding formula for bilingual and immigrant education programs significantly. A new, higher funding level ($665 million) in the Labor-HHS-Education Appropriations bill for bilingual and immigrant education programs activates a new formula for distributing the funds, which is likely to benefit California. Allocations for the renamed English Language Acquisition and Language Enhancement grants will now be based 80% on states' relative share of children considered limited English proficient (LEP) and 20% based on states' share of immigrant children. Not surprisingly, California's share of both factors is high. The small-state minimum for the program is relatively minor ($500,000), and 7.5% of the total funds are to be held by the U.S. Dept. of Education for national activities and grants to Indian tribes and territories. Some funds are also reserved to continue existing grants for a few years. States must pass 95% of the funds they receive to eligible school districts and other eligible entities.

The FY 2002 Labor-HHS-Education funding conference report provides $665 million for bilingual and immigrant education programs, up from $600 million proposed by the Senate and down from the $700 million proposed by the House, and either way well above the FY 2001 appropriation of $460 million. The $665 million appropriated level begins the sunsetting of the prior bilingual and immigrant education programs, which were focused on competitive grants, national research, professional development, and for the formula-based emergency immigrant education program. Grant awards and fellowships begun in FY 2001 and previously will be maintained through their contract cycle using funds from the $665 million total.

For further information regarding the ESEA reauthorization bill passed recently, *see Bulletin, Vol. 8, No. 37 (12/13/01)*.

FARM BILL PASSAGE DELAYED UNTIL NEXT YEAR

After failing to gather the 60 votes necessary to bring about cloture on the Farm Bill (S. 1731), Senate Majority Leader Tom Daschle (S.D) reluctantly pulled the bill from the Senate floor. Democrats failed in a third attempt to close debate and force a vote on the $73.5 billion bill by a 54-43 vote. In preceding votes, the Senate rejected Republican alternatives that would have maintained current farm policy and a proposal matching the House version of the bill that passed two months ago.

The Senate bill would increase crop supports by 78 percent, boost conservation spending and create a $2 billion dairy subsidy program. The two-tiered dairy program, initially a contentious provision, now has the support of both California Senators Dianne Feinstein and Barbara Boxer after a substitute amendment expanded pooling benefits for dairy farmers and removed penalties on processors. Republicans criticize the bill for too heavily increasing support prices. The White House has opposed the Democratic-written bill on several grounds, one of them being a potential subsidy supplement in violation of world trade laws.

Although existing farm programs guided by the 1996 Farm Law (PL 104-127) will remain in effect until next fall, agricultural interests had hoped to pass the bill before Christmas. A delay in the bill's passage will likely result in farm funding cuts next year due to projected 2003 federal budget shortfalls according to Senator Daschle. Senate Agriculture Committee chairman Tom Harkin (Iowa) does not expect a final version of the bill to reach the president's desk until March or April of next year.

STATE'S EXPORTS DECLINE

Exports from California have fallen dramatically over the last several months. Although all U. S. exports dropped by 13.6 percent in October 2001, California's exports fell nearly 24 percent, from $11.2 billion to $8.5 billion. For the first ten months of this year, the state's exports went down to $90.9 billion, from $97.9 billion over the same period last year.

Some of the decline can be traced to the recession in Asia, which is a predominant market for California. For instance, exports to Japan were off 30 percent, and to Taiwan and South Korea 34 percent and 33 percent, respectively. The recession in the United States itself, however, also contributed to the decline, especially in exports to Mexico, the state's biggest market, and to Canada, the number three market. October exports to Mexico were down 12.2 percent from last year, and exports to Canada fell by 33.1 percent.

The information technology sector took an especially big hit, with exports of computers, chips, and electronic equipment falling 33.4 percent. That dropped dollar values from $6.6 billion last October to $4.4 billion this October. Agriculture exports, on the other hand, fared well with exports up over one percent for total sales of $338 million.

LAO REVIEWS STATE'S FISCAL SITUATION

California's Legislative Analyst's Office (LAO) has released a report outlining the depth and implications of the state's current fiscal shortfalls while offering some solutions. Addressing the State's Fiscal Problem discusses variables that contributed to the projected 2002-2003 $12.4 billion deficit and presents some current-year and future budget-balancing principles and strategies for the Legislature to consider before taking action. According to the report, the general fund crisis is in part due to unprecedented growth in state expenditures and significant tax relief measures over the last ten years.

A variety of alternatives and tools are provided to match short-term and long-term deficit scenarios. Finally, the report itemizes and summarizes Governor Davis' spending reduction proposals for the current fiscal year.

The LAO provides non-partisan fiscal and policy advice to the Legislature and is responsible for reviewing and analyzing the operations and finances of state government. A copy of the report can be downloaded from the Legislative Analysts Office website at http://www.lao.ca.gov .

U.C. TO HOLD MENTAL HEALTH POLICY EVENT IN BERKELEY ON JANUARY 12

UC Berkeley's Institute of Governmental Studies and the Office of Continuing Medical Education at UC San Francisco, in conjunction with UCLA, will hold a symposium on Coping with Mental Illness and Crafting Public Policy. This symposium will assemble outstanding experts from a variety of mental-health related disciplines to explore, develop, and communicate scholarship on mental illness; promote a greater understanding of mental illness; and evaluate the status of care and treatment for those afflicted.

The symposium, to be held on Saturday, January 12, 2002 at the U.C. Berkeley Wheeler auditorium is designed for medical practitioners, policymakers, scholars, media representatives, and the interested public. A continental breakfast and lunch will be provided.

In addition, the event will be simultaneous teleconferenced at UCLA's Center for Health Sciences, in Room 63-105.

For more information please visit the Mental Health and Public Policy Symposium website at: http://mentalhealthpolicy.berkeley.edu .