Bipartisanship to Create Jobs Is President’s Call to Action

In his State of the Union address on January 25, President Barack Obama called for bipartisanship to help create jobs and to make America more competitive in the global economy.

The President also proposed spending cuts to deal with a growing national debt while still advocating investments in education, mass transit and infrastructure to help the nation prosper in the future. He also called for simplifying the tax system for both corporate and individual taxpayers.

California Chamber of Commerce President and CEO Allan Zaremberg commented, “We greatly appreciate the President’s attention to job creation and his focus on the steps that will achieve that goal. California’s economy will benefit by improving education, increasing trade opportunities and improving our infrastructure.”

The Republican response to the President’s address, presented by Congressman Paul Ryan of Wisconsin, stressed the need for reduced spending, starting with repeal of the health care law. Ryan said limited government can promote “entrepreneurship, upward mobility and individual responsibility.”

Below are highlights of the President’s address that deal with issues affecting the business community and excerpts from the Republican response.

**Infrastructure**

“To attract new businesses to our shores, we need the fastest, most reliable ways to move people, goods and information—from high-speed rail to high-speed Internet. . . We’ll put more Americans to work repairing crumbling roads and bridges. We’ll make sure this is fully paid for, attract private investment, and pick projects based on what’s best for the economy, not politicians.

“Within 25 years, our goal is to give 80 percent of Americans access to high-speed rail...Within the next five years, we’ll make it possible for businesses to deploy the next generation of high-speed wireless coverage to 98 percent of all Americans.”

**Trade**

“To help businesses sell more products abroad, we set a goal of doubling our exports by 2014—because the more we export, the more jobs we create here at home. Already, our exports are up. Recently, we signed agreements with India...”

See Bipartisanship: Page 4

Prop. 65 Warning Labels May Be Required for Certain Foods/Beverages

Certain foods containing caramel coloring may be required to have warning labels due to the latest chemical added to the state’s Proposition 65 list.

On January 7, the state added the chemical 4-methylimidazole (4-MEI) to the Proposition 65 list of chemicals known to the state to cause cancer and proposed establishing a no significant risk level of 16 micrograms per day.

**Fermentation Byproduct**

The chemical 4-MEI is a fermentation byproduct in certain food products including caramel coloring, soy sauce, Worcestershire sauce, wine and ammoniated molasses, as well as ammoniated livestock feed, according to the state Office of Environmental Health Hazard Assessment (OEHHA).

The chemical is used in the manufacture of pharmaceuticals, photographic chemicals, dyes and pigments, cleaning and agricultural chemicals, and rubber.

See Prop. 65: Page 3

Save the Date

2011 Business Summit
June 1–2, 2011 | Sacramento

OSHA Withdraws Noise Standard Interpretation: Page 3
Cal/Osha Corner

All Employers Must Have Written Injury/Illness Prevention Program

I employ fewer than 10 employees. Am I required to have a written Injury and Illness Prevention Program?

All employers in California, including those with only one employee, are required to have a written injury and illness prevention program.

Title 8, Section 3203 of the General Industry Safety Orders has required the development and use of an accident prevention program by all California employers since April 1, 1977.

The regulation, as initially adopted, contained two short subsections. It was a performance regulation in which the employer was to develop a program to address the hazards anticipated to be at the work site, and to make periodic inspections to ensure any potential hazards could be detected, eliminated or mitigated.

During the 1989–1990 legislative session, SB 198 was passed, revising the Labor Code and requiring the Occupational Safety and Health Standards Board to develop and adopt an Injury and Illness Prevention Program (IIPP) with the specific requirements as contained in newly adopted Labor Code Section 6401.7.

The revision to Section 3203 went into effect on July 1, 1991. The legislative mandate was specific that the employer’s IIPP was to be written.

Exceptions

At the time of the initial adoption, the regulation had three exceptions addressing employers who had fewer than 10 employees.

The first was an exception to the communication requirement contained in Section 3203(a)(3). This exception permits the employer to “communicate to and instruct employees orally in general safe work practices with specific instructions” to the hazards unique to the employees’ job assignment.

The second exception, located in (b)(1), permits the employer to maintain inspection records only until the observed/known hazard is corrected in the work site, and to make periodic inspections to ensure any potential hazards could be detected, eliminated or mitigated.

In 1994, subsection (b) was revised as noted above to clarify its intent, and a new exception No. 3 was added.

Low Hazard Industries

A listing of the low hazard industries may be found in Title 8, California Code of Regulations, Section 14300.2 or by contacting the Cal/OSHA Consultation Service.

Additional information regarding the requirements and exceptions to Section 3203 can be found by going to www.dir.ca.gov/dosh/etools.

The Labor Law Helpline is a service to California Chamber of Commerce preferred members. For expert explanations of labor laws and Cal/OSHA regulations, contact the Cal/OSHA Consultation Service at (800) 348-2262, or submit your question at www.hrCalifornia.com.

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Labor law answers online HRCalifornia.com
‘Feasible’ Noise Controls: OSHA Withdraws Controversial Interpretation

As employers raised concerns about its proposed interpretation of the noise protection standard, a federal agency withdrew that proposal from consideration on January 19.

The Occupational Safety and Health Administration (OSHA) within the U.S. Department of Labor had proposed that a “feasible” way employers could protect employees from excessive noise in the workplace could mean any administrative or engineering control that doesn’t threaten a company’s “ability to remain in business.”

On January 19, however, OSHA backed away from that interpretation, proposed in the Federal Register on October 19, 2010.

Dr. David Michaels, assistant secretary of labor for occupational safety and health, said in an OSHA news release that “it is clear from the concerns raised about this proposal that addressing this problem requires much more public outreach and many more resources than we had originally anticipated. We are sensitive to the possible costs associated with improving worker protection and have decided to suspend work on this proposed modification while we study other approaches to abating workplace noise hazards.”

Michaels commented that “Hearing loss caused by excessive noise levels remains a serious occupational health problem in this country.”

OSHA’s release cited reports from the Bureau of Labor Statistics (BLS) that nearly 125,000 workers have suffered significant, permanent hearing loss since 2008. In 2008, BLS reported more than 22,000 hearing loss cases.

For the last 25 years, OSHA has required the use of administrative or engineering controls only if personal protective equipment, including earplugs, earmuffs and other hearing protectors, was not sufficient to reduce workplace noise to acceptable levels.

OSHA Efforts

Michaels said OSHA remains committed to finding ways to reduce hearing loss due to high workplace noise levels. As part of this effort, the agency said it will:

- Thoroughly review comments submitted in response to the Federal Register notice and any other information it receives on this issue.
- Hold a stakeholder meeting on preventing occupational hearing loss to elicit the views of employers, workers, and noise control and public health professionals.
- Consult with experts from the National Institute for Occupational Safety and Health and the National Academy of Engineering.
- Initiate a “robust outreach and compliance assistance effort” to provide enhanced technical information and guidance on the many inexpensive, effective engineering controls for dangerous noise levels.

Small Business

OSHA reported its On-Site Consultation Program offers free and confidential advice on health and safety solutions, with priority for high-hazard worksites. On-site consultation services exist in every state, independent from OSHA enforcement efforts.

More information is available at www.osha.gov.

Staff Contact: Marti Fisher

Prop. 65 Warning Labels May Be Required for Certain Foods/Beverages

Required Warning

By a year from the listing date, companies selling products containing 4-MEI must provide a “clear and reasonable” warning before knowingly and intentionally exposing anyone to the chemical.

The warning can be given by such means as labeling a consumer product, shelf labeling in stores, posting signs at the workplace or by publishing notices in a newspaper.

The warning is required unless a business demonstrates that exposure due to use of its product poses no significant risk.

Proposition 65

Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, was an initiative passed in November 1986. The goal of the measure’s authors was to protect Californians and state drinking water sources from chemicals known to cause cancer, birth defects or other reproductive harm, and to inform residents about exposures to such chemicals.

Proposition 65 is enforced through citizen civil lawsuits, as well as lawsuits filed by the attorney general or other government prosecutors.

The proposed regulation is available at the OEHHA website, www.oehha.ca.gov.

Public Comments

OEHHA is accepting public comments on the proposed No Significant Risk Level of 16 micrograms per day until 5 p.m. on February 21.

Written comments can be sent by e-mail, mail or fax to: Monet Vela, Office of Environmental Health Hazard Assessment, Proposition 65 Implementation Program, P.O. Box 4010, Sacramento, CA 95812-4010; Fax: (916) 324-1786; Telephone: (916) 323-2517; mvela@oehha.ca.gov.

Staff Contact: Robert Callahan
Bipartisanship to Create Jobs Is President’s Call to Action

From Page 1
and China that will support more than 250,000 jobs here in the United States. “And last month, we finalized a trade agreement with South Korea that will support at least 70,000 American jobs. This agreement has unprecedented support from business and labor, Democrats and Republicans—and I ask this Congress to pass it as soon as possible.

“Now, before I took office, I made it clear that we would enforce our trade agreements, and that I would only sign deals that keep faith with American workers and promote American jobs. That’s what we did with Korea, and that’s what I intend to do as we pursue agreements with Panama and Colombia and continue our Asia Pacific and global trade talks.”

Regulations

“To reduce barriers to growth and investment, I’ve ordered a review of government regulations. When we find rules that put an unnecessary burden on businesses, we will fix them. But I will not hesitate to create or enforce common-sense safeguards to protect the American people.

“That’s what we’ve done in this country for more than a century. It’s why our food is safe to eat, our water is safe to drink, and our air is safe to breathe. It’s why we have speed limits and child labor laws.

“It’s why last year, we put in place consumer protections against hidden fees and penalties by credit card companies and new rules to prevent another financial crisis.

“And it’s why we passed reform that finally prevents the health insurance industry from exploiting patients.”

Corporate Tax Rate

“But to help our companies compete, we also have to knock down barriers that stand in the way of their success.

“For example, over the years, a parade of lobbyists has rigged the tax code to benefit particular companies and industries. Those with accountants or lawyers to work the system can end up paying no taxes at all. But all the rest are hit with one of the highest corporate tax rates in the world. It makes no sense, and it has to change.

“So tonight, I’m asking Democrats and Republicans to simplify the system. Get rid of the loopholes. Level the playing field. And use the savings to lower the corporate tax rate for the first time in 25 years—without adding to our deficit.”

Education

“Race to the Top is the most meaningful reform of our public schools in a generation. For less than 1 percent of what we spend on education each year, it has led over 40 states to raise their standards for teaching and learning. And these standards were developed, by the way, not by Washington, but by Republican and Democratic governors throughout the country.

“And Race to the Top should be the approach we follow this year as we replace No Child Left Behind with a law that’s more flexible and focused on what’s best for our kids... We want to reward good teachers and stop making excuses for bad ones. And over the next 10 years, with so many baby boomers retiring from our classrooms, we want to prepare 100,000 new teachers in the fields of science and technology and engineering and math.”

Energy

“Now, clean energy breakthroughs will only translate into clean energy jobs if businesses know there will be a market for what they’re selling. So tonight, I challenge you to join me in setting a new goal: By 2035, 80 percent of America’s electricity will come from clean energy sources.

“Some folks want wind and solar. Others want nuclear, clean coal and natural gas. To meet this goal, we will need them all—and I urge Democrats and Republicans to work together to make it happen.”

Republican Response

“What we already know about the President’s health care law is this: Costs are going up, premiums are rising, and millions of people will lose the coverage they currently have. Job creation is being stifled by all of its taxes, penalties, mandates and fees.

“Businesses and unions from around the country are asking the Obama administration for waivers from the mandates. Washington should not be in the business of picking winners and losers. The President mentioned the need for regulatory reform to ease the burden on American businesses. We agree—and we think his health care law would be a great place to start...

“Our forthcoming budget is our obligation to you—to show you how we intend to do things differently; how we will cut spending to get the debt down, help create jobs and prosperity, and reform government programs. If we act soon, and if we act responsibly, people in and near retirement will be protected.

“These budget debates are not just about the programs of government; they’re also about the purpose of government...

“We believe government’s role is both vital and limited—to defend the nation from attack and provide for the common defense, to secure our borders, to protect innocent life, to uphold our laws and Constitutional rights, to ensure domestic tranquility and equal opportunity, and to help provide a safety net for those who cannot provide for themselves...

“Limited government also means effective government. When government takes on too many tasks, it usually doesn’t do any of them very well. It’s no coincidence that trust in government is at an all-time low now that the size of government is at an all-time high.

“The President and the Democratic leadership have shown, by their actions, that they believe government needs to increase its size and its reach, its price tag and its power.

“Whether sold as ‘stimulus’ or repackaged as ‘investment,’ their actions show they want a federal government that controls too much; taxes too much; and spends too much in order to do too much.

“And during the last two years, that is exactly what we have gotten—along with record deficits and debt—to the point where the President is now urging Congress to increase the debt limit.

“We believe the days of business as usual must come to an end. We hold to a couple of simple convictions: Endless borrowing is not a strategy; spending cuts have to come first...

“We need to reclaim our American system of limited government, low taxes, reasonable regulations, and sound money, which has blessed us with unprecedented prosperity. And it has done more to help the poor than any other economic system ever designed. That’s the real secret to job creation—not borrowing and spending more money in Washington.

“Limited government and free enterprise have helped make America the greatest nation on earth.”
CalChamber Urges Congress to Approve Trade Pacts with Korea, Colombia, Panama

The U.S. House Ways and Means Committee began consideration this week of long-pending free trade agreements (FTA) with Colombia, Panama and South Korea.

The California Chamber of Commerce and a broad-based coalition are urging congressional approval of the FTAs. “These free trade agreements will ensure that the United States may continue to gain access to world markets, which will result in an improved economy and additional employment of Americans,” CalChamber President and CEO Allan Zaremberg said in a letter to the committee chairman.

Also voicing support for the FTAs was the California Coalition for Free Trade, a broad-based group of companies and business organizations working to secure a national free trade agenda.

CalChamber member Roy Paulson of Paulson Manufacturing was among five witnesses to present testimony in support of the FTAs on the House Ways and Means Committee’s first day of hearings on the subject.

Vote Due Soon

Congressional leaders of both parties have indicated their intent to bring these agreements up for a vote in the months ahead. The trade agreements were concluded in 2007.

In his State of the Union address on January 25, President Barack Obama asked Congress to pass the U.S.-Korea Free Trade Agreement “as soon as possible,” noting that it will support “at least 70,000 jobs.”

The same day, Senator Rob Portman (R-Ohio) and Senator Joe Lieberman (I-Connecticut) introduced S. 98, expressing Congress’s support for passing the pending FTAs with South Korea, Colombia and Panama, plus extending trade negotiating authority for President Obama. That authority expired in June 2007.

Once legislation is submitted, both houses of Congress will vote “yes” or “no” on the agreement with no amendments within 90 session days.

The trade agreements with Colombia, Panama and South Korea would open new markets to U.S. exports and, in turn, benefit American businesses, farmers, workers and consumers. The U.S. International Trade Commission has estimated that the three FTAs combined would increase U.S. exports by at least $13 billion.

The benefits of trade agreements also are long-lasting. Since 2000, U.S. exports to the 13 countries with which the United States has implemented trade agreements have grown almost twice as fast as worldwide exports.

Colombia and Panama

Colombia and Panama are dynamic economies with pro-U.S. governments, and U.S. trade with these countries has nearly doubled over the last four years. More than 19,500 U.S. companies export their products to Colombia and Panama, and more than 80 percent of these are small and medium-sized companies. U.S. farmers and ranchers sell more than a billion dollars worth of agricultural products to these markets. U.S. manufacturers are enjoying double-digit sales growth, which will only grow when the tariffs are removed.

A U.S.-Colombia FTA will increase momentum toward lowering trade barriers and set a positive example for other small economies in the Western Hemisphere. In 2009, California exported approximately $320 million to Colombia, making it the state’s 35th largest export market.

Panama has the highest gross domestic product (GDP) per capita in Central America. Its economy is based largely on the services sector, which accounts for nearly 80 percent of the GDP.

Services include the Panama Canal, banking, insurance, container ports, and medical and health. Panama has been hailed for the strong growth in its economy and its commitment to fighting corruption, combating narco-trafficking, and promoting democracy.

In 2009, the United States had a trade surplus with Panama, with exports totaling $4.3 billion and imports slightly above $300 million. California exports to Panama totaled $228 million, making it California’s 43rd largest export market.

South Korea

The trade agreement with the Republic of Korea is another big win for the California and U.S. economies for many of the same reasons.

South Korea is the seventh largest U.S. export market in the world (and the sixth largest market for farm exports). In 2009, U.S. exports to South Korea reached $28.6 billion, with U.S. small and medium-sized companies accounting for a third of this total.

By giving U.S. exporters a leg up in the world’s 10th largest economy, the agreement with South Korea will enhance the ability of U.S. companies to compete in the dynamic Asian economy. South Korea is California’s fifth largest exporting partner. In 2009, California exported goods worth $5.9 billion to South Korea.

Colombia, Panama and South Korea have all concluded trade agreements with major trading partners and export competitors of the United States. U.S. failure to implement trade agreements with these countries could severely disadvantage U.S. exporters and jeopardize U.S. job creation.

Increased market access achieved through trade agreements has played a major role in the nation’s success as the world’s leading exporter. These FTAs will ensure that the United States may continue to gain access to world markets, which will result in an improved economy and additional employment of Americans.

Action Needed

The Ways and Means Committee will be accepting submissions for the hearing record until the close of business on February 8. To submit, follow the appropriate link on the hearings page of the committee website, waysandmeans.house.gov. An easy-to-modify letter can be found in the CalChamber Grassroots Action Center at www.calchambervotes.com.

More information on the trade agreements can be found on the Colombia, Panama and South Korea portal pages at www.calchamber.com/international.

Staff Contact: Susanne Stirling
Adult Child Health Coverage Has California Tax Implications

California’s tax code has yet to be revised to conform with federal tax treatment of adult children remaining on their parents’ health insurance plans. Consequently, the value of the coverage is considered income for state tax purposes.

The state Employment Development Department (EDD) released a notice on January 24 regarding the manner in which employers can calculate the “value” of the medical coverage to the adult employee for purposes of determining the employee’s income.

The EDD stated that the income to the employee “would be the difference between the insurance premiums paid including the non-dependent adult child and the amount that would have been paid without the adult child.” This additional income must be reflected on the employee’s W-2.

A significant provision of the federal health care reform package allowed adult children to remain on their parents’ insurance plans up to 26 years of age, regardless of whether such children qualify as a “dependent” for tax purposes.

The federal health care reform package also amended the Internal Revenue Code to provide that the premiums an employee pays for insurance coverage for an adult child are excluded from the employee’s taxable wages.

In September 2010, California extended the eligibility age for health care coverage to children up to 26 years old in order to conform to federal law. California, however, has yet to revise its tax code to conform to federal law as to the taxable treatment of such coverage. The value of the medical coverage provided to an adult child up to 26 years of age, who does not otherwise qualify for tax-free medical coverage, is currently considered a part of the employee’s gross wages for purposes of California’s personal income tax and must be reported on the employee’s W-2.

Staff Contact: Jennifer Barrera

Panel to Address Changes to Disabilities Act, Service Animal Definition

The State Board of Guide Dogs for the Blind will host a panel discussion on the service animal regulation changes in the Americans with Disabilities Act (ADA) set to take effect in March.

The panel discussion will take place on February 23 from 9 a.m. to noon at the Department of Consumer Affairs on North Market Blvd., Sacramento. Panelists from the U.S. Department of Justice and Disability Rights California will answer questions after the discussion.

A live webcast of the event also will be available at www.dca.ca.gov.

The informational event allows business owners who serve the public to ask questions on the new rules (for example, “emotional support” animals will not be considered service animals), and rights and responsibilities for businesses in accommodating service animals (which will now be limited to dogs and, in some cases, miniature horses).

A comparison of the new federal rules to state service animal access laws also will be discussed.

For more information, visit www.guidedogboard.ca.gov.

CalChamber-Sponsored Seminars/Trade Shows

More information at www.calchamber.com/events.

Business Resources


Preventing Workplace Fraud Webinar On Demand. CalChamber. (800) 331-8877.

International Trade


7th World Chambers Congress. International Chamber of Commerce World Chambers Federation. June 8-10, Mexico City. (212) 703-5065.


CalChamber Calendar

Environmental Regulation Committee:
March 10, San Diego

Water Resources Committee:
March 10, San Diego

Board of Directors:
March 10–11, San Diego

International Trade Breakfast:
March 11, San Diego

CalChamber Fundraising Committee:
March 11, San Diego

California Business Summit/Host Breakfast: June 1–2, Sacramento

Visit www.calchamber.com for products and services to help you do business in California.
CalChamber, Restaurant Association Join to Offer *HRCalifornia Express*

The California Chamber of Commerce has partnered with the California Restaurant Association (CRA) to offer CRA members access to *HRCalifornia Express*, an online one-stop shop for human resources tools and solutions. *HRCalifornia Express* is available now through the CRA’s online store.

“We are very excited to extend our products to the California Restaurant Association and its members,” said CalChamber President and CEO Allan Zaremberg. “CalChamber has delivered high-quality products for more than 30 years that help businesses understand and stay compliant with California’s complex employment laws. This new partnership will strengthen even more California businesses who are striving to stay current, compliant and out of court.”

The online library includes a host of resources regarding labor law compliance, which operators can access quickly and easily via a dashboard that clearly lays out various topics, such as benefits, compensation and termination, as well as a host of tools, such as forms and compliance posters.

“We are thrilled to present this partnership with CalChamber as we strive to provide our members with the highest quality products and services they need to be better operators,” CRA President & CEO Jot Condie said. “Our members will benefit from CalChamber’s proven track record, and answers to their human resources questions that are a quick click away.”

CalChamber is the largest broad-based business advocate to government in California. Membership represents one-quarter of the private sector jobs in California and includes firms of all sizes and companies from every industry within the state. Leveraging its frontline knowledge of laws and regulations, CalChamber provides products and services to help businesses comply with both federal and state law. CalChamber, a not-for-profit organization with roots dating to 1890, promotes international trade and investment in order to stimulate California’s economy and create jobs.

The California Restaurant Association is the definitive voice of the California restaurant and hospitality industry and has served to protect and promote its success since 1906. The restaurant industry is one of the largest private employers in California, representing more than 1.4 million jobs. Restaurants produce more than $56 billion in sales annually and generate more than $4.5 billion in sales tax for the state.

**Staff Contact:** Richard Lovisolo

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The *2011 HR Handbook for California Employers* makes it easy to develop solid human resource practices for your business. It’s written in plain language, includes access to required and recommended forms, and works for companies of every size.

Order online at [www.calchamberstore.com](http://www.calchamberstore.com) or call (800) 331-8877

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**Lessen your stress with the 2011 HR Handbook for California Employers**
Non-Compliance with Regulations Could Mean Fines Up to $17,000.

It can happen every year and often more than once a year—a change in California and federal employment laws. As a California employer, you should display new posters and be prepared to hand out pamphlets reflecting these changes.

Bring your compliance up to date with the CalChamber 2011 Required Notices Kit. Updates include:

- Poster: Notice to Employees—“Injuries Caused by Work” (as of 1/1/11);
- Poster: Updated Safety and Health Notice (Cal/OSHA) (as of 1/1/11);
- Mandatory Updates to Workers’ Compensation Pamphlets (as of 10/8/10);
- Mandatory Updates to Unemployment Insurance Pamphlets (as of 11/10).

The CalChamber 2011 Required Notices Kit includes:

- One convenient space-saving poster displaying the latest updates of all 16 state and federal required employee notices every California employer must post.
- All five required employee pamphlets updated as necessary for 2011.

Order by 2/11/11 and get a certificate for a FREE 1 lb. box of See's Candies.* Use priority code KPS2.

*CalChamber Preferred and Executive members will save an additional 20%.

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