



# THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH

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## California Capitol Hill Bulletin

### Volume 13, Bulletin 7 – March 10, 2006

*To expand communications between Washington and California, the California Institute provides periodic news bulletins regarding current activity on Capitol Hill that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.*

#### REP. BILL THOMAS ANNOUNCES PLAN TO RETIRE FROM CONGRESS AT END OF 2006

On March 6, 2006, Rep. William Thomas (Bakersfield) of California's 22<sup>nd</sup> District, announced his plans to retire from Congress upon completion of his 14<sup>th</sup> term as a federal lawmaker. Rep. Thomas, who is Chair of the powerful House Ways and Means Committee, did not rule out the possibility of continuing public service in some other capacity once his term expires after the December 2006 adjournment of the 109<sup>th</sup> Congress. The former community college professor also expressed his continued commitment to carrying his committee's legislative agenda forward in the months ahead.

Rep. Thomas, age 64, is widely known for his sharp wit, tenacity, and encyclopedic knowledge of policy details. He has served as Chair of the Ways and Means Committee since 2001 and was responsible for helping to shepherd many of President Bush's tax cut provisions through the House. Other legislative achievements include the enactment of fast track trade authority – giving the executive branch authority to negotiate trade agreements without amendment by Congress – and passage of the Medicare overhaul plan. Under Republican chairmanship term limit rules, Thomas has to give up the Ways and Means chairmanship at the end of this legislative cycle after 6 years in charge. Reps. Nancy Johnson (CT), Jim McCrery (LA), and E. Clay Shaw (FL) are considered candidates to succeed him as Chair.

Although stating his intent to retire from his duties, Chairman Thomas believed that more achievements would be accomplished before that time. Making his announcement at a news conference in Bakersfield, Thomas pledged to continue working to “tackle the problems caused by our outdated entitlement programs and our currently flawed tax structure,” before he completes his service. This year, Chairman Thomas has been integrally involved in the effort to approve a \$70 billion tax relief package (HR 4297).

#### CONTENTS:

Rep. Bill Thomas Announces Plan To Retire From Congress at End of 2006 .....	1
Senate Judiciary Digs Into Immigration Reform .....	2
House Supplemental Will Not Include Funding For California Levees, But Proponents Win Pledge of Regular 2007 Appropriations Bill Support .....	2
House Passes Bill To Standardize Laws on Food Warnings .....	3
Agriculture Committee Field Hearing Held In Stockton on 2007 Farm Bill .....	3
House Ways and Means Committee Reports Welfare Reform Successes and Projects Further Gains .....	4
Senate Trade & Tourism Subcommittee Examines China Piracy; MPAA Announces China Agreement .....	5
Mexico's Milk Trade Restrictions to Affect California Dairies .....	5
Senate-Approved \$1 Billion LIHEAP Supplemental Fails to Improve Formula's Equitableness, House Floor Action Next Week .....	6
Witnesses Laud Voting Rights Act Successes, Problems Still Exist .....	7
House Passes San Diego Water Storage Bill .....	8
Capitol Hill Briefing To Focus on The Investigation of Dark Energy .....	8
PPIC Luncheon Briefing on Monday, March 13: Trade with Mexico and California Jobs .....	8
“Orphan Works” Issue Warrants Copyright Act Amendment, Copyright Office Testifies .....	9
Heritage Foundation Reports Discuss U.S. Immigration Policy And Confronting the Reality of a Temporary Guestworker Program .....	10
California Perchlorate Contamination Remediation Act Introduced .....	10
Brookings Institution Examines Metro Area Minority Population Shifts .....	11

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The departure of Rep. Thomas is not likely to put party control of the seat in jeopardy. Thomas' district is among the safest Republican strongholds in the state, with 68 percent of voters supporting President Bush in 2004. Potential successors for the Bakersfield-area seat had been expected to include California Assembly Minority Leader Kevin McCarthy and California State Senator Roy Ashburn (both Republicans). However, on Thursday, March 9, Ashburn instead announced that he would run for another term and endorsed McCarthy for the Congressional nomination.

Had Chairman Thomas decided to remain in Congress, he would have been a strong contender to take the helm of another Congressional Committee, perhaps the Budget Committee. (The House Republican leadership holds to a six-year limit on chairmanships, and Rep. Thomas will have reached that limit by the end of this year.)

### SENATE JUDICIARY DIGS INTO IMMIGRATION REFORM

The Senate Judiciary Committee held two days of markup on Committee Chairman Arlen Specter's (PA) immigration reform proposal this week.

On Wednesday, the Committee had trouble holding a quorum to work on the bill and only four amendments were adopted. On Thursday, however, the committee appeared to hit its stride and more than a dozen amendments were adopted. Among the amendments accepted were ones to:

- authorize federal reimbursement to state and local authorities for the cost of training state and local law enforcement to do immigration enforcement;
- exempting organizations that provide humanitarian assistance to refugees from the prohibitions against harboring immigrants; and
- increased the authorization for border patrol agents from 2,000 annually to 2,400 a year.

The Committee, however, failed for the second day to find common ground on an amendment offered by Sen. Richard Durbin (IL) to strike the provision in the bill which makes it a criminal offense to be an illegal immigrant in the United States. The amendment was first debated and held over on Wednesday and then again on Thursday. It would make it a misdemeanor punishable by six months in prison to be illegally in the United States. Currently, it is only a civil offense.

The Committee will resume consideration of the legislation next week.

### HOUSE SUPPLEMENTAL WILL NOT INCLUDE FUNDING FOR CALIFORNIA LEVEES, BUT PROPONENTS WIN PLEDGE OF REGULAR 2007 APPROPRIATIONS BILL SUPPORT

During full committee consideration on Wednesday, March 8, 2006, the House Appropriations Committee declined to add \$41 million in emergency spending to the pending supplemental appropriations bill to speed up work on repairing Sacramento and Delta levees. The \$91 million supplemental will provide additional funding for the Iraq war and Hurricane Katrina repairs.

The amendment was offered by Rep. John Doolittle (Roseville), who sits on the Committee's Energy and Water Subcommittee. In a colloquy, Appropriations Chair Jerry Lewis (Redlands) and Rep. David Hobson (OH) pledged to support having the money included in the regular FY 2007 appropriations, but objected

to including it as emergency funding in the supplemental. Governor Schwarzenegger and members of the California congressional delegation had hoped to get a head start on beginning repair work in the spring and summer by including the funding in the supplemental. The regular FY 2007 appropriations measure will probably not be enacted until much later in the fall.

Nevertheless, Rep. Doolittle and Rep. Doris Matsui (Sacramento), another strong proponent of the levee funding, hope that it can be added either during Senate consideration of the supplemental or in conference. Sen. Dianne Feinstein, who also supports the funding, sits on the Senate Appropriations Committee.

### **HOUSE PASSES BILL TO STANDARDIZE LAWS ON FOOD WARNINGS**

On Wednesday March 8, 2006, the House passed the National Uniformity for Food Act by a margin of 283 to 139. The bill, H.R. 4167, long sought by the food industry, would prohibit states from enforcing food-contamination standards and warning labels that are stricter than federal requirements. The bill, which the House Energy and Commerce Committee approved in December 2005, charges the Food and Drug Administration (FDA) with setting national food-safety standards, including labels that advise consumers on potentially harmful ingredients.

The bill would allow a state to petition the FDA for exemptions if they felt stronger standards were required in their state. The Congressional Budget Office has estimated it will cost the federal government about \$100 million over the next five years so that the FDA can consider the petitions likely to be filed by states seeking exemptions.

During floor consideration, the House defeated an amendment, 161-259, that would have let states require labeling of food products with ingredients that might cause cancer, birth defects, reproductive health issues or allergic reactions. They did accept, however, an amendment offered by Rep. Dennis Cardoza (Atwater) to mandate speedy FDA review of state petitions for permission to require warning labels for agents that cause cancer or birth defects. The vote on the Cardoza amendment was 417-0.

Several state agriculture departments and 39 state attorneys general opposed the bill. Several members of the California Congressional Delegation opposed the bill, because many of the state's strict food labeling regulations will be superceded should the bill pass. Senators Dianne Feinstein and Barbara Boxer, along with five other Senators, sent a letter in opposition to the bill before its consideration on the House floor. The legislation, if enacted, would effectively overturn some provisions of California's Proposition 65 which requires warnings on labels about chemicals that cause cancer, birth defects, and other reproductive harm.

Proponents, however, argue that it was too costly and burdensome for the food industry to have to comply with the disparate requirements of fifty states.

### **AGRICULTURE COMMITTEE FIELD HEARING HELD IN STOCKTON ON 2007 FARM BILL**

On March 3, 2006, the House Agriculture Committee held a field hearing in Stockton to discuss the Farm Bill, which Congress is expected to reauthorize in 2007.

Among those testifying were twelve Californians representing different entities and sectors of the agricultural community: Philip LoBue (citrus), Robert Ferguson (asparagus and hay), Vito Chiesa (peach, walnut, almond), Bruce Fry (winegrape), Al Montna (rice), John Pucheu (cotton), Jack Hamm (dairy), Robert Shipley (poultry), Bruce Hafenfeld (cattle), Bill Tracy (cotton), Tonya Antle (fruits and vegetables), and Earl Perez (representing his family's business and affiliates).

Although the witnesses varied in the type of agricultural sector they were representing (i.e. dairy, cotton, poultry, fruit, and cattle), they advocated for similar policies to be included in the 2007 Farm Bill. Nearly all the witnesses stated the necessity for access to foreign markets to increase competitiveness via the Market Access Program (MAP). Also, the majority of witnesses supported a Specialty Crop Block Grant Program. Likewise, there was strong support for the Environmental Quality Incentives Program (EQIP), as well as support for more money for research.

Some concerns raised by a few of the witnesses were: 1) the need for a sustainable guest worker program; 2) better communication among government agencies; 3) more flexibility in federal regulations; 4)

improvements to disaster programs; 5) holding all countries (Third World or otherwise) to the same standards for imports; and 6) broadening the language of the bill so that specialty crop producers are not excluded from participating in existing programs.

Still other ideas presented to the Committee to strengthen the Farm Bill included mandating funding for certain programs and establishing new departments and/or branches of the Department of Agriculture and Department of Interior to promote agriculture policies.

Additional information is available from <http://agriculture.house.gov> .

## **HOUSE WAYS AND MEANS COMMITTEE REPORTS WELFARE REFORM SUCCESSES AND PROJECTS FURTHER GAINS**

A recent report published by the House Committee on Ways and Means touts the benefits of the 1996 welfare reform law known as the Personal, Responsibility, Work, Opportunity, and Reconciliation Act (PRWORA, PL 104-193) and stipulates that new welfare legislation contained in the 2005 Deficit Reduction Act (DRA) would build upon the successes achieved in the prior law. Entitled “*1996 Welfare Reforms Reduce Welfare Dependence*,” the report was released on February 27, 2006.

The report, authored by the Subcommittee on Human Resources staff, presents statistics to illustrate the ways in which welfare reform transformed an entitlement program and helped millions find work and reduce their dependence on government assistance. According to the report’s authors, the number of recipients receiving cash aid from federal welfare programs dropped by 64 percent between August 1996 and June 2005, that is 8 million parents and children that moved off welfare; a program that formerly had an average enrollment duration of 13 years. However, the report does not provide longitudinal data to identify whether these former welfare families made economic advancements as a result of welfare reform policies or if the families in question fell further into poverty. The report suggests that the prior system encouraged a jump in the number of out-of-wedlock births and not enough incentives for welfare beneficiaries to seek employment.

The report indirectly attributes the landmark successes in the reduction of persons enrolled in welfare programs to welfare reform provisions alone. Reforms in the 1996 law -- such as the establishment of work participation requirements, the institution of 5-year time limits on cash assistance, the creation of a caseload reduction credit award system, and the new fixed block grant financing method -- were more significant factors in reducing welfare dependence more significantly than the robust boom of the US economy that occurred at about the same time as welfare reform’s implementation, according to the report.

The report argues that the revised caseload tracking system contained in the DRA further advances PRWORA’s reforms and keeps to the spirit of the initial law. New welfare legislation that was enacted earlier this year as part of DRA would revise the case load reduction credit system, provide \$1 billion in additional child care support over 6 years, and require that each state demonstrate that 50 percent of its welfare recipients be engaged in work related activities. In a statement, Subcommittee on Human Resources Chair Wally Herger (Marysville) expressed his backing for the new legislation, predicting that it would “improve self-sufficiency, and elevate even more vulnerable families out of poverty in the years ahead”.

The policy gains claimed by the authors due to the above welfare revisions fly in the face of a projected ballooning in state costs as a result of the new law. According to the California Legislative Analyst’s Office (LAO), the new requirements and potential penalties in store for California for non-compliance with DRA’s provisions could cost California over \$1.1 billion over 6 years. California receives 22 percent of welfare grants from the Temporary Assistance for Needy Families (TANF) block grant. The state receives a more modest 10.7 percent share of child care apportionments. Using the methodology outlined in the new law, the state would have to increase its work participation rates from 23 percent to 50 percent (all families engaged in work) and from 32 percent to 90 percent (single parent families engaged in work).

To mark the 10<sup>th</sup> anniversary of welfare reform, the Ways and Means Committee is planning to release a series of future reports chronicling the successes of the landmark welfare law. For more information, visit <http://waysandmeans.house.gov/news.asp?formmode=release&id=378> .

## **SENATE TRADE & TOURISM SUBCOMMITTEE EXAMINES CHINA PIRACY; MPAA ANNOUNCES CHINA AGREEMENT**

The Senate Committee on Commerce, Science, and Transportation's Subcommittee on Trade, Tourism, and Economic Development held a hearing on Piracy and Counterfeiting in China on Wednesday, March 8, 2006. The hearing focused on China's growing piracy and counterfeit rings and their impacts on U.S. domestic industries and commerce. Witnesses were: Chris Israel, Coordinator for International Intellectual Property Enforcement, U.S. Department of Commerce; Franklin Vargo, Vice President of International Economic Affairs, National Association of Manufacturers; Andy York, Vice President, Leupold & Stevens, Inc., and Professor William Alford, Director of East Asian Studies, Harvard Law School.

Mr. Israel outlined the steps the Administration is taking to bring China into line on intellectual property enforcement, and testified that in small steps the situation is getting better. Nevertheless, Sen. Byron Dorgan (ND), ranking member of the Subcommittee, criticized the Administration for not using all possible means to force China to crack down on piracy. Sen. Dorgan argued that the Administration's trade policy is hampered by State Department concerns over offending China and he opined that American businesses are being harmed as a result.

Mr. York testified to the problems his company, which manufactures world-renowned riflescopes, has had in China where a Chinese company has trademarked the Leupold name and attempted to extort money from the company to buy back its own trade name. Mr. York also said that his recent search on eBay has turned up counterfeit scopes from foreign sites being sold or bid out as Leupold scopes for substantially less than the genuine scopes.

Professor Alford testified that although China has a fairly complete set of intellectual property laws, but what it lacks is effective enforcement of them. He argued that it is too easy to say that China just lacks the will to enforce its laws, and proffered that the concept of intellectual property rights is new to the Chinese and somewhat tainted because it was initially forced on them by Western attempts to control real property in the country.

For all of the testimony visit the Committee's website at: <http://www.commerce.senate.gov> .

In a related development, the Motion Picture Association of America announced on March 3, 2006 that it has signed an agreement with the China Film Copyright Protection Association (CFCPA), China's 62-member film industry association, laying down a framework for cooperation on intellectual property rights education and joint anti-piracy activities. Under the terms of the Memorandum, the MPA and CFPCA will share anti-piracy information with each other in an effort to further the scope and effectiveness of government and industry anti-piracy efforts in China. The MPA and CFPCA also agreed to jointly support the anti-piracy efforts of Chinese and U.S. law enforcement agencies as appropriate. For more information, visit <http://www.mpa.org/PressReleases.asp> .

## **MEXICO'S MILK TRADE RESTRICTIONS TO AFFECT CALIFORNIA DAIRIES**

The government of Mexico on Tuesday, February 28, 2006, announced the extension of a 30 percent import tariff on U.S. milk products in an effort to help protect some local producers who claim hardship because of surpluses in Mexico's domestic market. According to the California Farm Bureau Federation, Mexico is the top export market for the state's dairy products, and California producers of non-fat dry milk will be hit especially hard by Mexico's restrictive action.

In announcing the import tax, Mexico's Economy Department did not say when or whether the tariff would expire. In addition, the Mexican government will also limit import quotas of U.S. milk for the private sector.

In a press statement, the government indicated that, "The analysis carried out by the Economy Ministry and Agriculture Ministry makes it foreseeable that the excess milk phenomenon will be temporary and that marketing conditions will normalize in the coming weeks." Citing sales difficulties experienced by dairy organizations in the western state of Jalisco – attributed to increased imports and an atypical drop in domestic

consumption – the Mexican dairy industry has agreed to increase purchases from Jalisco area milk producers by 1 million liters.

### **SENATE-APPROVED \$1 BILLION LIHEAP SUPPLEMENTAL FAILS TO IMPROVE FORMULA'S EQUITABLENESS, HOUSE FLOOR ACTION NEXT WEEK**

On March 7, 2005, after a thorny debate which divided Republicans, the Senate voted to approve S.2320, providing an additional \$1 billion in energy assistance grants for poor families. Sen Olympia Snowe (ME) spearheaded the effort to provide the Low Income Home Energy Assistance Program (LIHEAP) with an extra infusion of funding. The boost was almost blocked by fiscally conservative Senators as well as those representing Southern and Western portions of the country (which tend to need cooling aid more than heating aid), but Snowe's bill ultimately won voice-vote approval.

The program's distribution formula provides California and other high-population warm weather states a very small share of program dollars compared to other low income federal assistance. California's share of total grants in FY 2005 was \$86 million out of \$1.9 billion apportioned. The fate of the Snowe measure is unclear in the House, where more populous Southern and Western states have greater influence.

LIHEAP provides states with federal subsidies for low income households struggling to pay for energy utilities. The program was appropriated \$2 billion for FY 2006, but that figure falls far short of the \$5.1 billion authorization level outlined in recent energy authorization law.

Late last year, a group of lawmakers from Northern and Eastern states led by Sen. Snowe pushed for a \$1 billion LIHEAP supplemental appropriation for FY 2007. S.2320 makes these FY 2007 supplemental dollars available in FY2006 in order to address escalating energy prices and harsh winter forecasts.

Several Senators refused to support the Snowe provision due to objections about the fairness of how her proposal would distribute the money among the states. The LIHEAP formula distribution system already heavily favors cold weather states over warm weather states, thanks to a provision requiring most funding be distributed based on a 1984 hold-harmless feature that relies on outdated population and energy consumption data. The distribution of funds has not changed in more than 20 years.

A second, smaller LIHEAP account (termed "emergency" or discretionary funding) has historically distributed funds according to Administrative fiat. The original Snowe measure language would have given the Administration the authority to distribute 75 percent of the \$1 billion LIHEAP supplemental via this discretionary or contingency basis, which has even more significantly favored cold weather states over warmer ones, according to news sources; the remaining 25 percent then would have been distributed on the basis of the regular LIHEAP formula. However, in order to avoid an internecine fall out among GOP Senators from different geographic areas, Senate Majority Leader Bill Frist (TN) worked with Snowe to amend the measure and reduce the share of contingency dollars from 75 percent of the total to 50 percent, leaving the other 50 percent to be distributed by formula.

However, no effort was made to review the fairness of the regular formula as a way of assuaging the concerns of Southern and Western lawmakers. Sen. Snowe also had to stave off opposition from fiscal conservatives seeking to sink the supplemental because it lacked a plan to offset the additional \$1 billion cost to the federal budget.

California has perennially received a low share of LIHEAP formula grants, but the state's experience with discretionary grants has varied. The state received a somewhat larger share of emergency LIHEAP dollars in FY 2005 (7.9 percent) than the amount apportioned to the state under the regular LIHEAP formula in the same year (4.6 percent). Under the current formula structure, California can receive no more than 6.3 percent of total LIHEAP appropriations, far below the state's population share (12 percent) and its even larger share of persons in poverty.

According to press reports, the House is likely to consider the Senate-passed measure on the floor during the week of March 13. Members of the fiscally-conservative Republican Study Committee are reportedly expected to object to the increased spending.

## **WITNESSES LAUD VOTING RIGHTS ACT SUCCESSES, PROBLEMS STILL EXIST**

On March 8, 2006, lawmakers from the House Judiciary Subcommittee on the Constitution heard testimony from a panel of voting rights advocates and experts on the need for an extension of the Voting Rights Act (VRA). All panelists agreed that the Act, a principle minority voter safeguard first established in 1965, was an important law that deserved continuation.

The VRA was enacted to address and reverse racial and minority language discrimination in national and state elections systems. It was revised by Congress on four previous occasions, in 1970, 1975, 1982, and 1992, and has received bipartisan support for a new reauthorization of certain temporary provisions contained in the law, including the backing of President Bush. Section 5 of VRA which requires the Department of Justice (DOJ) to pre-clear any proposed changes to voting practices in covered jurisdictions will expire at the end of this fiscal year as well as Section 203, which gives minority groups who speak foreign languages voter assistance.

Subcommittee Chair Steve Chabot (OH), conducting his panel's tenth and final review of the VRA law, noted that VRA had instituted measures helping to end the nation's "sad history of discrimination". He noted that at each prior reauthorization phase, Congress had gathered evidence and concluded that exceptional conditions still existed to merit the Act's continuation.

Ranking Democrat Jerrold Nadler (NY) asserted that exceptional conditions in question existed and that there was a documented need for VRA's renewal. "The right to vote is the foundation of all other rights" Nadler commented.

Rep. Linda Sanchez (Lakewood) said she had first hand knowledge of the VRA's power because of the large numbers of Asians and Latinos in her district. Rep. Sanchez sitting in on the hearing as a guest, cited reports from non-governmental groups to reinforce her view that VRA was just as necessary as ever to prevent discriminatory voting obstacles.

Separate reports on the issue had been released recently by the National Commission on the Voting Rights Act, the Leadership Commission on Civil Rights, and the American Civil Liberties Union (ACLU). All three organizations provided witnesses to submit testimony at the hearing and to answer questions from members.

Bill Lann Lee, testifying on behalf of the VRA Commission (which he chairs), stated that the bipartisan Commission's report extended back to 1982 and used data compiled from 10 field hearings, over 100 witnesses, and a variety of sources. The Commission's report found that over the course of 23 years, DOJ had managed 1,100 voting changes in 650 jurisdictions. According to Mr. Lee, VRA had prevented and remedied violations. In spite of the successes of VRA, he believed there was a persistence of voting rights discrimination. Joe Rogers, also speaking on behalf of the Commission, reported that the nation had made strides but that both political parties were responsible for discrimination. He used the case of Monterey County, California to illustrate his point. Mr. Rogers suggested that voters in that district attempted to switch the district from a single member district to an at large one to reduce the influence of Latino voters there. He also implied that Section 203 was necessary, noting that Los Angeles County officials had received 135,000 inquiries requesting multilingual voter requests.

Nadine Strossen, President of the ACLU outlined the findings of her organization's report on the VRA. She advocated in favor of reauthorization and strengthening of the VRA's expiring provisions and commented on the 5 major findings of her report. The report discovered that Section 5 successfully blocked discriminatory voting changes, "bloc" or racially polarized voting still existed, minority political participation continued to experience manipulation, Section 5 effected a deterrent effect to repulse potential abuses of the law, and that courts were routinely solicited to apply Section 5 for protection and prevention from violations.

Wade Henderson, speaking on behalf of the Leadership Commission on Civil Rights, noted that California and 13 other states had been examined in his organization's report. He stressed that progress had been made but that subtle and insidious barriers still existed that formed the backbone of voting rights abuses.

One panelist highlighted California as a state which had experienced cases of non-racially polarized voting, pointing specifically to the election of Jerry Brown as Mayor of Oakland, a primarily African American dominated district.

For more information on this hearing, visit the House Judiciary Committee website at: <http://judiciary.house.gov/oversight.aspx?ID=220> .

### **HOUSE PASSES SAN DIEGO WATER STORAGE BILL**

On March 8, 2006, the San Diego Water Storage and Efficiency Act of 2005 (HR 1190) passed the House by voice vote under suspension of the rules. Congressman Duncan Hunter (Alpine) introduced the bill last year. It directs the Secretary of the Interior to conduct a feasibility study to design and construct four reservoir intertie systems for the purpose of improving the water storage opportunities, water supply reliability, and water yields of San Vicente, El Capitan, Murray, and Loveland Reservoirs in San Diego County.

HR 1190 was cosponsored by Rep. Susan Davis (San Diego) and Rep. Darrell Issa (Vista), and now goes to the Senate for consideration.

For more information, search H.R. 1190 on the Library of Congress website at: <http://www.thomas.loc.gov> .

### **CAPITOL HILL BRIEFING TO FOCUS ON THE INVESTIGATION OF DARK ENERGY**

Lawrence Berkeley National Laboratory and the Joint Dark Energy Mission (a NASA and DOE collaboration) will be holding a briefing for congressional staff on "dark energy: on Friday, March 17, 2006.

The Joint Dark Energy Mission (JDEM) seeks to uncover the mystery of Dark Energy and the Accelerating Universe by unlocking the secrets of a supernova some more than 10 billion light years away. Saul Perlmutter, Berkeley Lab Astrophysicist, will address what the federal government is doing to support this work, and what he and other scientists are doing to answer one of the primary scientific mysteries of our time -- what is the elusive dark energy driving the accelerating expansion of our universe?

The initial discovery of dark energy by Perlmutter and colleagues was recognized by Science Magazine as the Breakthrough of the Year in 1998, and additional confirming evidence repeated the honor in 2003. Perlmutter and Berkeley Lab astrophysicist Michael Levi are the leaders of the SuperNova Acceleration Probe (SNAP) project, a 140-person nationwide collaboration proposing for the JDEM mission to ultimately launch a satellite telescope with unmatched ability to observe supernova in the deepest regions of space and begin to uncover the mysteries of dark energy.

The briefing will take place in Room 385 Russell Senate Office Building at 12:00 noon, and lunch will be provided. To attend, please contact Don Medley at [drmedley@lbl.gov](mailto:drmedley@lbl.gov) or by phone at 510-486-6863.

### **PPIC LUNCHEON BRIEFING ON MONDAY, MARCH 13: TRADE WITH MEXICO AND CALIFORNIA JOBS**

A new study by the Public Policy Institute of California (PPIC) examines how expanded trade between the United States and Mexico between 1994 and 2002 affected jobs in the state – and finds mixed results. The analysis asserts that trade expansion has caused some industries to expand and others to contract, leading to a reallocation of some jobs. The report, *Trade with Mexico and California Jobs*, draws from a unique database of workers who are certified as having lost their jobs, or having their hours and/or wages reduced, due to trade with Mexico.

On Monday March 13, 2006, a luncheon briefing will be presented by the study's author, economist and PPIC research fellow, Howard Shatz, in which the report's major findings and policy implications will be discussed. The luncheon will be held at 12:00 noon in Room B-339 of the Rayburn House Office Building in Washington D.C. To attend, send e-mail to [randsell@calinst.org](mailto:randsell@calinst.org) .

To read more about the report visit the California Institute website at: <http://www.calinst.org/bul2/b1305.htm> or the PPIC website at: <http://www.ppic.org>.

## **“ORPHAN WORKS” ISSUE WARRANTS COPYRIGHT ACT AMENDMENT, COPYRIGHT OFFICE TESTIFIES**

On March 8, 2005, the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property conducted an oversight hearing concerning intellectual property which cannot be identified or attributed to a particular copyright owner. These so called “orphan works” were the subject of a Copyright Office report recently published by the Library of Congress which called for changes in the law to accommodate orphan works cases. At the hearing, a Copyright Office spokesperson discussed the recommendations in the report and trade association representatives weighed in on them.

In his opening statement, Subcommittee Chair Lamar Smith (TX) described himself as a proponent of strong copyright protections, and suggested that the recommendations brought forth by the Copyright Office to deal with orphan works was balanced. He supported ongoing negotiations and noted that the Subcommittee would draft a legislative proposal on the matter in the coming weeks but he warned that parties threatening to hold up the legislative process would be left behind. Although anticipating disagreement and expressing a commitment to move ahead with legislation to resolve the matter, Chair Smith was optimistic that a common ground solution could be achieved on the subject of orphan works. “I think we can get there in the end,” said Smith.

The Subcommittee’s ranking Democrat, Howard Berman (North Hollywood) also commended the Copyright Office for the proposals contained in the orphan works report. He went on to express interest in establishing reasonable protections for visual artists such as photographers and illustrators who are most likely to be impacted by changes to the copyright law recommended in the report. Subcommittee member Darryl Issa (Vista) echoed Rep. Berman’s concerns and stated that the government should do more to meet the expectations of a public that can easily locate images on the Internet. He inquired about the possibilities of fine tuning any proposal to alter the law and inferred that a more formalized definition of search standards could help identify and locate orphaned intellectual property in cases where ambiguity existed over image location.

Jule Sigall of the US Copyright Office stressed in his testimony that the orphan works situation was real and needed to be addressed. He identified the four most common obstacles to locating copyright ownership as: inadequate information on a copy of the work, changes in ownership or owner’s circumstances, limitations in existing copyright ownership information sources, and research difficulties surrounding copyright information. Among the solutions to orphan works problems contained in the report were: improved voluntary or mandatory databases for locating an owner’s work, legislative solutions that involved limitations on remedies when users use orphan work, and deeming all orphan work as in the public domain, among others. The report settled on a recommendation that the Copyright Act be legislatively updated to require users to perform a reasonably diligent search to find orphan works owners – after which limitations on remedies would be in order if no owner could be identified. The standard for reasonably diligent would be general and applied on a case-by-case basis, according to Mr. Sigall.

Allan Adler of the Association of American Publishers, although supportive of the Copyright Office’s minimalist approach to resolving the orphan works question, stated that the report’s recommendations were not reliable and needed further clarification.

David Trust CEO of the Professional Photographers of America (PPA) was not in favor of the recommendations and preferred to see no changes to the copyright laws. Trust testified that the new recommendations included in the report would have a “devastating effect” that would jeopardize a photographer’s earning power by giving users the authority to not give proper attribution or adequate compensation to photographers. According to Trust, if the copyright office’s proposed changes were to be instituted, his organization would recommend a two year delay in implementation of the amendment, and the

inclusion of a small-claims copyright court option as a mechanism for making “reasonable royalty” damages accessible to creators.

For more information, visit: <http://judiciary.house.gov/Oversight.aspx?ID=221> .

## **HERITAGE FOUNDATION REPORTS DISCUSS U.S. IMMIGRATION POLICY AND CONFRONTING THE REALITY OF A TEMPORARY GUESTWORKER PROGRAM**

A series of pieces released by the Heritage Foundation on March 1, 2006 examine the effects of a temporary guestworker program in the United States and what problems it may pose to national security. In the year 2005, one report asserts, immigration policy received far more genuine attention on Capitol Hill by members of Congress, primarily due to the fact that interest was created when reports found that three out of every 100 people in the country are undocumented. However, efforts to curtail the influx of migrants could actually prove to worsen the security dilemma by driving many migrant workers underground, thereby encouraging a culture of illegality, according to the report. The Heritage Foundation also finds that a non-citizen guestworker program is an essential component of immigration reform, and anything less is bound to fail. The reports are entitled: *Permanent Principles and Temporary Workers*, by Edwin Meese III and Matthew Spalding, Ph.D.; and *The Real Problem with Immigration. . . and the Real Solution*, by Tim Kane, Ph.D. and Kirk A. Johnson, Ph.D.

The authors assert that there are economic principles that should be borne in mind as the government attempts to craft an effective guestworker program, such as: positive and negative incentives for U.S. company’s compliance; efficient legal entry; time requirements for guestworkers to find a sponsoring employee; and harsher laws for migrants and employees who do not comply with the reformed guestworker program. Even more specific, all guestworkers in the United States should be identified biometrically, meaning that all American employers who want to hire guestworkers should be required to verify electronically that their workers are registered with WORKER-VISIT and are eligible to work in the country, the report argues. Additionally, guestworker status should not be a path to citizenship and should not include rights to social benefits such as unemployment insurance, welfare, and Head Start.

According to the reports, there is an illegal population growing by 700,000 people per year which underscores the United States’ massive scale of illegal immigration and the problem that policymakers are concerned with when trying to consider a guest worker program. Also, a disorganized and chaotic immigration system encourages the circumvention of immigration laws and is a clear invitation to those who wish to take advantage of this openness to harm the United States. The authors state that Congress must take steps to ensure that immigration policy enforcement and the new reform program do not undermine national security, because the sheer size or lack of “temporariness” in a temporary worker program threatens to create *de facto* permanent residents without permanent legal status.

Furthermore, the articles conclude that the creation of a single integrated border service agency must be in place and working before a temporary worker program is implemented, in order for policymakers to have demonstrable confidence that the infrastructure and its system elements are able to manage a program of this size efficiently and accurately. Additionally, the temporary guestworker program must be acceptable in principle and in practice like any other reform package must be — balancing national security, economic interests, and the rule of law.

For more information regarding these reports or to view and download copies, visit the Heritage Foundation website at: <http://www.heritage.org>.

## **CALIFORNIA PERCHLORATE CONTAMINATION REMEDIATION ACT INTRODUCED**

On February 24, 2006, U.S. Senator Dianne Feinstein and Reps. Richard Pombo (Tracy) and Joe Baca (Rialto) were joined by local San Bernardino County officials as they urged Congress to pass legislation to authorize \$50 million for perchlorate contamination cleanup in California. The legislation, introduced in the Senate and House by these members, would give priority to the areas most affected by the contamination, including Rialto, Fontana, and Colton in Riverside and San Bernardino Counties.

According to various reports, perchlorate contamination has the potential to make groundwater for hundreds of thousands of people in the Inland Empire undrinkable and create additional hazardous health and safety risks for mothers, kids, and unborn children.

Specifically, the California Perchlorate Contamination Remediation Act would, if enacted, authorize \$50 million in grants for cleanup of perchlorate in water sources; authorize \$8 million for research and development of new, cheaper, and more efficient perchlorate cleanup technologies; and urge the Environmental Protection Agency (EPA) to promptly set a national drinking water standard for perchlorate.

### **BROOKINGS INSTITUTION EXAMINES METRO AREA MINORITY POPULATION SHIFTS**

A report released in March 2006 by the Brookings Institution, *'Diversity Spreads Out,'* found that Los Angeles led all metropolitan areas and Riverside-San Bernardino ranked second in population gains by Latinos, Asians, and blacks. The study was authored by William Frey, a demographer at the University of Michigan, and was based on the Census Bureau population estimates detailing the distribution of racial and ethnic groups across the United States.

According to the report, Los Angeles County's population of 9.9 million grew by about 392,000 from 2000 to 2004, with the population of Latinos and Asians increasing by 356,200 and 102,100, respectively. In 2004, 907 counties in the United States had a Latino population total of at least 5 percent, compared to 1990 estimates of only 538 counties. Estimates show that 30 percent of Latinos nationwide live in Los Angeles and New York. Within metropolitan Los Angeles, which includes Long Beach and Santa Ana, 43 percent of the population is Latino, a share only very slightly greater than in the Riverside-San Bernardino-Ontario, where 42 percent of the population is Latino. In the San Diego-Carlsbad-San Marcos area, 29 percent of the population is Latino.

Yet, the Brookings Institution report also found that the Latino and Asian populations are spreading out from their traditional metropolitan centers, with interior California areas such as Riverside and Stockton gaining significant numbers of Latinos and Asians. Nonetheless, 111 out of the nation's 361 metropolitan areas have reported declines in the white population from 2000 to 2004, with the largest absolute losses occurring in Los Angeles and San Francisco. Dr. Frey asserts that in the coastal metropolitan areas of California, immigrant minorities and their children are "backfilling" significant decreases in white population in the current decade, where whites continue to move toward Western and Southern metropolitan areas, like Riverside, which have also experienced growing influxes of other racial/ethnic groups.

The report finds that the most suitable explanation for the tilt in migration balance towards the interior parts of California is due to "pull" factors like strong employment opportunities, affordable housing, and tolerance for fast growth. Additionally, these emerging patterns of dispersal mean that the nation is not quite a "melting pot" with polyglot populations spreading from coast to coast. Among the 88 largest metropolitan areas, only 18 qualify as melting pot metro areas; the majority are located near the coastal west and south, with California claiming eight. The Brookings Institution study also found that experts predict that the fastest growing cities in the country – Las Vegas, Phoenix, and Orlando will find themselves facing the same economic challenges that the major cities in California have faced, as they begin to feel the rapid influx of immigration settling trends in their states.

Frey concluded his report with the assertion that the makeup of America's regions and communities is changing at a pace that the nation has not seen for many decades and argues that how these changes will affect economics, politics, and interethnic relations deserves the country's continued attention.

For more information, visit the Brookings Institution website at: <http://www.brookings.edu> .