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California Capitol Hill Bulletin

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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.

IMMIGRATION: HOMELAND SECURITY ANNOUNCES PROPOSED H2A RULES

On February 6, 2008, the U.S. Department of Homeland Security announced a series of proposed rule modifications aimed at providing employers with a streamlined hiring process for temporary and seasonal agricultural workers under the H-2A program.

The proposed rule extends from 10 to 30 days the time a temporary agricultural worker may remain in the U.S. after the end of employment. The rule also reduces from six to three months the time a temporary agricultural worker must wait outside the U.S. before he or she is eligible reenter the country under H-2A status. Additionally, under the proposed rule H-2A workers who are changing from one H-2A employer to another may begin work with the new petitioning employer before the change is approved by USCIS, provided the new employer participates in USCIS' E-Verify program.

In addition, the proposed rule would:

- Require an employer attestation regarding the scope of the H-2A employment and the use of recruiters to locate H-2A workers;
- Crack down on employers and recruiters who impose fees on prospective H-2A workers;
- Eliminate the ability of employers to file an H-2A petition without an approved temporary labor certification; and
- Prohibit the approval of H-2A petitions for nationals of countries determined to be consistently refusing or unreasonably delaying repatriation of their nationals.

The rule also proposes the establishment of a land-border exit system pilot program. Under the program, H-2A visa holders admitted through a port of entry participating in the program would also depart through a port of entry participating in the program and present upon departure designated biographical information, possibly including biometric identifiers.

The proposed rule is available at www.dhs.gov for public comment. More information regarding the proposed rule, plus instructions on submitting comments, is available through an accompanying Fact Sheet available at the USCIS website: www.uscis.gov.

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HEALTH: SENATE HELP COMMITTEE ADDRESSES HEALTH CARE WORKFORCE ISSUES

On Tuesday, February 12, 2008, the Senate Health, Education and Labor Committee held a hearing entitled "Addressing Health Care Workforce Issues for the Future." The hearing was held to address critical shortages in primary care providers, registered nurse practitioners and dentists; and also accessibility to doctors and dentists.

According to witnesses, there are roughly 56 million people in the U.S. that do not have access to primary care providers, many in rural areas. Additionally, the number of medical students seeking to be primary care providers is dwindling for reasons illustrated by the witness testimony below.

Among the primary witnesses were Bruce Steinwald, Director, Healthcare Government Accountability Office, Washington, DC; and Kevin Grumbach, M.D., Director, UCSF Center for California Health Workforce Studies Professor and Chair, UCSF Department of Family and Community Medicine, San Francisco, CA.

Steinwald testified: "Despite a long standing objective of Title VII programs to increase the supply of primary care professionals, health care marketplace signals suggest an undervaluing of primary care medicine, creating a concern about the future supply of primary care professionals." He also commented that there have been increases in primary care providers in the last two decades, but not enough to keep up with the growth in population. He also testified that there is a decline in the proportion of first-year resident doctors that are graduates of U.S. medical schools - many are from other countries or are Doctors of Osteopathy. There has been a modest increase in the number of minority doctors, however.

He stated that the fee-for-service structure of health care does not promote students choosing to be primary care doctors. Medicare fees for specialists are greater than those for primary care roughly by a factor of four. Valuation of fees puts specialists ahead of the game. Students choose these fields because they are able to make more income in less time as a result of technological advances in treatment that make their work more efficient. Primary care providers have little ability to improve effectiveness and save time without decreasing quality of care.

Grumbach testified that a large factor in the decrease of primary care providers is that Medicare incentives pull people away from primary care. He commented: "without addressing incentives in Medicare properly it will be difficult to address other inefficiencies." He acknowledged that Title VII programs are still effective in promoting primary care professionals and facilities, but that this program alone could not meet the needs of the community.

Grumbach emphasized three main points in his testimony: 1) Primary care is the essential foundation of a well-performing health system; 2) The primary care infrastructure in the United States is crumbling, and patient access to primary care is suffering throughout the nation; 3) The federal government can address the crisis in primary care through targeted health professions primary care training programs such as Title VII programs, reform of Medicare Graduate Medical Education funding, the National Health Services Corps and Medicare physician payment reform.

For more information visit <http://help.senate.gov/Hearings.html> .

TRANSPORTATION: HOUSE SUBCOMMITTEE HEARS TESTIMONY ON SURFACE TRANSPORTATION COMMISSION REPORT

On Wednesday, February 13, 2008, the House Transportation and Infrastructure Highways and Transit Subcommittee held a hearing on the report of the National Surface Transportation Policy and Revenue Study Commission. Congress created the Commission in 2005 to examine the condition and future needs of the nation's surface transportation system and to review short- and long-term alternatives to replace or supplement the fuel tax as the principal revenue source to support the Highway Trust Fund over the next 30 years.

Mary E. Peters, Secretary of Transportation, delivered the primary witness testimony. She testified that she disagreed with the central elements in the Commission report, but that there is a bipartisan consensus on the nature of these problems. "We all agree that fundamental change is needed," she said. The essential problem, she said, is "not how much we're paying for infrastructure, but how we are paying for it...Revenue shortfalls are a symptom of the problem, not the cause." She pointed to the fact that in the last 25 years highway funding increased by 100%, while congestion increased 300%.

She showed strong opposition to the gas tax, saying that it was created at a time when it would increase with the cost of building infrastructure. At this point, given the existing infrastructure, increasing the gas tax will not reduce congestion. She suggested "congestion pricing", or "tolling", to address congestion problems. She believes that "congestion pricing" promotes use of the system at lower traffic times. "When we pay on demand, we gauge our use a little differently", she said.

Committee members argued that "congestions pricing" would have a greater negative impact than gas taxes on middle-income people. Others challenged the notion that drivers could be more selective about when they use the road and argued that they are driven by necessity.

For more information visit <http://transportation.house.gov/hearings/> .

EDUCATION: HOUSE EDUCATION AND LABOR COMMITTEE HEARS TESTIMONY ON SCHOOL CONSTRUCTION

The House Education Committee, chaired by Rep. George Miller (Martinez), held a hearing to address necessary improvements in public school facilities.

Chairman Miller commented: "All of our children deserve a modern, safe, clean and healthy place to learn, regardless of what neighborhood they live in. But today, the unfortunate reality in many communities is that schools are literally crumbling. We must invest in making every school a place that communities can be proud of - where children will be eager to learn and teachers will have access to a world-class learning environment." Chairman Miller is the co-sponsor of the 21st Century High-Performing Public School Facilities Act (H.R. 3021).

Kathleen Moore, Director of the School Facilities Planning Division for the California Department of Education, gave the primary witness testimony. She testified that California has a huge need for increased funding for school construction and modernization. She said there is a "staggering \$9 billion" needed for new school construction and another \$3.1 billion needed for modernization to create a 21st Century learning environment for all California students. She emphasized that improving facilities and the learning environment has a direct impact on students and the surrounding community. "Attitude and behavior improve with facilities...[and] improvements affect student performance and workforce appreciation", she said. All school construction is not related to modernization, she added, but part of the cost is associated with simply bringing older schools up to code.

She further stated: "School quality has a direct and positive impact on residential property values, new or well-maintained school facilities can help revitalize distressed neighborhoods, and school quality helps determine localities' quality of life and can affect the ability of an area to attract businesses and workers."

Moore also presented evidence that the economic impact of construction exceeds its cost. She commented: "In the last two statewide bond cycles alone, the approximate \$10 billion already expanded over 175,000 jobs and doubled the direct impact on the economy to approximately \$20 billion because construction activity generates business and employment in sectors which provide the lumber, concrete and many other goods and services which go into the construction and modernization of schools."

For more information visit <http://edlabor.house.gov> .

ENERGY: HOUSE SUBCOMMITTEE HOLDS HEARING ON DIESEL EMISSIONS, MARKS-UP H.R. 3754

The House Energy and Commerce Subcommittee on Energy and Air Quality held a hearing and a mark-up on H.R. 3754, authored by Rep. Jim Costa (Fresno), on February 12, 2008. The bill would allow the Environmental Protection Agency (EPA) to continue its prior practice of accepting diesel emission reduction projects as part of environmental enforcement settlement agreements.

Rep. Costa testified: "Retrofitting clean diesel technologies for diesel vehicles and equipment is one of the most cost-effective strategies for achieving tangible and immediate air quality benefits. Areas of the country struggling to meet clean air standards can greatly benefit from diesel retrofits to help improve air quality." He gave several examples of current programs authorized by the EPA, such as the Clean School buses program.

He stated that this legislation would have important national implications. "Particularly important in my district – among the richest agricultural land in the nation, producing ½ the nation's fruits and vegetable, along with specialty crops – ," he said, "the Interstate 5 and Highway 99 are corridors are important not only for California's commerce, but for the nation's...Right now, more than 90% of commercial trucks are powered by diesel engines, and two thirds of all farm and construction equipment."

He noted that traffic from these corridors contributes to emissions, and that 60% of emissions are from mobile sources and 40% from stationary in the Central Valley. Because these are interstate highways they are in the jurisdiction of the Federal Government. Rep. Costa also argued that the benefit-cost ratio for continuing this practice is huge. He stated: "EPA estimates a 13/1 benefit-to-cost ratio, so \$45 million invested in reducing emissions creates \$600 million in health benefits." He pointed to fewer cases of asthma as a potential health impact of reduced emissions.

Upon conclusion of the hearing, H.R. 3754 was marked-up and reported favorably by the subcommittee to the full Committee on Energy and Commerce.

For more information visit <http://energycommerce.house.gov> .

IMMIGRATION: IMMIGRATION SUBCOMMITTEE LOOKS AT IMPROPER DETENTION/REMOVAL PROBLEMS

The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, chaired by Rep. Zoe Lofgren (San Jose), held a hearing on February 13, 2008 to examine problems with ICE Interrogation, Detention, and Removal Procedures.

The Committee heard from a number of witnesses, including: Gary Mead, Assistant Director for Detention & Removal, U.S. Immigration and Customs Enforcement; Marie Justeen Mancha, Student, Tattnal County High School, Reidsville, GA; Michael Graves, Member UFCW Local 1149; Kara Hartzler; Attorney, Florence Immigrant & Refugee Rights Project; and Dan Stein, President, Federation for American Immigration Reform.

Director Mead detailed the procedures ICE follows in interrogating and making decisions on detention and removal of individuals, and the steps it takes to protect against detaining and/or deporting a U.S. citizen. Nevertheless, several subcommittee members questioned ICE's track record and the competence of its officers to ensure that U.S. citizens are not mistakenly detained. They also raised questions about discrimination on the part of ICE employees. In response to questioning by Rep. Maxine Waters (Los

Angeles), Mead stated categorically that ICE employees base decisions strictly on the immigration status of the individual and “do not racially profile.” He testified that to his knowledge ICE had only removed one U.S. citizen, mistakenly, over the last year. However, he concluded, “Even though ICE has never knowingly or intentionally detained or removed a U.S. citizen, ICE is currently reviewing its policies and procedures to determine if even greater safeguards can be put in place to prevent the rare instance where this event occurs. ICE anticipates having this review completed within the next sixty days and would welcome suggestions from the Committee.”

Other witnesses, however, testified on their personal experiences being mistreated and intimidated by ICE officials. Ms. Mancha is a high school student who was home alone when ICE agents broke into her house looking for her mother, a U.S. citizen. Mr. Graves, an African American U.S. citizen, was handcuffed and detained for several hours during an ICE raid on a Swift meat packing plant in Iowa. Ms. Harzler detailed for the Subcommittee the increasing number of immigration cases she handles where the individuals have credible claims of U.S. citizenship, but ICE chooses to rely on specious evidence anyway. Several of the witnesses and Subcommittee members also spoke of Pedro Guzman-Carbajal, a U.S. citizen with impaired mental faculties who was deported to Mexico by ICE. Only after his family was able to prove his citizenship by showing a birth certificate did U.S. officials post a Wanted/Missing poster for Guzman. His family was eventually able to find him in Mexico and he has returned to Los Angeles.

For further information on the hearing, go to: <http://www.judiciary.house.gov> .

ENERGY: SENATE FINANCE HEARS TESTIMONY ON CAP AND TRADE

On Thursday, February 14, 2008, the Senate Finance Committee held a hearing entitled "International Aspects of a Cap and Trade Program." According to Senator Max Baucus (MT), "Today's hearing is the first of several that this Committee will hold on climate change. Today we cover trade and international carbon markets...Our trading partners are watching these proposals carefully. Our challenge is to craft border measures in a manner that both meets our domestic priorities and respects international trade rules."

The primary witness testimony was delivered by Ms. Jennifer Havenkamp, Senior Counsel to Environmental Defense; and, Mr. Kjell Olav Kristiansen, Director of Advisory Services, Point Carbon North America.

Havenkamp said that Congress "must pass comprehensive climate legislation now, not next year or two years from now. By waiting we will have lessened our chances of preventing the most dangerous consequences of climate change, we will have raised the costs to the economy, and we will have sent the wrong signal to developing countries just when they're weighing what obligations to take on in the international negotiations launched in Bali."

She further commented: "The objective of national climate legislation is to create broad-based incentives for a new round of innovation in the economy away from high carbon content products to more efficient and profitable alternatives. We can design a U.S. carbon market that achieves our environmental goals while maintaining a level playing field for our companies and workers competing in the international marketplace and creating new market opportunities. Smart, creative policy design gives us a number of tools – both "carrots" and "sticks" – that will create strong incentives for international action and also give the United States recourse if incentives alone do not prove sufficient."

The main points of her testimony were that engaging major emitting developing countries is essential to achieving the reductions needed to avoid dangerous environmental consequences; Congress must pass comprehensive cap-and-trade climate legislation this year; Congress can structure the U.S. carbon market to maximize action by other major emitters, and to ensure that if such nations fail to engage neither our program's environmental effectiveness nor the strength of our economy will be undermined; and we can learn from the experience of the European Union, and what the design of a U.S. carbon market means for our ability to link it with markets in the EU and elsewhere.

Kristiansen testified: "As markets grow bigger, they become more efficient. Direct linking between a US trading program and the EU scheme would create a mutually beneficial, larger market which would increase

choice, improve market liquidity, decrease price volatility, and equalize competitive disparities. We believe a US program can be successfully linked with existing international programs. The United States invented emissions trading with the creation of the Acid Rain Program in the 1990's, and was instrumental in making offsets and global trading key components of the Kyoto protocol. The EU then adopted these concepts successfully in its greenhouse gas cap-and-trade program. As we now embark on designing what will become the world's largest emissions market, we can reap the benefits of these achievements and learn from the experiences gained to create a program that will reach targets and minimize costs to consumers and to US industry."

For more information visit <http://finance.senate.gov> .

ENVIRONMENT: HOUSE APPROVES BILL AUTHORIZING ONGOING OCEAN EXPLORATION PROGRAMS AT NOAA

By a margin of 352-49 on Thursday, February 14, 2008, the House of Representatives approved legislation to authorize two programs that enable the National Oceanic and Atmospheric Administration to fund and conduct exploratory research work to better understand the world's oceans.

The bill, H.R. 1834, incorporates two primary legislative priorities into one bill. The combined measure includes the National Ocean Exploration Program Act and the National Undersea Research Program Act of 2007. Both components would authorize activities that have been partially underway already. The Senate approved a similar measure in 2007.

The bill, sponsored by Rep. Jim Saxton (NJ) with Rep. Sam Farr (Carmel), would require the Secretary of Commerce to conduct a coordinated national ocean exploration program at NOAA that promotes collaboration with existing NOAA programs, requires NOAA to appoint an Ocean Exploration Advisory Board, and authorizes \$289 million for the programs from 2008 through 2014.

With its Undersea Research Program portion, the bill requires NOAA to conduct an undersea research program to increase scientific knowledge regarding management, use, and preservation of oceanic, coastal, and large lake resources. It authorizes \$165 million in funds to be largely provided via competitive grants to support research via a network of extramural regional undersea research centers representing all NOAA regions. It would also provide some funds for the National Institute for Undersea Science and Technology.

Also required would be an ocean exploration and undersea research technology and infrastructure task force, to be convened by NOAA.

BROWNFIELDS: TRANSPORTATION SUBCOMMITTEE EXAMINES EPA'S BROWNFIELDS GRANT PROGRAM

On February 14, 2008, the House Transportation and Infrastructure Subcommittee on Water Resources and Environment held a hearing on "Revitalization of the Environmental Protection Agency's Brownfields Program." Among the witnesses were: The Honorable Susan Parker Bodine, Assistant Administrator for Solid Waste and Emergency Response, U.S. Environmental Protection Agency; and Mathew Zone, Council Member, City of Cleveland, who testified on behalf of the National League of Cities.

Assistant Administrator Bodine, noting that EPA's Brownfields Program began more than a decade ago, reported that through calendar year 2007, the Program has assessed more than 11,500 properties, made more than 3,600 acres ready for reuse, generated more than 47,000 jobs, and leveraged more than \$10.3 billion in economic development. She also described for the Subcommittee the Brownfields Grant Program and State and Tribal Programs run by EPA. Ms. Bodine stressed that "A critical element of the brownfields program is the liability protections and clarifications provided for certain landowners who are not responsible for prior contamination at brownfields properties." She assured the Subcommittee that EPA would continue to administer the program "to protect human health and the environment, enhance public participation in local decision making, build safe and sustainable communities through public and private partnerships, and recognize that environmental protection can be the engine driving economic redevelopment."

Mr. Zone detailed the successful partnership that Cleveland has had with EPA and the brownfields program, but noted that the Program is vital for local governments in aiding their redevelopment efforts and much work remains to be done. On behalf of the National League of Cities, he called on Congress to increase the overall funding authorization level for the EPA brownfield programs, to increase the cap on the assessment grant amounts, whether site-specific or community wide, and to increase technical assistance offered to communities. Additionally, he urged the subcommittee to enact legislation addressing and resolving the disincentives created by potential liability to facilitate reuse of brownfield properties. Such legislation should provide a waiver, he said, with a definitive limitation or elimination of liability for non-contributing local governments coming into title of previously contaminated properties involuntarily.

For the testimony of all the witnesses, go to: <http://transportation.house.gov> .

HOUSE SPEAKER PELOSI HOSTS DELEGATION EVENT WITH FORMER ASSEMBLY SPEAKER WILLIE BROWN

On Wednesday, February 13, 2008, former California State Assembly Speaker Willie Brown made several appearances in Washington DC during a multi-city book tour, beginning with a Capitol Hill breakfast visit hosted by fellow San Franciscan and Speaker of the House Nancy Pelosi. A majority of California's Members of Congress attended the informal exchange, which also included prominent House Democrats from other states. The always-entertaining guest of honor described the partially tongue-in-cheek approach he used for his new fact-and-fiction memoir entitled "*Basic Brown*".

FUSION SCIENCE: WASHINGTON FUSION DAY ON THURSDAY, FEBRUARY 21

On Thursday, February 21, 2008, scientists and other colleagues from the fusion sciences community will attend "Fusion Day" in Washington. The day will include events and visits on Capitol Hill. By an overwhelming margin, California leads the nation in fusion energy science activities, as well as in federal funding receipts for fusion energy research.

Among the focus areas for the Fusion Day participants will be support for a significant increase for federal fusion sciences spending (from \$286 million to \$493 million) proposed in President Bush's 2009 budget request. A relatively large portion of the increase represents the U.S. commitment to the International Thermonuclear Experimental Reactor project -- a joint venture that includes participation by the United States, Japan, Russia and France that is under development in France.

Fusion energy is one of only a limited array of environmentally benign-long-term potential energy options. The Department of Energy (DOE) fusion program seeks to develop the scientific and technical basis for the nation to one day deploy fusion power. While significant progress has been made, past flat budgets have strained the fusion science community's efforts to maintain strength in the increasingly competitive global science community. Even the large increase proposed by the Administration would leave federal fusion spending well below historic levels.

Among the other federally-supported fusion energy sciences projects underway is the DIII-D National Fusion Facility, a tokamak reactor operated by San Diego-based General Atomics. Various institutions and companies across California receive fusion research funds, including Lawrence Livermore National Laboratory, Lawrence Berkeley Laboratory, UCLA, U.C. San Diego, SAIC, Lockheed-Martin, Varian Associates, Boeing, and various other universities (including UC campuses at Berkeley, Davis, Irvine and Santa Barbara, as well as Cal Tech and Stanford).

For information regarding fusion energy research, visit <http://fusion.gat.com> .

