



## THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH

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# California Capitol Hill Bulletin

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

### HOUSE PASSES CHILE & SINGAPORE FTAS

On Thursday, the House gave bipartisan approval to the implementing legislation for the U.S.-Chile Free Trade Agreement (H.R. 2738) and the U.S.-Singapore Free Trade Agreement (H.R. 2739). The vote on H.R. 2738 was 270-156, and on H.R. 2739, 272-155. The two trade agreements are the first to be considered under the fast-track procedures approved by Congress last year in the Trade Promotion Authority (TPA) Act.

The Agreements will eliminate duties on most goods traded between the United States and Chile and Singapore, and open up those countries markets to U.S. investments and services. In addition, the agreements also include strict intellectual property protections and provide harsh penalties for copyright violations. Earlier problems with the immigration provisions in the Agreements were resolved before floor consideration. See, *Bulletin, Vol. 10, Nos. 20 (7/10/03) & 21 (7/17/03)*.

Details regarding the provisions contained in the two FTAs are available on the House Ways and Means Committee website at: <http://www.waysandmeans.house.gov>.

### SENATE PASSES HOMELAND SECURITY APPROPRIATIONS

On July 23 and 24, 2003, the Senate debated, amended and (by a 93-1 vote) passed H.R.2555, the Homeland Security Appropriations Act for fiscal year 2004, which provides \$29.3 billion for the Department of Homeland Security and other related functions at other federal agencies. The House had passed its version of the bill on June 24, 2003 (see *Bulletin, Vol. 10, No. 19 (6/27/2003)*). The House version provides \$890 million for President Bush's bioweapons defense program entitled Project Bioshield, whereas the Senate bill does not (because of a lack of authorizing legislation).

The bill provides \$8.1 billion for border defense, customs and immigration, with \$4.9 billion of that allocated to the Bureau of Customs and Border Protection, and \$2.9 billion for the Bureau of Immigration and Customs Enforcement. For the Transportation Security Administration, the bill appropriates \$5.4 billion, including: \$150 million for procurement of explosive detection systems; \$309 million for explosive detection systems; \$150 million for port security grants; \$30 million for operation safe commerce; \$45

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million for research and development of next generation explosive detection systems; \$25 million for trucking industry grants; and \$10 million for intercity bus security. The bill also includes \$6.9 billion for the Coast Guard.

The Senate bill includes a total of \$3.6 billion for the Emergency Preparedness and Response Directorate, including \$2 billion for disaster relief and \$153 million for the emergency food and shelter program. The Senate Appropriations Committee had recommended \$165 million be used for Emergency Management Performance Grants to States. Within \$824 million for information analysis and infrastructure protection, the Senate Committee recommended \$99 million for cybersecurity infrastructure monitoring and coordination; \$293 million for critical infrastructure identification, assessments, and protection implementation; and \$155 million for the National Communications System. For science and technology, Senate bill provides \$866 million.

For the Office for Domestic Preparedness, the Senate bill provides \$3.6 billion including: \$1.25 billion for State and local basic formula grants; \$500 million for State and local law enforcement terrorism prevention grants; and \$750 million for high-threat urban area discretionary grants. Another \$750 million is also provided for firefighter assistance grants as a separate, stand-alone program, and an additional \$165 million is available for emergency management performance grants.

During floor debate on June 24, Sen. Carl Levin (MI) had considered introducing an amendment to change the 0.75 percent small state minimum, which critics charge unfairly disadvantages large states, but he chose not to do so. He did speak on the floor, however, to decry the "rare, unusual" small state minimum as "overreaching and almost unprecedented." He said a 0.75 percent minimum "represents a departure from typical small state minimums that are one half of one percent or less," but he said the debate over that minimum amount is best left for an authorization bill than this appropriations bill. Sen. Levin thanked Sens. Boxer and Feinstein as well as several others for their assistance developing the amendment.

In similar activity, on Wednesday, June 23, Sen. Hillary Clinton (NY) proposed and then withdrew an amendment to express the sense of the Senate that homeland security state and local grants should be allocated to States through a threat-based formula, but retaining minimum allocations for small States.

The three-fourths percent small state minimum distributes 40 percent of funds equally to each state – regardless of size, terror threat or other needs assessment -- with only state population used to allocate the remaining 60 percent. For 2003, California received 7.95 percent of the nation's \$2 billion for Homeland Security State & Local Grants, despite the fact that the state houses more than 12 percent of the nation's population. Comparing receipts per capita, California received \$4.68 in total funding for every person in the state, whereas far more per capita went to Wyoming (\$35.31), Vermont (\$29.37), North Dakota (\$28.68), Alaska (\$28.31), Delaware (\$23.43), and Montana (\$21.28). According to figures developed pursuant to the Federal Formula Grants and California project - a joint venture with the Public Policy Institute of California (PPIC) – the state would have received \$65 million more (a total of \$6.53 per capita) if a more common allocation method was used. For state-by-state FY 2003 grant spending, comparing actual allocations with a more typical approach, *see Bulletin, Vol. 10, Nos. 11 (4/25/03), 12 (5/2/03), 17 (6/12/03), 18 (6/19/03), 20 (7/11/03) & 21 (7/17/03)* or refer to detailed tables on the California Institute website, at <http://www.calinst.org/datapages/DHS.htm>.

Also during debate, the Senate considered and failed to approve a motion to waive the Budget Act with regard to an amendment by Sen. Arlen Specter (PA) to increase funding levels in the bill for grants to high-risk urban areas. (The vote was 50 in favor versus 46 against, but motions to waive the Budget Act require 60 votes for passage; the waiver was needed because the proposed amendment did not offset the funding increase with reductions elsewhere.) After the Specter amendment failed, the Senate debated and rejected (48-48) an amendment by Sens. Specter and Charles Schumer (NY) that was identical except that it would offset the \$250 million increase by reducing \$62 million in funds for science and technology R&D ventures and \$187 million for information analysis and infrastructure protection. Whereas Sen. Specter's home state houses two such areas (Philadelphia and Pittsburgh), California houses five urban areas that have previously received funding under these high-threat grants: Los Angeles, Long Beach, San Francisco, San Diego, and Sacramento. No other state houses more than two such areas. The states of Florida, Missouri, New York, Ohio, Pennsylvania, and Texas each contain two urban areas identified as under high threat of terrorist attack.

A number of other amendments were considered and many rejected. The Senate voted against motions to waive the budget act on several amendments, including those by Sen. Reed (RI) to authorize \$100 million in grants to

help public transit agencies protect transit systems, Sen. Barbara Mikulski (MD) to add \$100 million to the firefighter assistance grants program, Sen Harry Reid (NV) to appropriate \$20 million to the Office for Domestic Preparedness for grants to urban areas with large tourist populations, Sen. Ernest Hollings (SC) to add \$300 million for port security grants, Sen. Patty Murray (WA) to add \$100 million for emergency management performance grants, and Sen Robert Byrd (WV) to add funds for various programs.

By a vote of 79-19, the Senate approved an amendment by Sen. Barbara Boxer to require a classified report to Congress on security costs incurred by State and local government law enforcement personnel in each state to comply with requirements of the U.S. Secret Service to provide protective services and transportation for foreign and domestic officials.

The Senate approved a non-binding Sense-of-the-Senate amendment by Sen. Harry Reid (NV) expressing that the Secretary of Homeland Security should take into account tourist population as a factor when determining resource needs and potential vulnerabilities for the purpose of allocating funds for discretionary and formula grants, as well as an amendment by Sen. John Edwards (NC) to require a report on the vulnerability of large sports and entertainment facilities.

### **HOUSE CONSIDERS AND PASSES HEAD START REAUTHORIZATION**

After initial difficulty mustering support for their plan, House leaders on the evening of Thursday, July 24, 2003, moved toward a floor vote on a bill (HR 2210) to reauthorize the Head Start program, and final passage took place in the early morning hours of Friday, July 25.

Entitled the School Readiness Act, the bill was pulled from the House floor docket on July 18. It had been approved by the House Education and the Workforce Committee on June 19 on a 27-20 vote, but the measure was initially slowed because of limited support for several aspects of the bill. The bill's alleged expansion in federal oversight and a \$200 million increase in authorization levels reportedly concerned fiscal conservatives, while liberals were troubled by opposition to the bill expressed by Head Start advocates such as the National Head Start Association regarding a pilot project to permit eight states to administer Head Start program funding.

To appeal to more members, bill sponsor and Education Reform Subcommittee Chair Mike Castle (DE) slightly altered the demonstration program provisions to guarantee that no Head Start grantee in any of those eight states would lose funding during the entire 5-year reauthorization period – previously those grantees would have been held harmless for only three years. Castle also raised standards for states to be eligible for the demonstration program and set authorization levels.

Californians played a central role in the bill's floor consideration. Floor debate was managed by Rep. John Boehner (OH) in support and Rep. George Miller (Martinez) in opposition. Rep. Miller, ranking Democrat on the full Education & Workforce Committee, commented that the bill begins the dismantling of the nation's Head Start program. Rep. Lynn Woolsey (Petaluma), ranking Democrat on the Education Reform Subcommittee, criticized the bill for making unnecessary and potentially destructive changes to a program that benefits "the nation's most disadvantaged children." Rep. Buck McKeon (Santa Clarita), Chair of the House Subcommittee on 21st Century Competitiveness, spoke in favor of the bill and noted that the Los Angeles County Office of Education is the nation's largest Head Start grantee. He said that the bill improves the education of the nation's most vulnerable children. A number of other Californians also spoke on the floor.

During floor consideration, the House considered two amendments: one by Rep. Woolsey to strip the bill's provision that Democrats charge would permit hiring discrimination by faith-based Head Start providers, and another (in the nature of a substitute) by Rep. Miller to delete the eight-state demonstration program and also to alter the faith-based provider revision. The House rejected the Woolsey amendment by a 199-231 vote and the Miller substitute by a vote of 200 to 229. The House also considered an amendment to provide an additional \$130 million to expand services to children of more migrant and seasonal farmworker families.

### **SENATE COMMITTEE CONSIDERS HEAD START REAUTHORIZATION**

A panel of early child education experts presented their views on the reauthorization of the Head Start early education program at a Senate Health, Education, Labor, and Pensions hearing on July 22, 2003. After witness testimony, questions from committee members centered on programmatic changes recommended in President

Bush's Head Start plan and the current House bill known as the 2003 School Readiness Act. Both the Administration and House plans propose to introduce a stronger academic focus to Head Start, and to expand state authority over Head Start program funds. Senate Democrats voiced strong opposition to what they viewed as a move to dilute federal standards in place and to convert Head Start into an unregulated block grant. Despite clear differences on how to structure Head Start reauthorization, members of both parties, including Committee Chair Judd Gregg (NH), expressed support for the drafting of a bipartisan bill, which Sen. Gregg hoped would be submitted for the committee's consideration in September.

Federal Head Start programs provide a comprehensive array of early education and social service programs for 900,000 economically disadvantaged children ages 0 to 5 and their families. Head Start grants to states are determined by formula and administered by the Department of Health and Human Services. Grants are currently dispersed directly to service providers in local communities usually without state involvement.

Speaking on behalf of the Administration for Children and Families', Windy Hill, a Head Start Bureau executive, noted Head Start's successful impact on millions of low income families since 1965. But Associate Commissioner Hill said there was considerable room for improving Head Start's capacity to prepare youngsters for success in school. She went on to justify expansion of state authority in the administration of Head Start programs as stipulated in the Republican written House bill, HR 2210, by arguing that the proliferation of state and local early education programs are propagating gaps in the current service delivery system and poor fiscal planning in some states. She said the demonstration program laid out in Title II of HR 2210 would help the Head Start program perform better by institutionalizing greater coordination among a comprehensive set of services accessible to providers and parents.

Drawing on recent studies, National Institute of Health (NIH) expert G. Reid Lyons stated that the Head Start program's full potential was not being achieved. According to Reid's testimony, research shows Head Start graduates still lag significantly behind their more privileged peers in language, math and literacy skills upon entering school. Chief Lyons recommended: rooting early childhood programs in developmental science; developing a comprehensive data reporting system to help researchers assess programs and to document successes; improving training and competency levels among Head Start staff; greater programmatic collaboration and coordination with other early education and care programs; and developing an integrated and accountable system to help identify and provide assistance to low performing programs operated by states and local organizations.

Committee Member Christopher Dodd (CT) said he supported greater coordination and collaboration to improve performance standards and accountability, however he was unconvinced of the benefits of block granting the Head Start program during a national economic downturn. Of the House bill, he said the language concerning the retention of federal Head Start performance standards contained in Title II was unclear and vague. He worried that increased state authority over Head Start would give states a free reign to reassign federal funds to non-Head Start related programs at the expense of Head Start kids and the local providers. Sen. Dodd also expressed concern over weak indicators among non-federal early education providers, noting that most state pre-K programs lack the sophistication of federal Head Start programs.

Windy Hill responded that the intent of the Administration is to prevent the redirection of Head Start funds within states opting to participate in the demonstration program. Moreover, only a select number of qualified states (8) would be eligible to apply for the program and that the Secretary of Health and Human Services would review each state plan before granting approval.

In her testimony, Amy Wilkins of the Trust for Early Education pointed to evidence that correlates teacher quality to strong literacy skills among preschoolers, supporting the notion that teacher training is a crucial factor in bridging the school readiness gap for Head Start youngsters. HR 2210 boosts teacher standards by requiring 50 percent of Head Start instructors to have earned a bachelors degree by 2008, and all teachers to have earned an associates degree in education or a related field within three years of employment. While questioning panelists on the issue of teacher quality, Sen. Jack Reed (RI) received conflicting accounts concerning the cost of meeting the quality standards outlined in the House's School Readiness Act. Associate Commissioner Hill estimated the costs of providing competitive salaries to match the higher standards at \$150 million, while Executive Director Wilkins estimated a considerably higher \$2 billion amount over five years.

California providers received about 13.67 percent of Head Start formula funds in 2002, amounting to roughly \$802 million in Head Start funds. The President's budget recommends a \$6.87 billion 2004 Head Start appropriation. Current Head Start law expires on October 1st of this year.

For a copy of testimony given at this hearing or to receive more information, visit the Senate Health, Education, Labor and Pensions Committee website at <http://health.senate.gov/>.

## **COMMERCE-JUSTICE-STATE APPROPRIATIONS PASSES HOUSE**

By a vote of 400-21, the House passed the FY04 Appropriations for the Departments of Commerce, Justice, and State and related agencies bill on Wednesday, July 23 (HR 2799). The bill appropriates \$41.2 billion, about \$733 million more than FY03 and about the same as the Administration's request.

For the Justice Department, the bill would appropriate \$20.2 billion for Justice Department programs, 3 percent more than in fiscal 2003 and 6 percent more than the president requested. Of that amount, \$3.49 billion is provided for State and local law enforcement assistance, which is \$1.16 billion above the President's request and \$102 million below FY03, including \$400 million for the to reimburse States for criminal alien detention costs. The \$400 million in SCAAP funding is \$150 million above the FY03 funding level (\$250 million), but still \$165 million less than the \$565 million that was appropriated in FY02 and prior years. The bill also includes \$500 million for the Byrne formula program, \$400 million for the Local Law Enforcement Block Grant program, \$462 million for juvenile delinquency prevention and accountability programs, \$388 million for violence against women prevention and prosecution, and \$174 million to eliminate DNA analysis backlogs. The bill provides \$683 million for the Community Oriented Policing Services (COPS) program.

For further information on the bill, see <http://www.house.gov/appropriations>. The Institute will prepare a more detailed analysis of the California implications of the bill, which will be available in the near future.

## **HEARING EXAMINES SCHOOL LUNCH PROGRAM**

The House Education and the Workforce Subcommittee on Education Reform held a hearing on Wednesday, July 16, 2003, entitled "Food for Thought: How to Improve Child Nutrition Programs." The hearing examined issues surrounding childhood obesity, nutrition programs for children and families and school meal programs.

A series of federal child nutrition programs are scheduled to be reauthorized this year, including the National School Lunch and Breakfast Programs, and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The federal government spends a total of \$12 billion annually on child nutrition programs.

The Subcommittee members heard from two panels, which included Vice Admiral Dr. Richard H. Carmona, U.S. Surgeon General; Honorable Eric M. Bost, Undersecretary for Food, Nutrition, and Consumer Services at the U.S. Department of Agriculture; Dr. Tom Baranowski, Professor of Pediatrics (Behavioral Nutrition), USDA Children's Nutrition Research Center; Ms. Betsy Clark, President of the National WIC Association and Director, Women Infants and Children, Minnesota Department of Health; Ms. Gayle Lynn MacDonald, President of the American School Food Service Association and Food Services Manager for Bellingham (WA) Public Schools; Dr. Deborah Frank, Professor of Pediatrics at Boston University Medical School.

After testifying about the rising numbers on obesity among school-age children, Surgeon General Carmona joined other witnesses in saying that health education is critically needed to deal with this particular problem. He suggested increasing awareness among parents and children on how to prevent obesity by making healthy food choices and increasing physical activity. Similarly, Undersecretary Bost expressed the need for healthier school environments around the country that would include healthier and more nutritious lunch choices. Dr. Baranowski also discussed how schools, through outreach and their school lunch programs, can help children make healthier choices. Ms. Clarke addressed the WIC program, which is a short-term intervention program designed to influence lifetime nutrition and health behaviors in a targeted, high-risk population. Ms. Clarke lauded the program as a cost-effective and sound investment, and spoke about how the program can work to meet six goals outlined by the Government Accounting Office (GAO) in a 2001 report. She also warned the Subcommittee about the implications of a proposed conversion of the WIC program from a discretionary to a mandatory program, urging Congress to study the consequences of such a conversion before implementing it.

For more information about this hearing or to obtain witness testimony, please visit Subcommittee on Education Reform website: <http://edworkforce.house.gov>.

### **OPERATION OF THE FOOD STAMP PROGRAM EXAMINED**

On July 24, 2003, the Subcommittee on Department Operations, Oversight, Nutrition and Forestry of the House Committee on Agriculture held a hearing to review operations of the food stamp program, including implementation of the 2002 Farm Bill, completion of the implementation of the electronic benefits transfer (EBT) delivery of food stamp benefits to all families receiving benefits, program performance and error rate, and continuing efforts to combat fraud and abuse in the food stamp program.

Subcommittee members, which included Ranking Member Cal Dooley (Visalia), heard testimony from the U.S. Department of Agriculture (USDA) Undersecretary Eric M. Bost, who is responsible for overseeing USDA's Food, Nutrition, and Consumer Services (FNS). Mr. Bost reported to the Subcommittee that all Farm Bill mandatory provisions have been implemented, except the provision affecting immigrant children that by law will become effective October 1st of this year. The 2002 Farm Bill made significant changes to the Food Stamp Program and provided \$6.4 billion in new funding for food and nutrition programs at the Department of Agriculture. Mr. Bost testified that USDA "expect[s] immigrant eligibility restorations to be fully realized by FY06 with over 400,000 legal immigrants receiving benefits, including immigrants from working-poor families, the elderly and disabled, and children".

Mr. Bost also spoke about food stamp Quality Control (QC) payment error rates, which are based on a number of over-issued and under-issued food stamp payments. Currently, the national error rate is the lowest in the program's history at 8.26 percent, down from 8.66 percent in FY 2001. At the same time, Mr. Bost shared the Administration's concern with the Subcommittee over California's error rates over the last ten year period. He testified that in eight out of the last ten years, California's error rate has exceeded the national average, and for the last two years it has been the highest in the nation. According to Mr. Bost, California is responsible for 15 percent of the total dollars over-issued nationwide.

Mr. Bost also addressed the Electronic Benefit Transfer (EBT) system, and the issue of food stamp trafficking. He said that over 92 percent of all households now receive their benefits electronically, and that FNS recently signed off on the EBT Inter-operability Final Rule, which allows states to claim 100 percent reimbursement for the cost of switching and settling EBT transactions, and also makes it optional for states to convert electronic benefits to coupons when a client moves to another state. California has the EBT system only in some counties and local areas. With respect to food stamp trafficking, which occurs when individuals sell their benefits for cash, Mr. Bost concluded his testimony with a report finding that about \$395 million per year was diverted from food stamp benefits by trafficking between 1999 and 2002, which amounts to two-and-a-half cents of every benefit dollar issued.

For more information about this hearing or to obtain witness testimony, please visit Subcommittee on Department Operations, Oversight, Nutrition and Forestry website at: <http://agriculture.house.gov>.

### **RESOURCES SUBCOMMITTEE CONSIDERS CALFED BILLS**

On Thursday, July 24, the House Resources Water and Power Subcommittee held a hearing on two bills to reauthorize the CALFED Bay-Delta restoration program -- H.R. 2641, introduced by Rep. George Miller (Martinez), and H.R. 2828, introduced by Rep. Ken Calvert (Corona).

Sen. Dianne Feinstein testified before the Subcommittee. She stressed the need for a CALFED bill, stating: "If we don't act now, we are not going to have enough water to meet California's needs in a decade or two." Although she supported passage of her own CALFED bill, S. 1097, she stated that she did not want members to come to loggerheads between the House and Senate bill, and pledged to work with her House colleagues to resolve conflicting issues and pass a bipartisan bill.

Other witnesses at the hearing included: Mr. Robert Neufeld, President, Cucamonga County Water District; Ms. Gloria Morales, a Fresno County Businesswoman/Farmer; Mr. Brent Walthall, Kern County Water Agency; Mr. Edward Osann, Consultant, Natural Resources Defense Council; Mr. Stuart Somach, Attorney, Somach, Simmons & Dunn; and, Mr. Greg Zlotnick, Director, Santa Clara Valley Water District Board of Directors.

Mr. Neufeld testified on water quality challenges and the deleterious effects of perchlorate contamination in the Santa Ana Watershed. He informed the Committee that his agency, and state representatives recently successfully negotiated a Memorandum of Understanding with the Defense Department to address perchlorate remediation. He also pointed out that the Bureau of Reclamation had completed a multi-year recycling study concluding that over 30 on-going water projects in California could increase the water supply by 450 acre feet by 2010. BOR, however, according to Mr. Neufeld, has not sent the study to Congress, and he urged the Subcommittee to call for its release.

Mr. Walthall outlined several policy considerations that he believes are critical to a successful CALFED reauthorization. He stressed the need for balanced implementation of CALFED and argued that to date in three measures of balance – funding, project scheduling, and resource improvement – environmental issues have received more weight than increased water supply needs. He urged the Subcommittee to restore balance to the project and urged greater federal participation.

Mr. Zlotnick discussed the challenges of working with state and federal agencies, and outlined ways in which the Santa Clara Valley Water District has taken a proactive role in establishing a collaborative process with regulatory agencies. He supported H.R. 2828 and the centralized multi-agency regulatory office that it would establish.

Testimony of all the witnesses is available at <http://www.house.gov/resources> .

## **TRANSPORTATION SUBCOMMITTEE EXAMINES PORT SECURITY REGULATIONS**

On Tuesday, July 22, 2003, the Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation held an oversight hearing on the Coast Guard's July 1, 2003 interim final regulations on port security. The hearing was a follow-up to the Subcommittee's June 3, 2003 hearing on port security. The Coast Guard's interim rules promulgate maritime security requirements mandated by the Maritime Transportation and Security Act of 2002. There are six interim rules consisting of: Implementation of National Maritime Security Initiatives, Area Maritime Security, Vessel Security, Facility Security, Outer Continental Shelf Facility Security, and Automatic Identification System.

The Subcommittee heard from numerous witnesses, including: Admiral Thomas H. Collins, Commandant, Accompanied by RADM Larry Hereth, Director of Port Security, U. S. Coast Guard; and Rob Remar, General Counsel, International Longshore & Warehouse Union.

Admiral Collins outlined the interim rules for the Subcommittee and the "significant" measures that sectors of the maritime industry will be required to take to comply with the regulations, which are aimed at increasing the security of vessels, shore-side facilities and offshore facilities under U.S. jurisdiction. The regulations will also require the installation of automatic identification systems on board certain vessels engaged in international trade, as well as certain vessels that transit through vessel traffic systems in the United States. Among other requirements, the regulations compel regulated vessels and facilities to conduct security assessments, to develop detailed security plans to address vulnerabilities revealed by those assessments, and to establish security measures commensurate with the level and degree of risk within the marine transportation system. The regulations contain requirements for the designation and competency of security personnel, including standards for training, drills, and exercises. The regulations further designate Coast Guard Captains of the Port as local Federal Maritime Security Coordinators. In this role they are delegated authority to conduct area security assessments and develop area security plans for their respective areas of responsibility.

Admiral Collins estimated that the regulations will affect as many as 10,000 vessels, 5,000 facilities, 361 ports, and 40 offshore facilities, with an estimated \$7 billion cost to industry over the next 10 years. He stated: "While we clearly understand that the cost of these security regulations to the maritime industry is not insignificant, a terrorist incident against our marine transportation system would have a serious and long-lasting negative impact on global shipping, international trade, and the world economy."

The six security rules were issued as temporary interim rules to allow public input before they become final. The regulations give the public 30 days to comment on the rules, and the Coast Guard held a public meeting in Washington, DC, on July 23, 2003, to receive comments on the interim rules. After the comments are evaluated, the Coast Guard plans to publish the final rules in October 2003, to take effect 30 days later.

Mr. Remar testified that in general the ILWU believes the Coast Guard's interim rules "provide well-crafted, pragmatic and effective measures to deter terrorism and protect our ports and the nation at large." He offered several suggestions for improvement, however, including: the interim rules should require, rather than just recommend, that 1) the maritime industry and port labor organizations be included as members of Area Maritime Security (AMS) Committees; 2) the security measures for handling cargo include the interior inspection of all cargo containers marked as "empty", in addition to the presently required inspection of container seals; 3) port facilities perform the specified screenings and other listed security measures in accordance with a clear, uniform standard rather than the "ambiguous 'rate specified in the approved Facility Security Plan (FSP)' ..., which 'rate' of screenings will necessarily vary with each FSP plan prepared by each port facility;" 4) the training of all port facility personnel necessarily include at least one actual field exercise every 18 months to identify problems and educate all personnel on the safest and most effective response to an emergency; and 5) secured or restricted areas be individualized for each port facility and designated by both the operator's FSP plan and the AMS Committee.

Witness testimony is available at <http://www.house.gov/transportation> .

### **HOUSE AGRICULTURE EXAMINES WTO NEGOTIATIONS ON GEOGRAPHICAL INDICATIONS**

The House Agriculture Committee held a hearing on Tuesday, July 22 to consider the status of negotiations in the World Trade Organization (WTO) on geographical indications. Geographical indications (GIs), as defined in the Trade Related Intellectual Property (TRIPS) Agreement, are names that identify a product as originating in a specific region or territory. They are signs that indicate to consumers some important characteristic of the goods or services that is attributable to their geographic origin. Examples of geographical indications from the United States include "Florida" for oranges, "Idaho" for potatoes, "Washington State" for apples, and "Napa" for wine.

Currently, at the TRIPs Council meetings and the WTO Agriculture Committee negotiations, the European Union (EU) is demanding exclusive use for EU producers of certain commonly used wine terms such as "Burgundy," "Port" and "Chablis." The EU is claiming that these common wine terms are GIs and are misleading on any wine that does not originate from the EU in the area named. Other like-minded countries are also advancing this so-called "claw back" agenda for products from their own regions.

The Committee heard from a number of witnesses, including: Jon W. Dudas, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director, Patent and Trademark Office; and James B. Clawson of the Wine Institute, which is based in San Francisco.

In his testimony, Undersecretary Dudas testified that: "In the ongoing U.S.-EU wine negotiations, the U.S. government is working closely with our wine industry to reach a negotiated settlement that would adequately compensate U.S. wineries in return for voluntarily giving up the use of generic wine terms the EU claims as its own. Compensation could include adequate protection for U.S. geographical indications, as well as mutual acceptance of U.S. winemaking practices, reductions to EU wine tariffs and subsidies, and the removal of market restrictive EU certification and labeling requirements." He also stated that there would be a sufficient number of years to implement any eventual phase out of generic wine terms in the U.S.

In addition, Secretary Dudas stated that, at the WTO Cancun Ministerial in September, the EU is expected to call for expanding geographical indications to include numerous agricultural products, such as "Parmesan," and "Gorgonzola," while not offering any protection in return to U.S. geographical indications, such as those mentioned above. Mr. Dudas testified that the Administration is very concerned with these efforts to "claw back" advances made under the TRIPs Agreement and will continue to preserve strong and equitable protection for geographical indications and trademarks in the U.S. and throughout the world.

Mr. Clawson testified that the Wine Institute supports strong geographical indications protection, noting the value associated with wines labeled "California," "Napa," or "Sonoma." However, he argued that the manner of protection must be fair and non-discriminatory. He argued that "the [EU] debate over geographic indications is a push to provide additional leverage to construct market access barriers and protect domestic producers in those countries wishing to protect their domestic industry." He also argued that the negotiations over geographical indications should take place within the TRIPs Council, where the negotiators are familiar with the history of the debate and with intellectual property law, not in the WTO, where the EU is now attempting to hold the debate.

Witness testimony is available at <http://www.house.gov/agriculture> . For additional information, visit the Wine Institute's website at <http://www.wineinstitute.org/> .

### **IMPACT OF CHILE AND SINGAPORE FTAS ON ENTERTAINMENT INDUSTRY DISCUSSED**

On Friday, July 18, 2003, the Entertainment Industry Coalition for Free Trade held a luncheon briefing to discuss bilateral trade agreements, like those recently negotiated with Chile and Singapore, and their impact on the U.S. entertainment industry. Congress is currently considering the U.S.-Chile and U.S.-Singapore Free Trade Agreements (FTAs) (see related article in this Bulletin). The Entertainment Industry Coalition for Free Trade is comprised of several organizations representing various segments of the entertainment industry, including the Motion Picture Association of America (MPAA) and the Recording Industry Association of America (RIAA).

Attendees heard from a panel of the following speakers: Ms. Bonnie J.K. Richardson, Vice President, Motion Picture Association of America; Ms. Laura Lane, Vice President of International Policy, AOL Time Warner; and Mr. Francis Grab, Legislative Representative, Director's Guild of America. All panelists expressed strong support for the Chile and Singapore FTAs, specifically because both agreements include cutting edge provisions that protect the interests of the U.S. entertainment industry. Panelists praised the Agreements for providing strong protection of intellectual property in the digital age, strengthening copyright enforcement, and increasing market access with the elimination of tariffs for all U.S. entertainment products. Speakers also pointed out that the Chile and Singapore FTAs are an excellent example that trade agreements can be constructed to incorporate commitments to open up service markets while addressing specific national concerns at the same time.

### **HEARING ON SPACE COMMERCIALIZATION**

On Thursday, July 24 2003, the House Science Committee's Subcommittee on Space and Aeronautics and the Senate Commerce Subcommittee on Science, Technology, and Space held a joint hearing to hear testimony on the future of commercial human space flight. Witnesses included Jeff Greason, President of California-based XCOR Aerospace; Jon B. Kutler, Chairman and CEO of Quarterdeck Investment Partners, L.L.C.; Phil McAllister, Director of Space and Telecommunications Industry Analysis Division for Futron Corporation; Elon Musk, CEO and Founder of California-based SpaceX; and Dennis Tito, CEO and Founder of Wilshire Associates in Santa Monica (and the world's first commercial space "passenger").

House Subcommittee Chairman Dana Rohrabacher (Huntington Beach) commented that by building and flying launch vehicles, the space industry could overcome barriers and revolutionize sub-orbital commercial space flight. He pointed to the industry-promotion benefits offered by his "Zero-Tax Zero-Gravity" bill, HR 1914, and he pointed out that "by building and flying space launch vehicles, commercial space entrepreneurs have overcome a barrier that apparently continues to plague NASA's bureaucratic inertia." Rohrabacher commented that a significant barrier for the fledgling commercial space industry is the perceived uncertainty that the government can create a stable regulatory environment. He said that the federal government can promote investor confidence by preparing clear and consistent guidelines, helping an industry with "tremendous growth potential," but that the success or failure of mastering regulatory hurdles will determine whether there is a "healthy industry or no industry at all."

Calling the demand for a U.S. commercial space travel industry "robust," McAllister described the findings of Futron's recent survey of affluent Americans regarding their interest in participating in commercial space travel, specifically a 15-minute sub-orbital and a two-week 20 percent were strongly interested. He said that prospective travelers would be far more likely to take a flight if the company were based in the United States and was launched from the United States. The survey predicted that by 2021, 15,000 people per year could take suborbital flights, generating revenues in excess of \$700 million, and 60 people per year might take orbital flights. At present, only the Russian Soyuz vehicle is capable of carrying passengers into space, and there is no vehicle capable of carrying passengers into orbit, but he noted that the so-called "X Prize" will award \$10 million to the first private team to fly a three person ship to an altitude of 62 miles twice in two weeks.

Elon Musk of Space X said that the technology exists to take passengers on sub-orbital space travel for less than \$100,000 per flight, but that regulatory burdens and liability fears are holding back progress. He urged that regulation of the fledgling industry be handled by the portion of the Federal Aviation Administration (FAA) office

that handles space launches, rather than the office that deals with airplane issues, and he suggested careful attention to the definitions applied to the vehicles. He also advocated clear regulatory authority and minimum regulatory burden to provide minimal adequate safety for the traveling public.

Also describing a “huge potential industry,” Mr. Tito said that he is ready to invest in the development of a suborbital vehicle. He described reliability and safety as the industry’s primary challenge, and added that the FAA office regulating the industry should not be the same office that regulates commercial airplanes, asking for a clear distinction between the office of commercial space transportation and the aviation side of the FAA. But he does see development of a successful business model, with Wall Street eventually investing required funds.

Noting that aircraft regulation developed after-the-fact, once the technology was already mature, Mr. Greason of XCOR expressed concern about the potential for excessive government regulation. He noted that a failure rate of 1 in 50 is currently considered reliable for space launches, and that danger is measured by ensuring only that no one on the ground is injured. There has never been an on-the-ground injury, he pointed out, and the safety of the “uninvolved public” is guaranteed. He said, “If we insist on perfect safety in the early stages, we will get it because no one will fly.”

Jon Kutler of Quarterdeck Investment Partners spoke regarding the prospects for funding for the transition of the human space flight industry from a government venture to a business venture. Regarding the regulatory structure Kutler noted that billions of dollars have been raised by biotech entrepreneurs in large part because the FDA regulatory structure is a known quantity, adding that it will be important to know whether these vehicles will be considered rockets or airplanes. He cited several industries that have faced difficulties raising commercial capital, including commercial satellites and remote sensing, and that the present increased focus on safety may pose challenges to capital formation. Without government intervention, Kutler expects growth in the industry to come only with incremental business successes.

Responding to a question about “What is safe enough?,” Mr. Tito suggested that 1,000 flawless test flights would demonstrate safety, and, if the economies of scale could reduce the cost of each flight to \$10,000, those 1,000 flights would cost just \$10 million total. Other witnesses responded that the safety should be measured in part by the marketplace; one commented that if customers show up, it is safe enough. Regarding cost and access, Mr. Tito said, “Eventually, people who are able to afford an SUV should be able to afford a space flight.” Another commented that it is too early to develop safety standards for the passengers, and that passengers need to be able to waive liability. Witnesses suggested that Congress indemnify the companies against the consequences of launch accidents, similar to the indemnification provided to the U.S. space transportation industry.

During questioning, Chairman Rohrabacher noted that witnesses indicate that liability is a greater challenge to the industry than engineering and technology. He concluded his comments by saying “the federal government has the power to promote investor confidence by providing clear regulatory guidelines for commercial space transportation operators, or strangle the baby in the cradle.”

Witness testimony is available at <http://www.house.gov/science/> .

## **SENATE COMMITTEE EXAMINES HEALTH PROBLEMS IN NATION’S FORESTS**

On July 22, the Senate Committee on Energy & Natural Resources held a hearing to investigate the effects of insects, disease, weather-related damage, and fires on our nation’s forests. The Committee also examined processes for implementing forest health and hazardous fuels reduction projects. Related legislation discussed by the Committee included S. 1314, the Collaborative Forest Health Act; S. 1352 the Community and Forest Protection Act; and H.R. 1904, the Healthy Forest Restoration Act. Witnesses suggested alternatives to improve the timeliness and effectiveness of projects to reduce hazardous fuels and to combat the spread of insects and disease infestations.

Among the witnesses providing testimony at the hearing were: the Honorable Janet Napolitano, Governor, State of Arizona, Western Governors’ Association; the Honorable Judy Martz, Governor, State of Montana, Western Governors’ Association; Mr. Mark Rey, Under Secretary, Department of Agriculture; and Ms. Rebecca Watson, Assistant Secretary, Department of the Interior.

In their testimony, Governor Napolitano and Governor Martz emphasized the need for a collaborative process to address the hazardous fuels issue. They indicated that a successful strategy will require participation from citizens and governments at all levels. Moreover, they stated that “key decisions should be made at local levels”.

Governor Napolitano and Governor Martz also stressed the need for adequate funding and to avoid borrowing from hazardous fuels reduction accounts to finance immediate extinguishment of fires.

Testimony also focused on the need to streamline administrative and judicial review processes, which, if delayed, may hinder efforts to expedite the protection of high-risk areas. In their statement, Mr. Rey and Ms. Watson noted, "Excessive analysis, ineffective public involvement, and management inefficiencies trap land managers in costly procedural delays, where, in some cases, a single project can take years to move forward. In the meantime, communities, wildlife habitat and forests and rangelands continue to suffer."

Passage of legislation to address forest health problems is important for California forests which have been devastated by infestations of bark beetles and drought. During the hearing, Senator Dianne Feinstein mentioned that of the 23 million acres of public lands designated by both the Forest Service and the Department of Interior as in vital need of emergency treatment, 8.5 million acres are in California. On July 24, the Senate Committee on Agriculture, Nutrition & Forestry approved H.R. 1904 by voice vote.

For testimony from the July 22 hearing, visit <http://www.senate.gov/~energy/hearings/witnesslist.cfm?id=848>

### **STUDY FINDS POOR CALIFORNIA FAMILIES GET MOST OF THEIR INCOME FROM WORK**

A new study by the California Budget Project (CBP) finds that California families living below the poverty level receive 75 percent of their income from work. The study, *Working, But Poor: California's Working Families that Fail to Make Ends Meet*, examines trends and attributes of the state's working poor families. The study also finds that "the working poor are more likely to be Latino, have at least one adult who is not a citizen, and have lower levels of education". The study cites low wages and the lack of full-time work as reasons why the working poor continue to struggle.

CBP is a nonprofit, nonpartisan organization that aims to improve public policies affecting the social and economic well-being of low- and middle-income Californians through independent fiscal and policy analysis and public education. To view a copy of this report visit the CBP website at <http://www.cpb.org>.

### **PPIC STUDY EXAMINES THE WELL-BEING OF CALIFORNIA'S CHILDREN**

The latest study by the Public Policy Institute of California (PPIC) finds that although many of the state's children are doing well, a significant minority trails behind in a number of areas of child development. *The Well-Being of California's Children* evaluates how children are doing in physical health, emotional adjustment, attachment to school, and pro-social activities. The study also finds that overall, California's children seem to be doing somewhat worse than children in the rest of the country in the areas previously mentioned.

PPIC is a private operating foundation dedicated to improving public policy in California through independent, objective and non-partisan research. To view a copy of this report visit the PPIC website at <http://www.ppic.org>.

### **CCSCE STUDY ADDRESSES ECONOMIC PROSPECTS AND CHALLENGES FOR CALIFORNIA**

A new study by the Center for Continuing Study of the California Economy (CCSCE) finds that the California economy has not lagged behind the nation and that future job and income growth within the state will outpace that of the nation. However, this annual update, *California Economic Growth - 2003 Edition*, cautions that California will be impacted by slower national job growth and by the uncertainty surrounding the U.S. fiscal condition.

According to the study, California job levels were slightly up from April 2000 to April 2003, while national job levels were down. Over the same period, the Bay Area was the only region within California to experience a decline in jobs. From 2000 to 2010, CCSCE projects average job growth per year for the Los Angeles Basin (122,000 jobs), San Francisco Bay Area (45,100 jobs), San Diego region (32,400 jobs), Sacramento region (24,700 jobs), and San Joaquin Valley (32,400 jobs).

The report notes that the Bay Area and the Los Angeles Basin have reversed positions from a decade ago: "Then, it was the Basin (the site of aerospace job losses) that accounted for nearly all of the state's job losses and ended the 1990s with the lowest job growth rate. Now, it is the Bay Area that has been hard hit by tech job losses and will end this decade with the state's lowest job growth rate."

CCSCE is an independent, private research organization which focuses on long-term economic and demographic trends in California. For more information, visit <http://www.ccsce.com>.