



THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH

419 New Jersey Avenue, SE, Washington, D.C. 20003 202-546-3700
fax: 202-546-2390 e-mail: randsell@calinst.org web: <http://www.calinst.org>

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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.

NEXT CR MAY LAST JUST 2 DAYS AS SESSION NEARS POTENTIAL CLOSE

On a 410-10 vote on Thursday, November 20, 2003, the House of Representatives approved a two-day Continuing Resolution, H.J. Res 78, to extend federal government operations by two additional days – from Friday, November 21, through Sunday, November 23.

If various hurdles can be overcome, House and Senate leaders have expressed hope that Congress might complete work for the year within the next few days, with some outstanding funding bills combined in an omnibus measure. However, a number of unresolved questions in those funding bills – as well as a variety of thorny policy issues such as a Medicare conference and the energy policy bill in the Senate – may ultimately derail those plans.

HOUSE PASSES ENERGY BILL; FILIBUSTER POSSIBLE IN SENATE

On Tuesday, November 18, the House passed the Conference Report to the long-sought National Energy Policy Act of 2003, H.R. 6 (H.Rpt. 108-375). The comprehensive bill will overhaul U.S. energy policy and has many provisions that directly impact California. The House vote was 260-186.

One of the many provisions affecting the state is the expansion of the use of ethanol and other renewable fuels in gasoline. The bill mandates that ethanol use be doubled to 5 billion gallons annually by the year 2012. The bill also requires the phase-out of MTBE countrywide by December 31, 2014. MTBE has been found to contaminate drinking water and many wells in California have been shut down as a result of contamination. The bill, however, also shelters manufacturers of MTBE from liability for harm caused by the additive where negligence is not found, and makes the immunity retroactive to September 5. Opponents of these provisions in California have argued that increased use of ethanol may raise gasoline prices in the state, and the liability limitation will leave

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water agencies and taxpayers without recourse to recover the millions of dollars it is expected to cost to clean up the contaminated drinking sources. Additionally, the retroactivity of the MTBE immunity may nullify lawsuits filed in October by Sacramento County water districts to collect cleanup costs.

The bill provides authorization for federal fusion energy programs of \$335 million for 2004, increasing to \$393 million in 2008, and it provides for U.S. participation in ITER, the International Thermonuclear Experimental Reactor project. The bill also provides for a U.S. policy for fusion energy sciences, a provision sought in bipartisan efforts by members of the California Congressional Delegation.

The bill also includes tax credits to encourage the development of renewable fuels, including wind and solar power, and provides \$1 billion over ten years to fight coastal erosion.

The Senate began consideration of the Conference Report this week, but the leadership is attempting to shore up enough votes to put off a filibuster. Sen. Charles Schumer (NY) has threatened to filibuster over the MTBE liability waiver issue. Other Senators have expressed concerns with other portions of the bill, as well.

In other energy-related activity, Senator Dianne Feinstein has reportedly placed holds on a various non-essential Bush Administration nominations to protest the White House's renegeing on an agreement to reappoint Commissioner William Massey to the Federal Energy Regulatory Commission. Massey has been a commission dissenter, an outspoken critic of FERC handling of the California energy crisis, and an advocate of larger refunds to California from wholesale power marketers who profited from the state's misfortunes.

COX BILL TO ADDRESS HOMELAND SECURITY FORMULA RECEIVES UNANIMOUS BIPARTISAN SUPPORT IN SUBCOMMITTEE MARKUP

In a legislative first step on Thursday, November 20, 2003, Republicans and Democrats on the House Homeland Security Subcommittee on Emergency Preparedness and Response joined together to unanimously approve an amended version of H.R. 3266. The bill, entitled the "Faster and Smarter Funding for First Responders Act," would alter the funding distribution process for the State Homeland Security Grants program for first responders by requiring that funds be distributed based on threat levels rather than the current system that relies on population and includes an unusually large minimum guarantee for small states. The bill would not include specific funding guarantees for any geographic area, but would instead require the Department of Homeland Security (DHS) to develop a comprehensive assessment of the threats facing the nation, and would require states and regions to apply to DHS for funding based on the extent of state, regional and local preparedness needs.

The bill, introduced by full Committee Chairman Cox (Newport Beach), was amended during the markup to include many of the provisions of a parallel, Democrat-sponsored initiative (H.R.3158) entitled the "Preparing America to Respond Effectively Act of 2003" or the PREPARE Act. The latter bill, introduced by the full committee's Ranking Democrat, Rep. Jim Turner (TX), would create a task force to identify the "essential capabilities" needed by every State and local government and create a grant program to address the State's need to meet those essential capabilities. Rep. Turner thanked Cox for accepting the essential elements of his bill, adding, "The bill departs from the ways of the past by abandoning arbitrary formulas and targeting funding where it is needed most, while preparing communities across America to respond to terrorism."

Chairman Cox noted that the Subcommittee and full Committee have conducted five extensive hearings into the issues addressed. He thanked Ranking Democrat Turner and his colleagues for working collaboratively to combine the two bills in a "spirit of bipartisanship." Cox noted that funding for homeland security is up nearly 1000 percent since the attacks on the World Trade Center and the Pentagon since attacks to approximately \$20 billion total spent.

The details of the compromise were worked out prior to the markup, and Subcommittee Chairman John Shadegg (AZ) proposed an amendment in the nature of the substitute, which the subcommittee approved by voice vote without dissent. Lamenting that 2004 first responder grants have already been distributed according to the existing inefficient formula, Shadegg cited warnings that poor distribution of resources may leave some areas of the country vulnerable to threat and commented that, "We need to figure out where terrorists are most likely to strike and direct our resources so that we are ready." He noted that the amended bill would require that future funding be allocated based on levels of threat, vulnerability, and consequences.

The compromise bill requires that states pass 80 of funds to the local level within 45 days, and it includes a 25 percent cost share matching requirement. The bill permits use of funding for equipment, planning, training, and other activities, but some local governments have expressed concern about a proposed prohibition on using funds to provide overtime pay for first responders. A number of programs would be left unaffected by the bill, including the COPS grants program for law enforcement agencies and Assistance to Firefighters Grants.

Subcommittee Ranking Democrat Bennie Thompson (MS) said the bill combines the best ideas of the two bills it merges. He praised it for ensuring protection of rural areas, by requiring a detailed assessment of first responder capabilities nationwide, and simultaneously "does away with arbitrary formulas."

The bill now moves to consideration in the full Homeland Security Committee, which is likely to conduct a markup after Congress returns in January. <http://hsc.house.gov>

JUDICIARY SUBCOMMITTEE HEARING EXAMINES HOMELAND SECURITY BILLS

On Thursday, November 20, 2003, the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security held a hearing entitled "Homeland Security - the Balance Between Crisis and Consequence Management through Training and Assistance (Review of Legislative Proposals)." Examining three bills that would alter funding formulas for homeland security grants, the hearing sought to investigate complaints that the federal government provides too much support to rural towns and not enough to big cities and populated states that are more likely to be terrorist targets.

The hearing focused specifically on three bills. One of these, H.R. 2512, the "First Responders Funding Reform Act of 2003" by Rep. John Sweeney (NY), would amend the USA PATRIOT Act to change the formula used by the Department of Homeland Security's Office of Domestic Preparedness (ODP) to provide domestic preparedness grants by reducing the 0.75 percent small-state minimum to 0.5 percent. The other two bills were H.R. 3266, the "Faster and Smarter Funding for First Responders Act," introduced by Rep. Christopher Cox (Newport Beach); and H.R. 3158, the "Preparing America to Respond Effectively Act of 2003" (the PREPARE Act), introduced by Rep. Turner (TX). Both the Cox bill (which shifts the formula to focus on threat levels) and the Turner bill (which creates a task force to identify the essential capabilities needed by every State and local government and create a grant program to address state and local needs in order to meet those capabilities) were marked up and approved later the same day by a Homeland Security subcommittee (*see above article*).

The hearing's first witness was Suzanne Mencer, newly-confirmed Director of the Office of Domestic Preparedness at the Department of Homeland Security (DHS), who commented that the existing scheme for allocating funding is adequate because rural areas receive funding under the state grant program and urban areas receive funding under a high-threat urban area program. (In 2004, state grants will provide \$2.2 billion, and urban area grants \$725 million.)

A second witness was Raymond W. Kelly, Police Commissioner of New York City, who was sharply critical of the existing formula as vastly skewed in favor of small states. He also noted that the high-threat urban area grants are being provided more diffusely - to smaller urban areas - thus reducing the

concentration of funding in the largest and densest urban areas. In addition, the panel heard testimony from William Bishop, Director of the Idaho Bureau of Homeland Security, who defended the formula.

Rep. Tom Feeney (FL) called the formula “unresponsive” to the nation’s comprehensive needs, and suggested that a weapon of a biological nature at a theme park could do vast damage. He suggested that psychological and strategic sites should be considered, and that a formula needs to go beyond population to focus on threat and impact.

Rep Anthony Weiner (NY) noted that DHS was required to take into consideration credible threats, presence of critical infrastructure, and population vulnerability as it distributed funding, but he said that threat levels are weighted considerably less than either population or critical infrastructure levels. Weiner specifically questioned whether Fresno and San Antonio qualify as enough of a high-threat high-density urban area to warrant grant funds, adding, “If you add Fresno, it becomes very difficult for you next year to take Fresno off.”

Subcommittee Chairman Howard Coble (NC) advocated caution in making changes, suggesting that a focus of efforts in one area may cause other areas to become vulnerable.

For additional information, visit <http://www.house.gov/judiciary/> .

AGREEMENT REACHED ON HEALTHY FORESTS BILL

House-Senate negotiators have reportedly reached a compromise on the “Healthy Forests” initiative (H.R. 1904) aimed at suppressing wildfires by allowing the thinning of forests. The bill would allow up to 20 million acres of federal forests to be thinned while requiring fewer environmental reviews and expediting judicial reviews.

Under the compromise, a 1.5 mile “wildland urban interface” zone would be established around communities most at risk of wildfires. Fifty percent of the funding for forest thinning would have to be spent in these zones, thus focusing resources on the outer edges of forests and away from the center, old growth areas of the forest. The bill also requires the Forest Service and Bureau of Land Management to maintain and promote the restoration of old growth forests. In exchange for these changes, the bill limits to one the number of alternative forest thinning plans that have to be considered when the proposed project is within one and a half miles of a town, and two plans when the project is farther away from a populated area.

Senator Dianne Feinstein and Rep. Richard Pombo (Tracy) led the negotiations to reach a compromise on the bill. It is hoped that the compromise will be agreed to by a House-Senate conference committee before Congress adjourns for the year.

CONGRESS SENDS ENERGY AND WATER APPROPRIATIONS TO PRESIDENT

On November 18, the House and Senate approved the FY2004 Energy and Water Appropriations bill (H.R. 2754; H.Rpt. 108-357), clearing the measure for the President’s signature. The House vote was 387-36; the Senate passed the bill by voice vote.

The \$27.3 billion bill funds the U.S. Army Corps of Engineers-Civil, the Department of Interior including the Bureau of Reclamation, the Department of Energy, and several Independent Agencies. The bill is \$1.19 billion above the fiscal year 2003 appropriation and \$382 million above the President’s budget request.

Numerous projects earmarked for California are included in the bill, including \$9 million for CALFED-related programs. On the Energy side, \$268.1 million is provided for fusion energy research, an area where California continues to compete very strongly for funding. See, [*Bulletin, Vol. 10, No. 33 \(11/06/03\)*](#).

Numerous other programs and projects of importance to California are included in the Conference Report. The Institute will do a detailed analysis of the Report in the near future.

SOUTHERN CALIFORNIA'S AVIATION ISSUES CONSIDERED

On Wednesday, November 19, 2003, the Southern California Association of Governments (SCAG) held a briefing for members of the Southern California Congressional Delegation to address region's air traffic congestion, and also to present its Preferred Aviation Plan. SCAG is updating its regional growth forecast and has developed a new aviation demand forecast and plan, which seeks to maximize airport efficiency on a regional scale.

In addition to staff, Reps. Jane Harman (Venice), Jerry Lewis (Redlands), Dana Rohrabacher (Huntington Beach), Diane Watson (Los Angeles), and Maxine Waters (Los Angeles) attended the briefing. SCAG's Executive Director Mark Pisano explained that under the proposed plan the future demand for air travel would be served by using an already available capacity at airfields located in the Inland Empire and north Los Angeles County rather than relying on expanding existing urban airports, including the Los Angeles International Airport (LAX). The plan aims to relieve pressure on congested urbanized airports and the region's transportation infrastructure by distributing long haul and international service to suburban airports, including Palmdale and Ontario. Mr. Pisano noted that the Preferred Aviation Plan incorporates the MAGLEV system, which will connect the major airports and thus balance distribution of aviation demand and services in the region. He stressed the need for a regional partnership between airport authorities and congressional support to ensure the plan's success.

Members of the Southern California Congressional Delegation attending the briefing stressed the need for a solution to Southern California's air congestion, particularly in light of the sharp population growth projections for the region. They voiced their willingness to work with SCAG and regional authorities on the plan, and pledged their support for a collaborative solution to the problem.

SENATE PASSES FY 2004 VA AND HUD APPROPRIATIONS; CALIFORNIA LAWNMOWER ENGINE EMISSIONS PROVISION NOT INCLUDED IN OMNIBUS

On Tuesday, November 18, 2004, the Senate passed by voice vote its version of the Fiscal Year 2004 Appropriations for the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies, S. 1584. The bill provides a total of \$122.7 billion in new spending authority for the Department of Veteran Affairs (VA), Department of Housing and Urban Development (HUD), including the Section 8 Housing Program, and for Independent Agencies, including the Environmental Protection Agency (EPA) and the National Aeronautics and Space Administration (NASA). The bill is \$4 billion above the FY 2003 appropriation and \$600 million above the President's budget request.

Funding for the Department of Veteran Affairs is \$62 billion, which includes \$32.7 billion in mandatory spending and \$29.3 billion in discretionary spending. The figure appropriated is \$3.9 billion over the amount provided in FY03 and \$1.3 million above the amount requested by the Administration.

For the Department of Housing and Urban Development, the Senate bill provides \$36.1 billion. The total is \$876.9 million higher than the FY03 level of funding and is \$157.6 million over the President's budget request. HUD funding includes \$140 million for Economic Development Initiatives, which, among other projects, provides funding for the following California projects:

- \$1 million for the City of Inglewood for the construction of a senior center
- \$250,000 for the City of San Francisco for the Old Mint redevelopment project
- \$750,000 for the City of San Diego for the construction of low income housing
- \$250,000 for the Sacramento Housing and Development Agency for the construction of new low income housing

–\$250,000 for the City of East Palo Alto to build a new town civic center

Funding appropriated for the Independent Agencies includes \$78.8 million appropriation for the National Institute of Environmental Health Services, \$8.2 billion appropriation for the EPA, and \$15.339 billion in funding for NASA. The total funding provided for EPA includes:

- \$50 million for high priority water and wastewater facilities in the area of the U.S.- Mexico border
- \$130 million for targeted project grants, including:
 - \$1 million for the Santa Clara Valley Water District for perchlorate groundwater clean-up
 - \$500,000 for the City of Ukiah for wastewater infrastructure improvements
 - \$500,000 for the West Valley Water District for the Inland Empire Perchlorate Force Wellhead Treatment
 - \$500,000 for Madera County for wastewater infrastructure improvements
 - \$500,000 for the City of Santa Ana for water infrastructure improvements
 - \$200,000 for Ventura County for sewer infrastructure improvement

Numerous other programs and projects of importance to California are included in the bill. The Institute prepared a detailed analysis of the bill, which is available on the California Institute web site at <http://www.calinst.org> . A printable version in Adobe Acrobat ("pdf") format is also available.

Despite Senate passage, the legislation is expected to be included in the omnibus appropriations bill now being negotiated by House and Senate leaders. On Wednesday, November 19, those negotiators agreed to drop an amendment that was added to the EPA section of the bill by Sen. Kit Bond (MO) during Senate consideration. The amendment would have prohibited California from enforcing a recent tightening of strict pollution controls on lawn mowers and other small engines. Governor Arnold Schwarzenegger, Sen. Dianne Feinstein, and many California members of Congress persuaded conference negotiators to delete the Bond amendment, but Bond has indicated he will try again to include it in the omnibus appropriations bill.

CALIFORNIA'S EXPORT SECTOR ON THE RISE

California's export market is showing positive signs of improvement, according to the trade statistics released on Thursday, November 13, 2003 by the Massachusetts Institute for Social and Economic Research.

The report showed that exports from California's farms and factories totaled over \$23 billion in the third quarter, which was \$54 million (0.2 percent) above the figure posted for the comparable period last year. In particular, exporters of computers and electronics parts, the state's leading export category, posted \$9 billion in merchandise shipments for the third quarter of 2003. Although California's shipments of high-tech goods were down 41 percent (or \$26.3 billion) for the first nine months of the year from the same period in 2000, they were up 4.5 percent from the figures posted for the second quarter of 2003. Apart from the high-tech sector, the reports shows that shipments of other commodities including chemicals and agricultural products, posted gains as well. Transportation equipment exports had the strongest increase of 17 percent in the third quarter from a year earlier.

Per new figures, Mexico is California's largest export market with a volume of \$67.7 billion, followed by Japan (\$10.8 billion) and Canada (\$8.6 billion). China has moved up to occupy the fourth spot in California's export markets with \$8.3 billion in volume sold in 2003. China did not even rank in the top 10 of California export markets in 2000.

It is the first time in nearly three years that California's exporters posted an increase in merchandise shipments. Similarly, total U.S. exports of goods and services experienced the largest monthly increase in three years, with an increase of \$2.4 billion in September up to a total of \$86.2 billion.

To view a full copy of the report, please visit the Massachusetts Institute for Social and Economic Research website at: <http://www1.miser.umass.edu/trade/statex.html> .

REPORT EXAMINES IMPACT OF MIGRATION ON SOUTHERN CALIFORNIA

The Pacific Council on International Policy recently released a report entitled *“The New Melting Pot: Changing Faces of International Migration and Policy Implications for Southern California.”* The report, authored by Dr. Georges Vernez, Director of the RAND Center for Research On Immigration Policy, draws on the latest census data to conclude that increasing diversity is affecting the social, economic and political environment in Los Angeles and Southern California as a whole. Dr. Vernez states, “international migration is transforming Southern California into the worlds’ first global civil society.”

The report finds that, economically, its large immigrant “Diasporas” have served Southern California well, with immigrants’ work ethic, entrepreneurship, and lower labor costs providing the region’s employers’ with a comparative competitive advantage. However, Dr. Vernez finds that there are costs to the region as well, because of the disproportionate share of inadequately educated immigrants. He finds that the increasing dependence on this workforce coincides with a regional decline in the educational level of the workforce, a reduction in business investments, “possibly retarding technological improvements,” and the closing of underperforming plants. He also finds that the growing economic disparities fueled in part by the immigration influx threaten the region’s social fabric. Although most immigrant groups are progressing economically, “Hispanics, the overwhelming majority of whom are Mexican origin, have been losing economically relative to non-Hispanic whites and the Asian Diasporas....Considering the fact that these children are now a majority of the children entering the region’s school system, if not reversed these trends will threaten the social stability and economic health of the region,” according to Dr. Vernez.

Socially and politically, the integration of the region’s immigrants is proceeding, according to Dr. Vernez. He cites “considerable progress” in three key measures of societal integration: naturalization, English language acquisition, and participation in democratic institutions.”

In conclusion, Dr. Vernez makes three suggestions that the Southern California region should adopt: 1) support increased investments in education, particularly post-secondary education; 2) support changes in federal immigration policies to reduce undocumented immigration; and 3) continue the development of a civic culture based on tolerance and common values.

A full copy of the report can be obtained from the Pacific Council through its website at: <http://www.pacificcouncil.org> .

SEMICONDUCTOR INDUSTRY REPORT ON CHINA’S INDUSTRY RELEASED

The Semiconductor Industry Association and the law firm of Dewey Ballantine LLP recently released a report entitled *“China’s Emerging Semiconductor Industry: The Impact of China’s Preferential Value-Added Tax on Current Investment Trends.”* The report is the latest in a series published to examine the policies that governments around the world are using to promote their semiconductor industries. It was authored by: Thomas R. Howell, Brent L. Bartlett, William A. Noellert, and Rachel Howe.

The report details the “massive expansion of semiconductor manufacturing capacity” currently underway in China, and finds that while China has made progress in opening its semiconductor market as part of its accession to the World Trade Organization, its policy of rebating a substantial portion of its Value-Added Tax (VAT) to domestic producers, but not foreign producers, violates the WTO’s national treatment requirement. The report examines in detail the potential trade distortions caused by this policy

and reaches several conclusions. First, the preferential VAT creates a cost-advantage for mainland based production. Second, the fusion of Taiwanese capital and expertise (through new Taiwanese semiconductor plants) with China's resources is transforming China's semiconductor industry into a "greater Chinese" industry. And, third, longstanding constraints, such as controls on technology exports to China, and Taiwan's legal restrictions on investments in China, are eroding, thus, enhancing China's development of a microelectronics industry.

While the report states that in the near-term China's growing semiconductor industry provides opportunities for U.S. makers of semiconductor equipment, materials, and devices, U.S. policymakers should remain diligent in scrutinizing China's industry expansion. The report finds that the true challenge is that "China's growing 'gravitational pull' will draw capital, talented people, and, ultimately, leading edge R&D and design functions away from the United States."

For further information on the report, please contact: Thowell@deweyballantine.com.

PPIC STUDY FOCUSES ON CALIFORNIA'S NEWEST IMMIGRANTS

Immigrants form an increasing share of the state's population, though their socioeconomic make-up when they arrive in the United States and subsequent assimilation differ along ethnic lines, according to the new study released by Public Policy Institute of California (PPIC). Using data from the 2000 Census and titled "*California's Newest Immigrants*", the report paid close attention to immigrants that arrived between 1990 and 2000.

The report found that in 1990, 22 percent of the state's population was foreign-born, and that by 2000 that share had risen to 26 percent. Of the 2.8 million new immigrants who arrived in California within the last 10 years, 46.2 percent were born in Mexico in comparison to 38.2 percent reported in the 1990 Census. New immigrants from India over the years have also become a small but important component of international migration to the state.

The report also found that a greater percentage of Mexican and Central American immigrants live in poverty and crowded housing conditions, as compared to their East and Southeast Asian counterparts. The report points to several factors as possible reasons for the latter situation: Mexican/Central American immigrants tend to be younger and have very low education levels, with 70 percent without a high school diploma. Among the reports other key findings are the following:

- Although California receives far more new immigrants than any other state, its share of the nation's new immigrants has declined from 36 percent in 1990 to 25 percent in 2000;
- India was not in the top 10 sending countries in 1990, but in 2000, it was fifth largest (4 percent);
- The Los Angeles and San Francisco Bay are home to nearly 75 percent of the state's new immigrants, although they constitute at least 1 percent of the population in every county;
- On average, recent Mexican/Central American immigrants are nearly a full decade younger than those from East and Southeast Asia (24.5 years versus 34 years, respectively);
- Over 40 percent of new immigrants are struggling with the English language, stating that they do not speak English well or at all;
- Over half of new immigrants are in married-couple families with children younger than age 18.

Among those new immigrants who are not in family households, approximately equal numbers live in non-relative and other-relative households.

To view the report, visit the Public Policy Institute of California's website at: <http://www.ppic.org>.