



THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH

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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.

CALIF. MISSIONS ACT AND SAN GABRIEL BASIN BILL PASS CONGRESS, AWAIT PRESIDENT’S SIGNATURE

On Wednesday, November 17, the House of Representatives passed, under suspension of the rules, the Senate version of the California Missions Preservation Act, paving the way for \$10 million in preservation and restoration funds to go to California’s 21 historic Spanish missions. The bill, HR. 1446, passed the Senate by unanimous consent with amendments on October 10; the President is expected to sign the bill. The missions, which were constructed between 1796 and 1798, date back to the earliest years of Spanish and American expansion in the West.

Sponsored by Rep. Sam Farr (Carmel), the Missions Act provides the chain of Catholic missions, which were instrumental to California’s early cultural, economic, and religious development, with sorely needed funds to repair the crumbling historic sites. The bill authorizes the Department of the Interior to provide \$10 million to the California Missions Foundation, a non-sectarian charitable corporation, which is charged with distributing the money throughout the existing missions. Funds will be used to undertake seismic retrofitting, repair building roofs and tiles, protect pieces of artwork including famous wall paintings, and create or improve the infrastructure necessary to accommodate the missions’ more than 5 million visitors per year. Many of the visitors are fourth-graders, who study the missions as part of the state mandated California history curriculum.

Rep. Farr hailed the passage of the bill as an important victory for California, stating that “Our missions are an intrinsic part of our state’s history, and the history of the West. Sadly, many of these national treasures are crumbling before our eyes -- plagued by crumbling foundations, cracked tiles and dangerously old electrical systems. We’ve had to fight for this bill, but California’s missions are worth it.”

Some controversy and protest erupted over the use of public monies for restoring explicitly religious structures. 19 of the 21 missions are still owned by the Catholic church, and protest groups including Americans United for Church and State believed the Missions Act violated the first amendment. In order

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to assuage fears, the bill includes language limiting the disbursement of funds to secular, historically significant purposes.

Another California-related bill, to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project, also passed the House on Wednesday under suspension of the rules. HR. 1284, sponsored by Rep. Grace Napolitano (Norwalk) and co-sponsored by Rep David Dreier (San Dimas) and Rep. Hilda Solis (El Monte), passed the Senate with an amendment by unanimous consent on September 15; the bill awaits the President's signature. The maximum federal contribution for the project was increased to \$12.5 million.

INTELLIGENCE OVERHAUL BILL NEGOTIATIONS DOWN TO THE WIRE

After working late nights and early mornings all week, House and Senate negotiators continued toiling on Thursday, November 18, in an effort to reach a final compromise on a bill to overhaul the nation's intelligence structure. Some considered Thursday a drop-dead date for completing a compromise, given the time needed to prepare a conference report and move it through both houses of Congress.

According to some reports, most aspects of the bill S.2845 in the Senate and H.R. 10 in the House have been agreed upon. The bill seeks to implement many of the recommendations of the bipartisan 9/11 Commission. Reportedly, differences between the House and Senate versions are largely focused on immigration-related provisions -- including restrictions on asylum granting for illegal immigrants and stricter documentation requirements for obtaining drivers licences -- although some Congressional leaders also say there is also still disagreement over the level of budget authority that would be controlled by the newly created National Intelligence Director.

Wrapped up in the negotiations are changes to a controversial homeland security formula. The House version of the bill incorporated legislation by House Homeland Security Select Committee Chairman Christopher Cox (Newport Beach) entitled the "Faster and Smarter Funding for First Responders Act." That legislation would alter the frequently-criticized formula for allocating federal homeland security funding to state and local first responders that includes an unusually large 0.75 percent minimum by reducing to minimum to 0.25 percent for some states and 0.45 percent for others. (Although it still retain a state-level funding minimum regardless of threat or risk, the altered formula in the House bill would significantly lessen the funding gap between large and small states, likely increasing California's share of funding considerably.) The Senate bill, sponsored by Sen. Susan Collins (ME), includes a complicated restructuring of homeland security grant programs and retain as freestanding the discretionary Urban Area Security Initiative (UASI) program but would also retain the existing 0.75 percent small-state minimum. Last year, California received 20 percent of urban area grants and 8 percent of formula grants.

For more information on homeland security grant programs in 2003 and 2004, and on California's share thereof, see "Federal Formula Grants and California: Homeland Security" -- one of a series of joint publications by the Public Policy Institute of California (PPIC) and the California Institute reviewing state's share of formula funds, available at: <http://www.ppic.org/main/publication.asp?i=481> .

In a related matter, action has also been delayed on the annual bill (H.R.4548) to reauthorize intelligence programs. Reportedly, House leaders are concerned that action on that more limited measure might get bogged down with debate regarding the lack of progress on the larger intelligence overhaul measure, should critics offer a motion to instruct conferees. The elements of the intelligence authorization measure are classified, as is the amount of money involved, but speculation puts the total funding involved at approximately \$40 billion.

CONFEREES REACH AGREEMENT ON IDEA REAUTHORIZATION; FORMULA CHANGES GENERALLY MINOR

On Wednesday, November 17, 2004, House and Senate conferees reached a compromise over legislation altering the Individuals with Disabilities Education Act (IDEA). The law, which now costs more than \$11 billion per year and helps 6.7 million children across the country, provides funding to help ease the burden on states of educating special-needs children.

Conferees worked through 400 compromise areas in their statement of managers. If approved and signed by the President, the conference report would extend IDEA through 2011; the current authorization expired in 2002. Senate conferees unanimously approved the conference report by a vote of 8-0, while House conferees voted 20-1 in favor of the report.

Among the changes to the IDEA law, strict certifications for special education teachers aroused the most contentious debate. In accord with standards set in the No Child Left Behind Act of 2001, the IDEA report requires teachers to be "highly qualified" in special education by the end of the 2005-2006 school year. Disciplinary provisions and appeals were a significant topic of debate, and the bill increases schools' authority to punish infractions that are not a direct result of a disability. In a provision sought by some school districts, the bill prohibits federal funds from being used "to satisfy state-law mandated funding obligations for local educational agencies, including funding based on student attendance or enrollment, or inflation."

Additionally, conferees haggled over funding levels for the program, attempting to reach the purported original goal that 40% of the states' excess cost for educating disabled students would be covered by the federal government. Although growing costs and the unclear funding make it uncertain that IDEA will reach that threshold -- some advocates in and out of Congress have called for converting the program to mandatory budget status -- special education grants have received strong appropriations increases in recent years. H.R. 1350's proponents now say the bill puts the program on a "six-year glide path" to reach the 40 percent funding goal via traditional, discretionary appropriations.

The conference report includes much of a Senate-proposed item that rewards some states for having identified large percentages of their child population as disabled. A portion of current IDEA funding depends on states' historical counts of disabled children, which in the past provided an incentive to over-identify children to gain more dollars. At one end of the spectrum, Rhode Island counts 20 percent of school age children as disabled; California, on the other hand, ranks second-lowest among states, counting only 10 percent as disabled. The compromise bill adjusts current law by making it more likely that states that identify unusually large percentages of children as disabled will continue to receive federal dollars without fear of being limited by a funding cap. Until now IDEA law limited state grants to the state's disabled child population multiplied by 40% of per pupil spending -- a threshold that seemed far away until recently. With sharp rises in total appropriations levels, some states are nearing that threshold, and some in California and other states had hoped to receive more grant funding once over-identifying states began hitting that 40% cap. The conference agreement allows that cap to climb annually beginning in 2007, perpetuating the existing discrepancy between states and benefitting high-identification states in the future.

A September 2003 report by the Public Policy Institute of California (PPIC) and the California Institute, entitled *Federal Formula Grants and California: Education Programs for Disabled Children*, examined the mechanics of the IDEA formulas that determine funding levels for California and other states. It also analyzes the state-by-state effects of prospective formula-change scenarios. (For example, California guarantees education services for disabled children through age 18, while some other states provide services through later ages. Because the law provides an incentive for states to keep that age

level high, California's funding growth has begun to slow relative to that of other states, and it may continue to do so.)

The IDEA report is part of the ongoing "Federal Formula Grants and California" series, a joint venture of the California Institute and the PPIC. It is available on the PPIC website, at <http://www.ppic.org/main/publications.asp?i=172> , or from the California Institute at <http://www.calinst.org/formulas.htm> .

HOUSE EXPECTED TO CONSIDER ROHRBACHER BILL TO CLARIFY COMMERCIAL SPACE FLIGHT REGULATORY POWERS

After what appears to be a last-minute negotiating victory, the Commercial Space Launch Amendments Act of 2004, a bill to streamline and clarify regulatory authority over commercial space flight activities, appears to be ready for final action on Friday, November 18, 2004. A sticking point had been differences over the scope and timing of Federal Aviation Administration (FAA) authority to regulate private space activity, with different views expressed on one hand by House and Senate Science Committee and on the other by Transportation Committee. After amendments and additions, HR 3752, sponsored by House Space Subcommittee Chairman Dana Rohrabacher (Huntington Beach), is being incorporated into a new measure, H.R. 5382. The compromise measure gives the FAA limited regulatory authority until 2012, after which the agency will assume full authority.

In March, a nearly unanimous House of Representatives approved H.R. 3752, which sought to "create a clear and balanced regulatory regime" to promote the commercial space flight industry while ensuring public safety. The bill focuses on suborbital vehicles, which could be developed by California companies and launched from California's Vandenberg Air Force Base or the Mojave Spaceport.

As approved by the House earlier in the year, the bill specifies that federal authority over suborbital rocket flights and all commercial space flight should reside in the Federal Aviation Administration (FAA) Office of Commercial Space Transportation (AST), and it enables AST to issue experimental permits that can be granted more quickly and with fewer requirements than licenses. The bill would also extend for 3 years government indemnification for the entire commercial space transportation industry (including licensed, non-experimental commercial human space launches) for a period of three years, though it stops short of indemnifying experimental permit flights. Permits could be issued only for "reusable suborbital rockets" used for research and development to test new design concepts, new equipment, or new operating techniques; showing compliance with federal requirements; or crew training prior to obtaining a launch or reentry license.

The bill is expected to reach the House floor on Friday.

For additional information regarding California's commercial space launch industry, visit the California Space Authority website, at <http://www.californiaspaceauthority.org/> .

INTERNET TAX MORATORIUM MAY BE EXTENDED BEFORE ADJOURNMENT

House and Senate negotiators have apparently reached a compromise agreement on extending the moratorium on Internet taxes. The House passed a bill, H.R. 49, sponsored by Rep. Chris Cox (Newport Beach) on September 17, 2003 under suspension of the rules, and the Senate passed its bill, S. 150, on April 29, 2004 by a vote of 93-3. The two sides have not been able to come together, however, on how to reconcile the bills until now.

On Wednesday, November 17, the Senate adopted a concurrent resolution by voice vote that makes changes to its bill and clears the way for House adoption of the resolution followed by adoption of the Senate bill. The compromise would extend the ban on all Internet access and service provider taxes until November 1, 2007. States already taxing dial-up service would continue to be grandfathered in under the

new bill. States that tax high-speed DSL would be allowed to continue those taxes for two years. The new changes made to the Senate bill concern Wisconsin's grandfather provision, and Texas's ability to collect franchising and right-of-way fees.

The House's bill had permanently banned Internet taxes and eliminated the grandfather provisions for states that already collected Internet taxes. The last moratorium, however, expired on November 1, 2003, and House leaders were concerned that not reinstating the ban soon might lead to more states enacting new Internet taxes.

NAPOLITANO TO CHAIR HISPANIC CAUCUS

On Thursday, November 18, 2004, the Congressional Hispanic Caucus elected a new leader for the 109th Congress -- Rep. Grace Napolitano (Norwalk). And once the balloting for the Caucus' leadership positions was complete, three of the four slots had been filled by Californians. Joining Caucus Chair Napolitano will be Rep. Joe Baca (Rialto) as First Vice Chair, and Rep. Lucille Roybal-Allard (Los Angeles) as Whip.

This is not the first time a Californian has led the Caucus. Since its inception in 1976, CHC chairs have included Rep. Roybal-Allard herself, as well as Rep. Xavier Becerra, and former Reps. Edward R. Roybal and Matthew Martinez.

CENTRAL VALLEY GROWTH FED BY COASTAL CALIFORNIANS MOVING INLAND, PPIC REPORT FINDS

A recently released report from the Public Policy Institute of California (PPIC) finds that domestic migration, particularly from California's coastal areas, is the biggest factor in the burgeoning growth of the Central Valley. The report, *The Central Valley at a Crossroads: Migration and Its Implications*, was authored by Hans P. Johnson, and Joseph M. Hayes.

The Central Valley's population has more than doubled since 1970 to become one of the fastest growing regions of the state. According to the report, over half of that growth (58%) is directly due to migration, and most of the migration (60%) comes from Coastal California. The report also found that the influx of Californians into the Valley was greater than the influx of foreign immigrants. Between 1995 and 2000, according to the report, about 145,000 foreign immigrants moved to the Valley. During the same time, however, nearly 156,000 Californians moved in, and that number grew to nearly 200,000 between 2000 and 2003.

The report also examines the implications of this growth in the Central Valley, and the disparate ways it has affected different regions in the Valley. For instance, between 1995 and 2000, the South San Joaquin Valley gained less-educated migrants (a net gain of 13,000 adults without a high school diploma) and lost college graduates (a net loss of 3,000). At the same time, however, the Sacramento Metro area gained twice as many college graduates (a net increase of 22,000) as it did migrants without a high school diploma (a net increase of 11,000). The report also found distinct migration patterns within the Valley's other areas. As a result, the authors assert that future policies for dealing with growth must look at each region's circumstances, rather than trying to treat the Central Valley as a whole.

The report was made possible in part by funding from the James Irvine Foundation. It may be obtained from PPIC's website at: <http://www.ppic.org>.

MPAA MOVES AGAINST INDIVIDUALS FOR MOVIE PIRACY

The Motion Picture Association of America filed over 200 lawsuits this week against alleged on-line pirates seeking damages of up to \$150,000 for each movie illicitly downloaded over the Internet. MPAA represents the seven major Hollywood movie studios, who have also joined in the suits. The actions were

filed against “John Doe”s, primarily because the industry can only identify the Internet addresses where it believes pirated movies can be found. The industry will use the civil discovery process to obtain the individual users’ names from their Internet service providers, if possible.

The lawsuits represent a new, more aggressive campaign by the movie makers to crack down on piracy, which it estimates costs about \$3 billion a year in lost revenue. The new move follows the lead of the Recording Industry Association of America, which in 2003 began filing suits against individual users of pirated music, as well as peer-to-peer (P2P) operations such as Napster. Since then, some studies have shown that the number of weekly users of Kazaa, another P2P network, have dropped dramatically.

PPIC SURVEY FINDS CALIFORNIANS CONCERNS ABOUT HOUSING MARKET

A special survey on Californians and their housing conducted by the Public Policy Institute of California (PPIC) in collaboration with the Hewlett, Irvine, and Packard Foundations, identifies significant concern amongst homeowners and renters that rising housing costs in California could force them to move from their current residences. The study, headed by Mark Baldassare, PPIC’s Research Director and Survey Director, questioned 2,502 people throughout the state, reaching a broad cross-section of the population, including non-English speakers (the study was conducted in English, Spanish, Chinese, Korean.) The survey found that 24% of residents felt “that the cost of housing in their part of California is forcing them to seriously consider moving - to another part of the state or away from California altogether.”

Nearly half of all respondents viewed California’s rapidly rising home values as “a bad thing for them” and more than three-quarters of respondents said that “they are at least somewhat concerned that the cost of housing will prevent the younger generation in their family from buying a home in the region or state.” Only 18% of renters believe “it is very likely that they will find a home they can afford, with fewer than half (49%) saying it is at least somewhat likely.” Still, 82% of participants recognized a healthy housing market as “at least somewhat important to the economic vitality of their part of the state.” And, 76% of homeowners felt that their property value had increased “a lot” in recent years.

Perhaps even more interestingly, Baldassare identifies a cultural divide between those who own homes and those who rent. Adding to recent explanations of the 2004 election results, the survey showed that, while only 60% of residents are homeowners, 75% of likely voters are homeowners. Furthermore, the majority of those who are not registered to vote are renters. Baldassare concludes that “despite all the recent focus on coastal versus inland California or blue versus red counties, we need look no further than the demographics of home ownership to see a great social divide facing out state.” The homeowner/renter divide extends to the survey’s findings concerning people’s satisfaction with their neighborhood, the amount of living space in their home, and their residential safety, with homeowners expressing markedly greater contentment in all categories.

The survey also analyzes homeownership in low-income communities, residents’ attitudes about current and potential government housing policies, community spirit and satisfaction, and the lure of the single-family home.

For the complete report, visit the Public Policy Institute of California’s website at <http://www.ppic.org/main/home.asp> .

CALIFORNIA VINTNERS AWAIT DAY IN SUPREME COURT

The U.S. Supreme Court has scheduled for argument *Michigan Beer & Wine Wholesalers V. Heald*, a case concerning the interstate sales of wine and spirits, for December 7th, 2004. The 21st amendment to the U.S. Constitution, ratified in 1933, provides states with the right to restrict and regulate liquor traffic. As a result, most states require alcohol from outside the state to be processed through liquor

wholesale companies before being sold. For business reasons, these wholesalers typically deal with large wineries and distilleries, as opposed to smaller operations. Additionally, many states prohibit any interstate liquor transactions between the seller and an individual. The *Michigan Beer & Wine* case will address whether the existing commerce laws unduly restrict and discriminate against the ability of out-of-state wine sellers, particularly small vineyards, to sell their product to customers. More than 3,000 small wineries, many from California, have joined together in the case to challenge the law. In 2003, the Sixth U.S. Circuit Court of Appeals ruled in favor of the wineries, allowing Michigan residents to purchase wine and liquor without restrictions.

SCHWARZENEGGER TAPS FORMER REP. TOM CAMPBELL FOR STATE FINANCE DIRECTOR; CARLSON TO LEAVE DC OFFICE

Governor Arnold Schwarzenegger has appointed Dr. Tom Campbell to be Director of the States' Department of Finance, earlier this month. Campbell is a former member of the U.S. House of Representatives who represented Silicon Valley from 1989 to 1993 and again from 1995 to 2001.

Since 2002, Dr. Campbell has served as the Bank of America dean and professor of Business at the Haas School of Business, at the University of California, Berkeley. Before taking that post, Campbell was a law professor at Stanford University for nineteen years. He also served in the State Senate from 1993 to 1995.

"I am honored Governor Schwarzenegger has asked me to use my background as an economist and legislator to work along side him as he continues to bring economic recovery to California," said Campbell. "I look forward to the work of crafting a responsible state budget that stimulates growth and creates jobs."

In other state personnel changes, Stacy Carlson, the Director of the Governor's Washington Office, has announced that she will leave to join the Motion Picture Association of America. Carlson will become Executive Vice President of Global Government Affairs for MPAA where she will lead the trade organization's worldwide legislative operations. Prior to accepting the position with Governor Schwarzenegger, Carlson served as Senior Advisor for Public Policy at Akin, Gump, Strauss, Hauer & Feld, LLP, aided the 2000 Bush for President campaign, and worked for the House Administration Committee under then-Chairman Bill Thomas (Bakersfield).

SEVERAL NEW APPROPRIATIONS ANALYSES AVAILABLE ON INSTITUTE WEBSITE

The California Institute has prepared analyses of the following Fiscal Year 2005 Senate and House appropriations bills, noting their California implications. The full Senate has not acted on its bills, and it is likely that the appropriations in those bills will be included in an omnibus appropriations bill to be considered by Congress in the next few days. It is also likely that all non-defense and non-homeland security appropriations (including those in bills already enacted) may be reduced by an across-the-board reduction, which is rumored to be between 0.7 percent and 1 percent. These analyses are posted on the California Institute website.

Senate Interior and Related Agencies

On September 14, 2004, the Senate Committee on Appropriations reported its version of the Fiscal Year 2005 appropriations bill for the Department of the Interior and Related Agencies, S. 2804. The Senate Committee Report accompanying the bill is S. Rept. 108-341. The House passed its version of the FY05 bill (H.R. 4568/H.Rpt. 108-542) on June 17, 2004 by a vote of 334-86.

The Conference Report provides approximately \$19,977,485,000 in new obligational authority for several programs and activities of the agencies and bureaus within the Department of Interior, and related agencies such as the Departments of Agriculture and Energy. In addition, oil and gas leasing and other

mineral leasing activities, recreation and user fees, timber and range programs, and oil production from the naval petroleum reserves are estimated to generate income to the Government of \$10,258,785,000 in fiscal year 2005.

Senate Labor-Health & Human Service-Education

On September 15, 2004, the Senate Committee on Appropriations reported S. 2810, its FY 2005 Appropriations bill for the Departments of Labor, Health and Human Services, and Education and Related Agencies. The Senate report is S. Rpt. 108-345. (By a vote of 388 to 13 on September 9, 2004, the House of Representatives passed H.R. 5006, its FY2005 Labor, HHS, and Education bill, after it was approved by the House Appropriations Committee on July 14, 2004. The House Committee report accompanying the bill is H. Rpt 108-636.)

The Labor-H bill constitutes the largest of the non-defense appropriation bills being considered by Congress this year. Overall, the bill appropriates \$494 billion dollars in both mandatory and discretionary spending for more than 300 programs across three departments and numerous related agencies. That sum is \$14.6 billion above fiscal year 2004 adjusted appropriations and \$3.4 billion above the President budget request. \$142.3 billion of the total is discretionary spending.

House Energy and Water

On June 25, 2004, the House passed its FY2005 Energy and Water Appropriations bill (H.R. 4614) by a vote of 370-60. The Committee Report to accompany the bill is H.Rpt. 108-554. The Senate has not acted on its version of the bill, and it is possible that disagreements between the negotiators will keep these appropriations from being included in the Omnibus Appropriations bill that will be considered by Congress. Rumors late Thursday night were encouraging, however.

The House FY05 bill totals \$27,988,000 for Energy and Water Appropriations. This is \$49,618,000 above the President's budget request, and \$734,537,000 above the amount appropriated in fiscal year 2004.

These and various other appropriations, budget and other California analyses are available on the California Institute's website at <http://www.calinst.org/publications.htm>.

FEWER CALIFORNIA CITIES APPEAR ON MILKEN INSTITUTE'S "BEST PERFORMING CITIES" LIST

After placing seven cities in the top-20 of the Milken Institute's "*Best Performing Cities: Where America's Jobs Are Created and Sustained*" report in 2003, only Riverside-San Bernardino (8) and San Diego (16) cracked the top 20 in the 2004 report. Among large metropolitan areas, Los Angeles-Long Beach placed 6th, but its overall placement slipped from 135th to 140th. Florida dominated this year's rankings, placing seven cities in the Top 20, including the best performing city in the nation, Fort Myers.

The report largely lacks an explanation for California's drop, but identifies the "gains for lower cost states/metros such as Las Vegas, Phoenix, and Tucson," the second, third, and 17th cities on the list, as potential reasons. As for San Bernardino's continued strength in the face of California's decline, the report points to its position as an essential logistics hub for goods from and headed to Asian markets, as well as its strong warehousing, manufacturing, and housing markets. The report attributes Los Angeles' place among the best performing large metropolitan areas to increased national defense spending, growth in the entertainment industry, and the expanded role of Los Angeles-Long Beach as the third largest port in the world.

The Milken Institute uses a variety of one year and five year indicators, including job, wage, salary, and technology growth, to arrive at its overall growth rankings. To see the report and rankings in their entirety, visit the Milken Institute's website at <http://www.milkeninstitute.org/index.taf>.