



# 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.*

### SENATE TABLES MOST IMMIGRATION EFFORTS IN PASSING IRAQ SUPPLEMENTAL

The Senate passed its \$81 billion supplemental appropriations measure for funding of the Iraq and Afghanistan conflicts and the war on terrorism on Thursday, April 21, 2005, by a vote of 99-0, having disposed of several amendments relating to immigration that had slowed work on the bill earlier this week. Once the Senate invoked cloture on the bill on Tuesday by a vote of 100-0, several amendments that were non-germane to the bill were scuttled, making way for quick consideration of the remaining amendments and final passage.

Among the amendments thrown out were two that would have instituted agriculture guestworker programs, one of which would have established a mechanism for undocumented workers to obtain legal residency and potentially citizenship. An amendment authored by Sen. Dianne Feinstein was also tossed out. It would have expressed the sense of the Senate that immigration provisions should not be included in the supplemental as it comes out of Conference. The amendment was aimed at the House inclusion of several provisions, including one prohibiting drivers' licenses for illegal immigrants, in its previously passed version of the supplemental. Those House provisions are what opened the Senate bill up to efforts to include additional immigration measures in the funding bill.

Before final passage, the Senate did adopt two amendments to increase funding for border patrol. The first, adopted on Wednesday, provides an additional \$390 million for 650 new border patrol agents. Then, on Thursday, a separate amendment providing an additional \$147 million for border patrol agents was adopted. The money for the amendments came out of funding for the State Department and international peacekeeping accounts. The amendments reflect the Senate's disapproval with the Administration's failure to request full funding to hire 2,000 new border patrol agents in its FY2006 budget request.

An amendment by Sen. Barbara Mikulski was also adopted earlier in the week. It exempts from the H-2B seasonal workers visa cap those immigrants who have previously worked in the U.S. under H-2B visas. The 66,000 visa cap was reached earlier this year, and supporters of the amendment argued the exemption is necessary to

#### CONTENTS:

Senate Tables Most Immigration Efforts In Passing Iraq Supplemental . . . . .	1
MTBE Liability Waiver Survives Fight On House Floor . . . . .	2
House Passes Copyright/Piracy Bill . . . . .	2
House Homeland Security Committee Unanimously Approves Bill To Change First Responder Grant Formula . . . . .	2
House Homeland Bill Reduces Small-State Minimum to Typical Level . . . . .	4
Senate Finance Approves Highway Tax Bill, Miles-Traveled Tax Idea Could Hit California . . . . .	4
California, Florida, Could Face Higher Highway Taxes Under Senate Finance's VMT-Tax Plan . . . . .	5
Ways And Means Holds Hearing On DR- CAFTA Bill . . . . .	6
Resources Hearing On Water Supply . . . . .	7
House Science Panel Discusses Commercial Space Travel . . . . .	8
Governor Schwarzenegger Urges Federal R&D Funding . . . . .	9
Supreme Court Refuses to Hear CA Energy Dispute Over \$100 Million . . . . .	9
President Bush Declares State of Emergency for Southern California Counties Affected by February Rains . . . . .	9
University of California Awarded Five-Year Contract to Operate Lawrence Berkeley Laboratory . . . . .	10
House Agriculture Committee Reviews Secure Rural Schools Act . . . . .	10
RAND Briefing to Focus on Public Health Preparedness in California . . . . .	11

ensure an adequate work force for summer employment in hotels, restaurants, and the crab and lobster industries.

The supplemental still faces a conference with the House, where negotiations over the House's immigration provisions may be contentious. The Conferees will be under pressure to resolve the House and Senate differences quickly, because the military maintains it needs the additional funding in the supplemental by early May.

### **MTBE LIABILITY WAIVER SURVIVES FIGHT ON HOUSE FLOOR**

The waiver exempting producers of MTBE, a gasoline additive, from liability if the product causes harm survived a last minute effort to have it stripped from the House energy bill on Thursday, April 21. Rep. Lois Capps was successful in offering the amendment to strip the liability waiver by arguing that it violated the 1995 Unfunded Mandate Reform Act. (The Rule controlling amendments to the bill, H.R. 6, did not prohibit such an amendment from being offered.) However, the Capps amendment was defeated, albeit by a very slim margin, of 213-219.

Capps, and other opponents of the MTBE provision, bolstered their argument by citing a Congressional Budget Office letter dated April 19 to Rules Committee Chair David Dreier, outlining the monetary impact of the energy bill, as well as the unfunded mandates contained in it. With reference to the MTBE liability waiver, the CBO letter stated: "The provision would impose both an intergovernmental and private-sector mandate as it would limit existing rights to seek compensation under current law. (The provision would not affect other causes of action such as nuisance or negligence.)"

Several California organizations oppose the inclusion of the liability waiver in the energy bill, as MTBE has contaminated drinking water in several locations in the state. See, [Bulletin, Vol. 12, No. 8 \(4/7/05\)](#). The inclusion of the waiver contributed to the inability to pass an energy bill in the last Congress, as opposition to it is stronger in the Senate.

### **HOUSE PASSES COPYRIGHT/PIRACY BILL**

On Tuesday, the House of Representatives passed by voice vote S. 167, the Family Entertainment and Copyright Act of 2005. The bill exempts from copyright laws the makers of software that allows home DVD viewers to skip over what they consider to be objectionable material. The entertainment industry had opposed this provision previously, but accepted it in return for other provisions in the bill that will enhance efforts to halt piracy of copyrighted material.

The anti-piracy provisions include criminalizing the use of camcorders to record movies in a theater and makes the first offense punishable by up to three years in jail, and up to six years for subsequent offenses. Also, distributing a film before its release date would be punishable by up to three years, and up to five years if done for "commercial advantage or private financial gain." Dan Glickman, head of the Motion Picture Association of America, lauded inclusion of these provisions in the bill.

The Senate passed the bill on February 1, by voice vote, and it will now go to the President for signature. See, [Bulletin, Vol. 12, No. 5 \(3/4/05\)](#) & [6 \(3/11/05\)](#).

### **HOUSE HOMELAND SECURITY COMMITTEE UNANIMOUSLY APPROVES BILL TO CHANGE FIRST RESPONDER GRANT FORMULA**

On Thursday, April 21, 2005, the House Committee on Homeland Security marked up and unanimously approved H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. With some modifications, the bill closely resembles a bill approved by the Committee and later the House of Representatives, during the 108th Congress.

Sponsored by Committee Chairman Christopher Cox (Newport Beach) and Ranking Democrat Bennie Thompson (MS), the bill would change the formula for distributing federal homeland security grant funding to

one based on assessments of terrorism risk and threat. At present, most federal homeland security grant dollars flow without regard to risk, threat, or vulnerability, but rather according to state size, with small states receiving far more funding per person than more populous states.

Opening the markup, Chairman Cox called the bill “unequivocally bipartisan both in spirit and in intent” -- every member of the committee had signed on as an original cosponsor. Cox noted that there is “agreement on both sides of the aisle on the fundamentals of homeland security grant reform,” including “on the need to award Federal terrorism preparedness grants on the basis of risk, while ensuring that all States receive some minimum level of funding.” He also emphasized the importance of speeding funding flows to ensure that grant funds can be used quickly, and he criticized a backlog of unspent grant funding -- which he estimated now exceeds \$6.3 billion -- that is in part due to the current cumbersome and inequitable distribution scheme and “the well-known problem of the Department’s reliance on arbitrary, political formulas to award such funds.” Chairman Cox noted that DHS relies on these formulas not because it wants to but because the law requires it.

Ranking Democrat Thompson commented that he was pleased with the balance of urban and rural support in the bill and said that “HR 1544 will finally consider risk in rural America,” citing recent breaks in flood control levees.

By voice vote, the committee adopted an amendment by Rep. Mike D. Rogers (AL) to request that Government Accountability Office study the status of first responder training programs at DHS.

Rep Edward Markey (MA) offered and then withdrew an amendment to alter the definition of the bill’s term “region” to include any region identified as a high threat area under the current Urban Area Security Initiative (UASI) program. Upon withdrawal of the amendment, Chairman Cox assured Markey that staff would work to resolve concerns about the definition of region for program funding purposes.

Rep. Sheila Jackson-Lee (TX) proposed an amendment that apparently sought to subject the task force designation of an area’s “essential capabilities” to public notice and comment rules. Chairman Cox agreed with the Congresswoman’s intent in offering the amendment but noted that much of the issue had already been addressed by the Committee substitute, and that the amendment as drafted referred to a different section of the bill and would inadvertently expose classified intelligence information to mandatory publication in the Federal Register. Jackson-Lee subsequently withdrew the amendment.

The most contentious discussion of the morning followed Rep. Nita Lowey’s (NY) offering of an amendment to directly fund interoperable communications systems with a new \$5 billion grant program implemented under a national strategy. After considerable debate, the amendment was defeated 13-19.

Speaking in opposition to the amendment, Chairman Cox complemented Rep. Lowey’s intent, but pointed out that the proposed annual \$750 million would actually be less than the \$835 million (approximately 30 percent of total grant funds) that was actually used for interoperability activities in 2004. Cox also argued that “a separate grant program would balkanize our effort to consolidate and rationalize a grant system based on risk.” Rep. Curt Weldon (PA) noted that the number one use of homeland security grant funding last year already was interoperability and that both DHS and a number of first responder groups oppose the amendment. Rep. Loretta Sanchez (Anaheim) expressed concern about the level of funding, particularly with an unclear expectation of actual appropriations, and suggested downside of dividing the bill’s funding into disparate pots.

Rep. Dan Lungren (Folsom) expressed opposition to the amendment for three reasons -- high cost, spectrum allocation limitations, and undermining of regional cooperation. He noted that the amendment would allow individual jurisdictions to apply for funds separately, thereby weakening the incentive for regions to work together to cooperatively solve a regional problem. In addition, while Rep. Lungren commented that he considers interoperable communications the top priority currently, he noted that the amendment creates a permanent program and thereby presupposes that interoperability will remain the top priority for years to come -- an inappropriate assumption for Congress to make.

Speaking in support of the Lowey amendment, Rep. Jane Harman (Venice) commented that it was narrowly crafted to fit the comports of the Homeland Security Committee, an important move because

supporters have to date been unable to secure consideration of a spectrum allocation measure in the Commerce Committee. Rep. Bill Pascrell (NJ) agreed with Rep. Weldon's comment that "we don't need another program that's not funded," but urged support for the amendment anyway because of the critical importance of the communications interoperability issue.

After defeat of the Lowey amendment, the Committee unanimously approved the bill by voice vote, clearing the way for floor consideration in the House in early May.

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

## **HOUSE HOMELAND BILL REDUCES SMALL-STATE MINIMUM TO TYPICAL LEVEL**

The House version of 2005 legislation to update the federal formula for funding state and local first responder grants, approved by the Homeland Security Committee on April 21, 2005 (*see above article*) would apply a small-state minimum that is more typical of other federal grants than the unusually large minimum in current law.

H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, would require that the Department of Homeland Security (DHS) allocate grants based on relative threat of, and vulnerability to, terrorist attack. It would ensure that no state receive less than 0.25 percent of total grant funds, and it would set a higher minimum for states that contain an international border or are adjacent to a body of water through which an international border crosses. It would set a minimum of 0.08 percent for territories (American Samoa, Guam, the Northern Mariana Islands, the U.S. Virgin Islands, and directly eligible tribes as well). The bill contrasts with the current allocation scheme, which includes a minimum of 0.75 percent for all states and 0.25 percent for territories.

Moreover, the House bill would also end the current formula's unconventional "minimum-first" method - whereby every state is allocated a minimum funding amount first and then more dollars are added for every state, even those already receiving excess funding beyond what normally would have been received. The current scheme yields widely disparate per capita funding -- in 2004, California received \$5 per person in homeland security formula grants, whereas Wyoming received \$38 per person. The House bill would apply the percentage as a true minimum, using extra funds only to top off when a state fails to reach the designated floor amount, in a "minimum-last" fashion.

In contrast with the House changes, the Senate's first responder formula legislation (S. 21, the *Homeland Security Grant Enhancement Act of 2005*) would slightly reduce the percentage level of the minimum, from 0.75 to 0.55 percent, but it would retain the existing "minimum-first" distributional approach. In addition, by applying its lessened minimum (0.55 percent) to a larger pot of money (\$2.9 billion), the Senate bill would actually send more funding to small states via political formula methods that bear no relation to terrorism risk or threat.

For additional information on homeland security grants, see "*Federal Formula Grants and California: Homeland Security*" -- part of a joint publication series from the Public Policy Institute of California (PPIC) and the California Institute, at <http://www.ppic.org/main/publication.asp?i=481> .

## **SENATE FINANCE APPROVES HIGHWAY TAX BILL, MILES-TRAVELED TAX IDEA COULD HIT CALIFORNIA**

The Senate Finance Committee approved legislation on April 19, 2005 that would provide revenue to fund the Senate's \$284 billion highway reauthorization measure. The finance segment of the transportation bill, reported out of committee by voice vote, remains consistent with Administration principles in that no new gas taxes are raised. However, additional funding for a highway proposal may be attached once the bill reaches the Senate floor.

Seeking to head off future shortfalls in the Highway Trust Fund (HTF), the Committee asked for an exploration of the option of making transportation taxes contingent on Vehicle Miles Traveled (VMT) rather than per gallon gas consumption as is currently used -- a move that could cost the state as much as \$281

million per year in added tax burden, according to estimates prepared by the California Institute under a joint venture project with the Public Policy Institute of California (PPIC).

Sen. Charles Grassley (IA), Chair of the Finance Committee, introduced an amended measure during markup of the "Highway Reauthorization and Excise Tax Simplification Act of 2005." It would renew without change the 18.4 cent federal gas tax that presently pays for highways, transit, and traffic safety programs through the end of FY 2011. A number of tax relief and simplification changes are contained in the bill, with offsets to come from clamping down on tax fraud and frivolous tax submissions, among other provisions. Some other key provisions in the bill include extension of the "Byrd rule" for estimating future HTF revenue availability from 24 to 48 months, establishment of a private Build America Corporation to provide financial support for qualified transportation projects, eliminating the 4.8 cent diversion of the motorboat and non-business outdoor equipment tax to the general fund, and establishment of a National Surface Transportation Infrastructure Financing Commission.

The Financing Commission's creation is intended to review the current system used to maintain HTF and to test alternative methods of improving HTF's fiscal health. Although there is no mention of specific strategies for the new Financing Commission's consideration in Senate Finance Committee materials, according to sources, the 15-member panel was expected to consider a switch to charging motorists a per mile fee, rather than a per gallon gas tax. As reported in the *San Francisco Chronicle* on April 20, technology currently being tested in Oregon tracks and reports mileage in certain cars and reports odometer information electronically every time gas is bought at the pump. Accordingly, motorists involved in the pilot project are charged a fee based on how far they travel in place of the amount of gas they consumed.

Taxing VMT instead of gasoline use would likely increase the transportation tax burden for California, a state that accounts for 11.2 percent of the nation's VMT compared to 10.4 percent of current highway taxes. Had VMT been used to calculate HTF revenue, California's share of the burden would have jumped 8.1 percent or \$281 million.

Using VMT to determine HTF revenue would also be troublesome for environmental advocates, who are concerned that doing so would treat fuel efficient cars the same as low-mileage vehicles, thereby eliminating incentives to increase fuel efficiency. Privacy protection advocates also may oppose a mechanism that would use tracking devices on cars to calculate mileage.

HTF is financed by taxes on motor fuel sales and miscellaneous truck excises that collect in highway and transit subaccounts and may only be used for surface transportation expenses. According to the Government Accountability Office (GAO), escalating costs of infrastructure maintenance, as well as increased consumption of cleaner burning fuels and fuel-efficient car use have weakened the integrity of HTF. The Congressional Budget Office (CBO) estimated in a 2002 report that unless significant action is taken, the HTF's Mass Transit Account's balance will be entirely depleted by 2009.

The Senate is expected to fold the four components of the Senate bill into a comprehensive bill for floor debate as early as next week.

For more information about the markup, visit the Committee's website at: <http://finance.senate.gov/>

## **CALIFORNIA, FLORIDA, COULD FACE HIGHER HIGHWAY TAXES UNDER SENATE FINANCE'S VMT-TAX PLAN**

As noted in the preceding article, the Senate Finance Committee is exploring a major shift in highway financing that might lead to taxing the number of vehicle miles traveled (VMT) rather than the amount of gasoline consumed. A shift to VMT would most significantly affect states with large populations in congested urban areas, and it would hit states with more cars and fewer trucks, and states with more small versus large cars.

Thanks to capabilities developed under the *Federal Formula Grants and California* project, a joint venture of the Public Policy Institute of California (PPIC) and the California Institute, a state-by-state table predicting the differing tax burden results of such a change is posted on the California Institute's website, at

<http://www.calinst.org/datapages/tax-vmt.htm> . (The analysis tests shifting 100 percent of taxes to VMT, which most clearly demonstrates the ultimate effect of the concept.)

As the table shows, the state most severely impacted numerically in 2003 by a shift to VMT taxation is Florida, which would have faced an annual \$362 million increase. California ranked second, shouldering an added tax burden of \$281 million per year. Other states with major annual tax increases predicted include New York (\$160 million), Minnesota (\$105 million), Wisconsin (\$101 million), Illinois (\$65 million), North Carolina (\$59 million), and Alabama (\$49 million).

On the other hand, states that would stand to benefit most from such a scheme include Texas (\$367 million), New Jersey (\$160 million), Indiana (\$110 million), Pennsylvania (\$97 million), Arkansas (\$71 million), Kentucky (\$67 million), and Virginia (\$54 million). On a percentage basis, the largest reduction was Wyoming's 30 percent drop (a \$46 billion cut in tax burden).

A shift to taxing VMT instead of gasoline consumption would be likely to increase the transportation tax burden for California because the state accounts for 11.2 percent of the nation's VMT compared to 10.4 percent of current highway taxes. In 2003, California sent \$3.5 billion in HTF contributions to Washington, a 10.4 percent share. Had VMT been used to calculate all HTF revenue, California's share of the burden would have increased by 8.1 percent or \$281 million.

The formula table is found on the Institute's transportation page, <http://www.calinst.org/transpo> , and is produced under the *Federal Formula Grants and California* project, information about which may be obtained from the PPIC at <http://www.ppic.org/main/series.asp?i=22> .

## **WAYS AND MEANS HOLDS HEARING ON DR-CAFTA BILL**

The House Ways and Means Committee held a hearing on the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) on Thursday, April 21. The Bush Administration signed the trade agreement with six Central American countries – Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua – in 2004, and is expected to send the Agreement to Congress for consideration in the near future.

In his opening remarks, Chairman Bill Thomas (Bakersfield) praised the Agreement as a way to provide new jobs for American workers and new opportunities for American companies. He also stated that in his view the labor provisions in the Agreement are stronger than those of previous trade agreements, such as the Morocco, Chile, and Singapore Agreements. Thomas also said that the Agreement will strengthen the democratic, legal, and economic reforms that the six countries have been working on over the last several years.

The Committee heard from about twelve witnesses, including: The Honorable Peter F. Allgeier, Acting U.S. Trade Representative, Office of the U.S. Trade Representative; Sheldon Presser, Senior Vice President, Warner Bros., Burbank, CA, on behalf of Time Warner, and the Entertainment Industry Coalition for Free Trade; Richard L. Trumka, Secretary-Treasurer, American Federation of Labor-Congress of Industrial Organizations; and Bruce Hafenfeld, Hafenfeld Ranch, Weldon, CA, First Vice President, California Cattleman's Association.

Ambassador Allgeier laid out the provisions in the Agreement and extolled the benefits that it would bring to U.S. workers and corporations, as well as the economic interests of the Central American signatories. In the agriculture section, he noted that the American Farm Bureau estimates that the U.S. could expand its exports to Central America by as much as \$1.5 billion annually - almost doubling its current exports. In both agriculture and manufacturing, CAFTA would significantly reduce or eliminate tariffs on U.S. products, and therefore expand job opportunities in the United States as U.S. corporations take advantage of duty-free exports to Central America.

Allgeier also addressed the labor provisions contained in the Agreement, which have been opposed by several members of Congress, as well as outside groups. He stated that a study done by the International Labor Organization found that the workers' rights and labor standards laws in the DR-CAFTA countries were

“generally in line with ILO core labor standards.” As a result, the Administration focused on getting the countries to enforce their current laws, which he believes is more than adequately addressed by the Agreement. In addition, the United States Department of Labor has committed \$7.7 million to a multi-year technical assistance effort, to help “to build the capacity of these countries to enforce their laws more effectively and to strengthen their enforcement institutions and infrastructure,” according to the Ambassador.

During questioning, he elaborated on the labor provisions, noting that the Agreement contains procedural guarantees so that citizens of the DR-CAFTA countries will have meaningful access to the countries’ judicial institutions to seek redress for grievances.

Mr. Presser also testified in support of the Agreement, stating that the Entertainment Industry Coalition for Free Trade, Time Warner, and their employees “strongly believe that this agreement will create important opportunities for our businesses to increase our exports, and create jobs and additional revenue in the United States, all of which will advance the economy of the United States.” On the intellectual property provisions contained in the Agreement, Mr. Presser stated: “For our industry sector, it is a market that has tremendous growth potential, as we have seen our products sell well - but unfortunately mostly in the hands of pirates. Across the entertainment industry, we stand ready to fill the pirate void with legitimate product now that all of the Central American countries and the Dominican Republic have committed to strengthened IP protection, and elimination of tariffs and other market access barriers.”

Mr. Trumpka opposed the bill. He stressed that the AFL-CIO is acutely aware of the challenges faced by workers in Central America and the economic challenges faced by U.S. companies. However, he argued that the DR-CAFTA is not the answer to these challenges. “On the contrary,” Trumpka argued, “it represents a failed model that will likely exacerbate poverty and inequality in Central America, while further eroding good jobs and wages at home. At the same time, its excessive protections for multinational corporations would undermine the ability of governments to protect public health, strong communities, and the environment.”

Mr. Hafenfeld, on the other hand, supported the Agreement, stating: “CAFTA-DR will correct a longstanding inequity in beef trade policy between the U.S. and these six nations, offer additional export opportunities for U.S. beef and beef products, and ultimately increase the value of the cattle raised on my ranch. Moreover, CAFTA-DR is unique in that America’s beef cattle producers are granting few, if any, concessions in exchange for these increased export opportunities. In fact, we have already been paying for this agreement for several years, without getting the export market access we need in return.”

The testimony of these and other witnesses can be obtained through the Committee’s website at: <http://www.waysandmeans.house.gov> .

## **RESOURCES HEARING ON WATER SUPPLY**

The House Resources Subcommittee on Water and Power, chaired by Rep. George Radanovich (Mariposa), held an oversight hearing on Wednesday, April 13 titled: “*The Role of New Surface and Groundwater Storage in Providing Reliable Water and Power Supplies and Reducing Drought’s Impacts.*” In announcing the hearing, Chairman Radanovich stated: “Water infrastructure development has not kept pace with demand. This hearing is being held to reignite the commitment to water storage that the federal government began many years ago. New water supply projects are crucial to meeting our water needs in the West. With ongoing drought, population growth, water-use conflicts and regulatory requirements, Westerners must be proactive in storing and securing the water necessary for our families, farms, businesses and the environment.”

The Subcommittee heard from several witnesses, including: Mrs. Virginia Grebbien, General Manager, Orange County Water District; Mr. Mario Santoyo, Assistant General Manager, Friant Water Users Authority; and Mr. Brent Walthall, Assistant General Manager, Kern County Water Agency.

Ms. Grebbien briefed the Subcommittee on the Orange County Water District’s efforts to drought proof Southern California through such innovative methods as groundwater conjunctive use, groundwater storage programs, recycled water use both for irrigation and indirect potable reuse, groundwater remediation,

conservation and conjunctive use of flood control facilities for storm water storage. She also stressed that groundwater storage presents an untapped opportunity to provide for water for California's needs. She stated that with groundwater storage "disruption to the environment is negligible, permitting is less burdensome, and necessary infrastructure is easier to build."

Mr. Santoyo's testimony focused on why additional San Joaquin River surface water storage is "so vital to not only Friant Division water users but all other river stakeholders, including those who live along the river and others who want to see the river below Friant Dam restored." He argued that despite the many achievements of the Friant Division in "managing, moving, banking and conserving available water supplies, it simply is not possible to meet future environmental and beneficial needs without an additional reservoir to capture and store San Joaquin River flood rainfall and snowmelt event flows." Consequently, he urged the Subcommittee to continue to support funding for the Upper San Joaquin Basin Storage Investigation and necessary future studies.

The complete testimony of the witnesses can be obtained from the Resources Committee website at: <http://www.resources.house.gov> .

## **HOUSE SCIENCE PANEL DISCUSSES COMMERCIAL SPACE TRAVEL**

On Wednesday, April 20, 2005 the House Science subcommittee on Space and Aeronautics, chaired by Rep. Ken Calvert (Corona), conducted a hearing to discuss the present and future of commercial space travel. Testifying at the hearing were some of the nascent industry's most important figures, including Burt Rutan, a California-based entrepreneur who constructed the first commercial manned flight to space last year, Will Whitehorn, President of Virgin Galactic, and Elon Musk, CEO and Chief Technology Officer for the California-based Space Exploration Technologies (SpaceX). California continues to be a hub for both public and private space development.

After opening remarks by Rep. Calvert, Mr. Rutan described his company's current efforts to design a safe and ultimately affordable means for developing commercial space flight capabilities. In 2004, Mr. Rutan won the \$10 million X-prize for developing an aircraft, the SpaceShipOne, capable of completing two manned flights more than 100km above the surface of the earth within one week's time. His company, Scaled Composites, which is located in Mojave, CA, has entered into a contractual agreement with Virgin Galactic to open the first commercial space airline sometime in 2008 or 2009. Mr. Rutan will construct five more advanced SpaceShipTwo planes to be purchased by Virgin. Throughout his testimony, Mr. Rutan expressed his excitement for the technology, identified his focus on safety, and emphasized the importance of allowing entrepreneurial ingenuity to blossom without significant federal restriction or intervention.

Mr. Whitehorn testified about Virgin Galactic's plans for opening the first commercial space airline. While acknowledging the technological and safety challenges ahead, Mr. Whitehorn seemed generally optimistic about Virgin Galactic's ability to safely and profitably carry people into space. Like Mr. Rutan, he felt that government regulation of the budding industry would only serve to dampen technological innovation and slow progress toward financial viability. Eventually, Mr. Whitehorn envisions transporting as many as 5,000 passengers into space per year; additionally, he sees enormous potential for public-private partnerships between Virgin Galactic and the federal government for training and transportation. Tickets for Virgin Galactic's future space flights sell for \$200,000; 29 people have already signed up.

Finally, Mr Musk provided details of his own project, the Falcon 1, a semi-reusable manned rocket that he claims could ultimately reduce the cost of access to space by a factor of ten. His company, SpaceX, located in El Segundo, CA, hopes the Falcon 1 will become a viable form of safe, manned space travel that can adequately replace the space shuttle once it is retired. Mr. Musk cautioned against burdensome governmental regulations, and stated that the government should serve as an enabler, using prizes and incentives, as opposed to a regulator. "All in all," he said, "I see an increasingly positive future for commercial space activities over the next five to ten years."



Also testifying at the hearing were John Vinter, Chairman of International Space Brokers, Inc. which represents satellite users, Wolfgang Demisch, an aerospace financial consultant, and Molly Maculey, a Senior Fellow at Resources for the Future.

For all of the witnesses statements, visit the House Science Committee's website at <http://www.house.gov/science/>.

### **GOVERNOR SCHWARZENEGGER URGES FEDERAL R&D FUNDING**

On Wednesday, April 20, 2005, Governor Arnold Schwarzenegger sent a letter to the Bipartisan California Congressional Delegation expressing support for their efforts to promote federal research and development funding and asking that federal R&D be "a top priority" for this year's appropriations.

The letter notes that, in 2002, federal R&D spending in California exceeded \$15.6 billion, 18 percent of the total federal expenditure. It adds, "We need to ensure that these resources continue to flow to California, to help supply our economy with highly trained scientists and engineers with new knowledge to fuel the science and technology-based sectors of our economy." Singling out specific agencies, the letter urges that "federal support for research, particularly at the National Institutes of Health, the Department of Energy, the National Science Foundation, the National Aeronautics and Space Administration, and the Department of Defense, is made a top priority in the Fiscal Year 2006 appropriations process."

The text of the Governor's letter is available at <http://www.governor.ca.gov/>.

### **SUPREME COURT REFUSES TO HEAR CA ENERGY DISPUTE OVER \$100 MILLION**

On Monday, April 18, 2005, the U.S. Supreme Court refused to hear an appeal by the State of California relating to the energy crisis in 2000-2001. At issue is \$100 million the state alleges it is owed by energy providers who "double-billed" California for energy during acute shortages. The rejection of the appeal serves as a validation for the Federal Energy Regulatory Commission (FERC) position, which asserts that it has jurisdiction over California's damage claims emanating from the state's energy crisis. According to the Sacramento Bee, a spokesman for State Attorney General Bill Lockyer stated that the "FERC has shown no mercy to California ratepayers;" as such, the Supreme Court ruling makes it less likely that California will recover the \$100 million.

The initial court case and appeal constitute a relatively small part of a larger statewide effort to recoup damages suffered during the state's energy crisis. In all, California is seeking \$9 billion in funds for which the state claims energy providers overcharged. To date, California has collected approximately half of that amount.

For more information see [\*Bulletin, Vol. 12, No. 9 \(4/15/05\)\*](#).

### **PRESIDENT BUSH DECLARES STATE OF EMERGENCY FOR SOUTHERN CALIFORNIA COUNTIES AFFECTED BY FEBRUARY RAINS**

On Friday, April 15, 2005, President Bush declared a state of emergency for Southern California counties pelted by rains between February 16 and February 23. The declaration makes federal assistance available to areas that suffered flooding, landslides and other damage from a series of storms that dumped near record levels of rain on the area. Los Angeles, Orange, Riverside and Ventura counties are now eligible for aid to help reduce the effects of the storm, while Kern, San Bernadino and San Diego counties can receive funds to help prevent further damage. No dollar amount has been set. President Bush had already issued a federal disaster declaration in February for the same areas relating to January storms. Los Angeles Mayor James K. Hahn estimated that the combined storms from January and February caused approximately \$120 million in damages. According to the Los Angeles Times, Southern California has absorbed 35.9 inches of rain since July 2004, just 2.2 inches short of the all-time record set in 1883-84.

## **UNIVERSITY OF CALIFORNIA AWARDED FIVE-YEAR CONTRACT TO OPERATE LAWRENCE BERKELEY LABORATORY**

On Tuesday, April 19, 2005, the Department of Energy awarded a five-year contract to the University of California (UC) to operate Lawrence Berkeley National Laboratory. The contract, which includes some unusual performance-based incentives that could extend the contract an extra 15 years, is valued at approximately \$2.3 billion for its five-year duration and is funded through the Department of Energy (DOE). UC has operated the laboratory since its opening in 1931; this new contract resulted from the first open competition for the laboratory's management and operations since its inception. DOE did not indicate if other bids were submitted. The new contract will begin June 1, 2005 and extend until May 31, 2010.

In awarding what amounts to a contract extension, the DOE praised the university's past management of the lab. "Because of its outstanding work, including 10 Nobel Prizes won by its scientists, Lawrence Berkeley Laboratory has helped ensure U.S. scientific leadership for more than 60 years," said Secretary of Energy Samuel W. Bodman, who added, "This contract award will allow LBNL and its outstanding researchers and staff to seamlessly continue their work as they set new standards of scientific excellence."

Winning the Berkeley Lab contract is a positive step for the UC system, which must also work to retain the contracts concerning two other major labs it operates: Lawrence Livermore National Laboratory in Northern California and Los Alamos National Laboratory in New Mexico. Like Lawrence Berkeley Lab, both of those facilities are undergoing the open bid process for the first time. The University of California has operated Lawrence Livermore since 1950 and Los Alamos since 1943.

Governor Arnold Schwarzenegger commented that the LBL agreement "reaffirms that our public university system is the envy of the nation and will help continue to bring the most talented and insightful scientists to the Golden State." He suggested that the success is only a first step and pledged to "work with the UC Regents, the California Congressional Delegation and the Federal government to make every effort to keep [Livermore and Los Alamos] laboratories under the management of the University of California and its partners."

For more information, visit the lab's website at <http://www.lbl.gov/>.

## **HOUSE AGRICULTURE COMMITTEE REVIEWS SECURE RURAL SCHOOLS ACT**

The House Agriculture Committee, chaired by Rep. Bob Goodlatte (VA), heard testimony about the effectiveness of the Secure Rural Schools Act of 2000. The Secure Rural Schools act was passed in 1999 in an effort to stabilize payments to rural, forested areas of the country, where economic development is hindered by National Forest land. At the heart of the program is Title I funding for rural schools to ensure that children in remote areas receive educations comparable to those in more densely populated regions. The Act also provides Title II funding to repair roads and local infrastructures. Finally, through the establishment of community Resource Advisory Council (RACs), the Act facilitated partnerships and cooperation between citizens and businesses in forested counties and federal land managers. According to the Agriculture Committee, over 4,440 schools receive Title I funding from the Act, while 2,500 forest improvement projects have emanated from the Act's funding.

The hearing included testimony from witnesses from around the country, including two Californians: Mr. Jim French, the Superintendent of schools in Trinity County and Chairman of the Trinity County RAC, and Mr. Bill Turner, a timber procurement manager for Timber Products Company and Chairman of the Sisikiyou County RAC.

Mr. French spoke about the importance of the Title I funding provided by the act in an era when the school-aged population in his area has decreased by 24 percent since 1996. Without the Title I funds, he stated, meeting many of the goals of the No Child Left Behind Act would be nearly impossible. Mr. Turner was especially proud of the variety of Title II projects initiated by his region's RAC, particularly fuel reduction projects that help reduce the risk of forest fires. Title II fuel reduction efforts were mentioned by nearly all of the witnesses as a tremendous benefit that resulted from the Act.

Mr. Turner spoke of the community unifying effects of the Secure Rural Schools Act. He said, despite apprehension at the initial meeting of his region's RAC, "lines of communication have been opened between the environmental groups, timber industry, ranchers and the Forest Service that never existed before. Barriers have been broken down and trust has started to develop as participants have worked toward common goals."

Also testifying at the hearing were the Honorable Mark Rey, Under Secretary of Agriculture for Natural Resources and Environment, Ms. Reta Griffith, the County Commissioner from Pocahontas County in West Virginia, Dr. Timothy Creal, the Superintendent of Schools for Custer County School District in South Dakota, and Mr. Delton L. Butler, a campground owner and Chairman of the Southwest Mississippi RAC.

The Secure Rural Schools Act expires in September 2006. It is expected that it will be reauthorized.

For the full testimony of all of the witnesses at the hearing, visit the House Agriculture Committee website at <http://agriculture.house.gov/>.

### **CORRECTION:**

The April 15th Bulletin ([Vol. 12, No. 9 \(4/15/05\)](#)) inadvertently stated that the Senate bill naming a Sacramento courthouse after the late Congressman Bob Matsui was sponsored by Sen. Dianne Feinstein. Sen. Barbara Boxer is the main sponsor of the bill, and Sen. Feinstein is a co-sponsor. The Senate passed the bill by unanimous consent on April 14th.

### **RAND BRIEFING TO FOCUS ON PUBLIC HEALTH PREPAREDNESS IN CALIFORNIA**

On Monday, April 25, 2005, the RAND Corporation and the California Institute will hold a briefing entitled *Gaps In Public Health Preparedness: Lessons Learned in California and Beyond*. The briefing will take place from 2:00 to 3:30 p.m. in Room 2257 of the Rayburn House Office Building in Washington, DC.

The presentation will discuss the findings of a RAND study on California's public health preparedness that took place in seven jurisdictions across the state but the recommendations of which are relevant to the public health system for the entire state.

The report's authors found that following 9/11 and the anthrax attacks in October 2001, the United States took a hard look at reforming the public health system, which had suffered years of neglect and inadequate funding. Even though Congress has since allocated more than \$3 billion to improve state and local public health, many severe gaps remain in the system.

Dr. Nicole Lurie will present findings from the RAND Corporation study that examined California's core public health capabilities. These findings address several preparedness questions, including: In what should we invest to strengthen the public health infrastructure? Should we rebuild or redesign the public health system? How should we structure investment and monitor preparedness? Can we use these investments in more than one way? How do we gauge success in levels of preparedness and in sound public health system infrastructure?

Refreshments will be served. To attend the April 25 briefing, please reply (acceptances only, thank you) to Kristy Anderson at [kristy\\_anderson@rand.org](mailto:kristy_anderson@rand.org) or 703-413-1100, x 5196.