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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.*

### JOHN CAMPBELL WINS CA'S 48<sup>TH</sup> DISTRICT SEAT, IS SWORN IN TO REPLACE FORMER REP. COX

John Campbell, 50 and a California State Senator, handily beat out two other contenders to win the House of Representatives seat vacated by former Rep. Chris Cox when he left to become Chairman of the Security and Exchange Commission this past summer. The 48<sup>th</sup> District comprises southern Orange County, including Irvine and Newport Beach. The seat was vacated earlier this year when former Rep. Christopher Cox resigned to accept an appointment by President Bush as Chairman of the Securities and Exchange Commission.

Campbell, a Republican, took 45 percent of the vote on Tuesday, December 6, 2005, while Democrat Steve Young pulled in 28 percent and Minuteman Project co-founder and American Independent Party Candidate Jim Gilchrist won 25 percent of the vote in a campaign that focused heavily on immigration and border issues.

Campbell, from Irvine, served in the State Assembly from 2000-04 and in the State Senate from 2004 until his election to Congress. He has a B.A. in Economics from UCLA, and an M.S. in business taxation from USC. He is an accountant and former car dealership executive.

Wasting no time before taking office, Rep. Campbell was sworn in to Congress on Wednesday, December 7, just one day after winning the special election contest.

### CUNNINGHAM RESIGNATION SETS STAGE FOR ANOTHER ELECTORAL CONTEST

On November 28, 2005, Rep. Randy "Duke" Cunningham announced he would immediately resign his seat in Congress. In July, Rep. Cunningham had announced that he would not run for reelection in 2006, but this latest announcement accelerates the process for electing a new representative for California's 50th Congressional District.

Governor Arnold Schwarzenegger has until Monday, December 12, to decide whether to proclaim a special election for the seat during the winter (probably on Tuesday, February 7, 2006), or instead to hold the special election on the same day as the statewide California primary election -- April 11, 2006.

In either case, candidates of all parties would appear on the ballots of all parties for the Congressional seat, and, if no candidate receives a

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majority of votes, a runoff would take place shortly thereafter, probably in April for a February special, or else in June for an April special.

## HOUSE JUDICIARY REPORTS BORDER SECURITY BILL

After three hours of contentious partisan debate, the House Judiciary Committee favorably reported H.R. 4437, the “Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005,” sponsored by Chair James Sensenbrenner (WI). The vote of 23-15 was along party lines.

Major provisions of the bill include:

- establishing a mandatory employment eligibility verification system, expanding the voluntary “Basic Pilot” program that is currently available nationwide and based in part on legislation offered by Rep. Ken Calvert (Corona) to require mandatory verification. The bill also increases civil and criminal penalties for knowingly hiring or employing an illegal worker.
- authorizing local sheriffs in the 29 counties along the southern border to enforce U.S. immigration laws pursuant to a separate written agreement with the federal government and to transfer illegal aliens to federal custody. It also reimburses those Sheriffs for costs associated with detaining illegal aliens.
- increasing Department of Homeland Security authority for the long-term detention of dangerous illegal immigrants by superseding U.S. Supreme Court decisions that have impeded long-term detention.
- increasing the minimum and maximum mandatory sentences for alien smuggling, and cracking down on alien gang members by rendering them inadmissible into the United States and deportable.
- increasing mandatory minimum and maximum sentences for aliens reentering the United States illegally. These provisions incorporate H.R. 3150, introduced by Rep. Darrell Issa (Vista).

H.R. 4437 also incorporates the border security legislation approved by the Homeland Security Committee last month, H.R. 4312, which among other provisions, eliminates the “catch and release” practice currently used by federal immigration authorities. *See, Bulletin, Vol. 12 No. 32 (11/28/05).*

Most of the debate on the bill centered on what it did not include – a comprehensive guestworker program to deal with the roughly 11 million undocumented aliens already working in the United States. California’s Committee members voiced forceful positions on the bill with Republican members such as Reps. Issa and Dan Lungren (Folsom) arguing that the bill was needed at this time to stem illegal immigration by stricter enforcement of current laws and that it was premature to take up the issue of a guestworker program. Democrats Howard Berman (North Hollywood), Zoe Lofgren (San Jose), Maxine Waters (Los Angeles), and Linda Sanchez (Lakewood), on the other hand, spoke up strongly against the bill. Rep. Berman argued that moving the bill at this time, without addressing those undocumented workers in the United States, guaranteed the bill was “destined not to solve the problem.”

During the markup several amendments were offered, but only minor amendments accepted by Chairman Sensenbrenner were approved. An amendment offered by Rep. Chris Cannon (UT) sparked heated debate. It would have, among other provisions, eliminated the mandatory employment verification program in the bill. It was defeated by voice vote. Another, offered by Rep. Robert Scott (VA) would have stripped out the mandatory minimum sentencing provisions in the bill,

while retaining the increased maximum sentences. It was defeated by a roll call vote of 12-20.

Rep. Berman offered as an amendment the bill, H.R. 2330, introduced previously this Congress by Reps. Jeff Flake (AZ) and Jim Kolbe (AZ). Rep. Flake is a member of the Judiciary Committee and was in attendance at the markup. The Kolbe-Flake bill would give certain undocumented workers in the United States who pay a fine for their illegal entry a path by which to obtain an employment visa. Although Rep. Flake handily defended his bill as not offering amnesty, and called for a comprehensive guestworker program to deal with the undocumented immigrants working in the United States, he understood that there were insufficient votes to pass it and encouraged Rep. Berman to withdraw his amendment. Mr. Berman demurred and his amendment was defeated 13-22, with Mr. Flake voting present.

The House expects to take up the bill next week, but action in the Senate on border security or immigration reform is not expected this year.

### **HOUSE APPROVES \$56 BILLION TAX REDUCTION BILL, PLUS OTHER TAX PACKAGES; SPECIAL AMT FIX COULD REDUCE CALIFORNIANS' BILLS**

On Thursday, December 8, 2005, the House by a vote of 234-197 approved its \$56.1 billion tax reconciliation bill, H.R. 4297. On Wednesday, the House also passed three other tax bills. The Senate passed a smaller package of tax cuts on November 17, and resolution of the differences between the two bodies' approaches may not be possible until next year.

The first bill approved Wednesday, H.R. 4096, extends the exemption for the alternative minimum tax (AMT) for one year and indexes the exemption to inflation. The bill is expected to have a five year cost of \$31.2 billion. It was approved 414-4. Since the Senate version of the bill includes an AMT "patch" to extend relief, that this House move should yield a signable bill.

The Wednesday second bill, H.R. 4440, provides \$8 billion in tax breaks and state and local bond incentives aimed at rebuilding after hurricanes Katrina, Rita and Wilma. The vote was 415-4. The last bill passed on Wednesday, H.R. 4388, extended some expiring tax provisions that could not be included in the reconciliation tax bill because of Senate budget rules. It was passed by a vote of 423-0.

The House reconciliation tax bill (H.R. 4297), approved on Thursday, extends for two years (to 2010) the lower tax rates currently imposed on capital gains and dividends. The Senate dropped that provisions from its version of the bill.

The House bill includes language identical to the Senate's bill extending the Research and Development tax credit for one year to December 31, 2006, as well as extending other expiring credits such as the Welfare-to-Work credit and the Work Opportunity Tax credit that are set to expire at the end of the year. The R&D tax credit provision also increases the value of the alternative incremental credit and adds a new alternative simplified credit. A variety of California businesses have put a high priority on maintaining and extending the R&D tax credit for the longest possible period.

H.R. 4297 also allows taxpayers to deduct up to \$4,000 (depending on income) of higher education expenses in lieu of claiming the Hope or Lifetime Learning tax credits. The deduction is available "above-the-line," meaning it may be claimed by all individual taxpayers regardless of whether they itemize their deductions.

The AMT relief and indexing bill could prove a boon for California taxpayers, who are considerably more likely than residents of most other states to be caught by the AMT. Studies by the Tax Policy Center (sponsored by the Urban Institute and the Brookings Institution) as well as another by the Tax Foundation found that 4.5 percent of California taxpayers were subject to the AMT in 2003, more than twice the national rate of 1.8 percent. Only three other states (New York, New Jersey, and Connecticut) had larger percentages of taxpayers on AMT than California. For more information, visit <http://www.taxpolicycenter.org/taxfacts> or <http://www.taxfoundation.org/publications/show/498.html>.

According to data from the Tax Foundation, California taxpayers would benefit somewhat more than the national average from a dividend tax exclusion. Whereas the percentage of returns in 2000 showing dividend income was nearly identical (26.2% in the U.S.; 26.3% in California), the total amount of such income was enough that Californians would receive more than 14 percent of total tax relief under an exclusion, according to data available at <http://www.taxfoundation.org/publications/show/1243.html>.

For information regarding the bills approved, visit <http://www.waysandmeans.house.gov>.

## **TRANSPORTATION AND HOUSING APPROPRIATIONS APPROVED: CDBG RETAINED, HIGHWAYS AND TRANSIT RECEIVE BOOST**

Congress approved a \$137.6 billion Transportation-Treasury-HUD spending plan on November 18, 2005, giving lawmakers a boost going into the Thanksgiving recess. After failing to gain passage of the FY 2006 Labor-HHS-Education spending measure, the House ultimately reported a spending plan for transportation and housing programs by an overwhelming vote of 392 to 31. After putting that bill to bed, Congress thus had completed work on all but two spending measures. The Senate later approved the bill and conference report by voice vote on the same day. The conferenced bill, which was signed into law by President Bush on November 30, improves funding for Amtrak (while establishing certain conditions for reform of the passenger rail system), restores cuts to a number of housing programs proposed in the President's Department of Housing (HUD) budget and contains funding for judiciary and Washington DC federal expenses. Language governing these spending programs have historically been attached to separate bills.

The appropriations conference agreement (HR 3058– H. Rept 109-307) provides \$13.8 billion to fund Federal Aviation Administration (FAA) expenses, of which \$8.2 billion will go to the FAA's operations budget, \$3.55 billion for the Airport Improvement Program, and \$110 million for Essential Air Services.

The federal highway administration receives a \$1.6 billion increase over prior year appropriations to bring the level of highway spending in line with SAFETEA-LU authorizations.

Funding for the beleaguered national passenger rail service (Amtrak) is set at \$1.32 billion by the conference report. Citing poor financial management and operating losses, the White House had proposed to eliminate funding for the system in the FY 2006 budget blue print. A number of terms and conditions are attached to the Amtrak budget which address some of the president's concerns. Conferees intent on improving financial reporting will now require the DOT's Inspector General to review Amtrak financial reforms and report to Congress regularly. In order to control Amtrak's heavy operating losses, conference language requires a reduction in subsidies for food and beverage costs, first class services, and commuter rail fees. The sale of rider discounts that exceed 50 percent of travel costs would be forbidden under the conference agreement. A new \$40 million discretionary account designed to reward short-term operating savings is also contained in the bill.

Federal Transit Administration grants receive a 12 percent boost under the agreement, lifting transit program funding levels to \$8.6 billion for FY 2006. The conference report specifies that transit appropriations will conform to authorizations and structures outlined in the SAFETEA-LU law, however a small cut of \$33 million is instituted due to a general treasury squeeze. Of the funding provided for transit in the conference agreement, \$3.5 billion is directed to support the Urbanized Area Formula program, \$1.5 billion will be awarded to New Starts capital projects and \$822 million is provided for the bus and bus facilities discretionary program.

The Department of Treasury receives an appropriation of \$11.7 billion, \$50 million more than in 2005.

Housing needs are also addressed in the appropriations legislation. HUD is awarded \$34 billion to support its programs, which is \$2.1 billion greater than the prior year's funding levels, and \$5 billion in excess of the amount proposed in the President's budget for federal housing expenses. Most significantly, conferees objected to the White House plan to eliminate the Community Services Block Grant (CSBG) and shift some of its functions to the Department of Commerce, instead awarding the program \$4.2 billion, of which \$3.75 billion would be directed to communities through formula apportionments.

For more information on the legislation, visit the House Committee on Appropriations website at: [http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease\\_id=529](http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=529). The California Institute will provide a detailed analysis of the California-related components of the bill shortly.

## **JUDICIARY SUBCOMMITTEE REASSESSES CHINA/RUSSIA IPR PROTECTION**

The House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet held a hearing on Wednesday, December 7, 2005 to reexamine the status of efforts by the governments of China and Russia to protect U.S. intellectual property rights (IPR) and halt the flood of piracy within their countries.



The Subcommittee heard from the following witnesses: Honorable Chris Israel, Coordinator for International Intellectual Property Enforcement, U.S. Department of Commerce; Honorable Victoria Espinel, Assistant U.S. Trade Representative (acting for Intellectual Property, Office of the U.S. Trade Representative; Eric H. Smith, President, International Intellectual Property Alliance (IIPA); and Joan Borsten Vidov, President, Films by Jove, Inc.

Mr. Espinel, testifying for the first time on behalf of the newly established Office of International Intellectual Property Coordination, detailed the Administration's efforts to insist on stronger IPR enforcement. He stated that this year has seen encouraging signs that China and Russia are taking steps to halt piracy. He noted that the "Chinese have committed to, among other things, address the proliferation of illegal software within government and state-owned enterprises, increase criminal prosecutions for IP violations, enhance cooperation with U.S. law enforcement and join the WIPO Internet Treaties." In addition, USTR has recently invoked a procedure under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights to make a formal request for China to provide detailed information regarding their IP enforcement regime. The Japanese and Swiss governments have also made similar requests.

Ms. Espinel also testified on the Administration's efforts, noting that the USTR had elevated China to the Priority Watch List in the 2005 Special 301 because China's efforts still evidenced "significant gaps particularly in deterring rampant piracy and counterfeiting." Regarding Russia, Ms. Espinel acknowledged that "[e]nforcement in both the copyright and trademark sectors continues to be a significant problem in Russia. As a result, Russia was designated a PWL country in the Special 301 Report and an Out of Cycle Review for Russia is being conducted this year to monitor progress." She also stated that USTR is continuing interagency review of a petition filed by the U.S. copyright industries to withdraw some or all of Russia's GSP benefits. In response to questioning by subcommittee members, Ms. Espinel stated that at this point Russia has not taken sufficient strides to protect IPR to warrant its admission to the WTO.

Mr. Smith and Ms. Borsten Vidov testified on the significant deleterious impact that intellectual property piracy has on all U.S. industries. Ms. Borsten Vidov explicated the specific case of Films by Jove, where "[d]espite three US Federal Court decisions in our favor over the last three years, my company, Films by Jove, continues to be threatened with the loss of our investment because of new efforts by the Russian government to expropriate our rights without compensation."

To obtain witness testimony, visit the Committee's website at: <http://www.judiciary.house.gov>.

## **CONFERENCE NEGOTIATORS REACH COMPROMISE ON PATRIOT ACT EXTENSION**

On Thursday, December 8, 2005, House and Senate negotiators reached a compromise that will reconcile differences between the two chambers' versions of a bill, H.R. 3199, to extend various expiring provisions of the USA Patriot Act. The language that was still in negotiation and is the subject of the most recent agreement dealt largely with FBI wiretaps and other issues requiring a balancing of individual privacy with national and international security matters. It would also stiffen penalties for producing and selling methamphetamine, and for terrorist strikes against rail and transit targets.

Senate Judiciary Committee Chairman Arlen Specter (PA) and House Chairman James Sensenbrenner (WI) indicated that the bill would be ready for floor action by next week (probably December 14).

The bill does not deal with the formula for distributing homeland security grant dollars to state and local first responders, a longstanding concern for representatives of large states, which receive far fewer grant dollars per capita than small states under a Patriot Act formula. Efforts to find agreement on a formula fix were abandoned in November. See *Bulletin, Vol. 12, No. 32 (11/18/2005)*.

## **HOUSE SUBCOMMITTEE QUERIES WHETHER ONLY CITIZENS SHOULD COUNT FOR APPORTIONING CONGRESSIONAL SEATS**

On Tuesday, December 6, 2005, the House Committee on Government Reform's Subcommittee on Federalism & the Census held a hearing entitled "Counting the Vote: Should Only U.S. Citizens Be Included In Apportioning Our Elected Representatives?" The hearing examined House Joint Resolution 53, which proposes to amend the U.S. Constitution to mandate that only U.S. citizens would be counted for House apportionment.

Witnesses included Rep. Candice Miller (MI), sponsor of H.J.Res. 53, Mr. Clark Bensen of Polidata Co., Mr. Steven Camarota of the Center for Immigration Studies (CIS), Mr. Lawrence Gonzalez of the National Association of Latino Elected and Appointed Officials (NALEO), Columbia University Professor Ken Prewitt, Mr. Johnny Killian of the Congressional Research Service (CRS), University of Maryland Professor James Gimpel, Oklahoma City University Law Professor Andrew Spiropoulos, and Ms. Nina Perales of the Mexican American Legal Defense and Educational Fund (MALDEF).

Rep. Miller testified in support of her proposal, which would amend the 14th Amendment to the Constitution that currently requires that seats for the House of Representatives be apportioned according to the “number of persons” in states, instead apportioning seats according to the number of citizens. She commented “I find it absolutely outrageous that people who are in our country illegally are having such a profound impact on our political system. Every 10 years the census determines the number of Congressional districts allocated to each state. If we continue to include illegal aliens in that count, we’ll allow others to steal the Congressional voice of American citizens.” Focusing in part on some California districts, she added, “A district which has tens or hundreds of thousands of illegal immigrants dilutes the voice of citizens in other areas of the nation and enhances that of those who live in such areas.”

Rep. Miller represents a relatively rural eastern portion of Michigan, a state with slightly less than 3 percent of its residents as noncitizens according to the 2000 census. In contrast, California has the largest noncitizen population share (15.9 percent) of any state. In addition, there is some doubt that the decennial censuses fully capture undocumented noncitizens, which could push California’s disparity from the national norm even higher.

Rep. Candice Miller also complained that the Constitution’s allowing of illegal immigrants to weight district size caused certain illegal immigrant-heavy states to “enjoy undue influence in Presidential elections” because they are granted more Congressional seats, and therefore “more representation in the Electoral College than they would have if illegal aliens were not considered.”

At the hearing, Mr. Bensen of Polidata noted that the largest group of noncitizens were of Mexican origin, and they are heavily concentrated in southern border states such as California and Texas. Mr. Martinez of NALEO, however, noted that the most substantial noncitizen growth identified by the 2000 census was in Pennsylvania, Georgia, and other less typical immigrant-heavy states.

Subcommittee Ranking Democrat Carolyn Maloney (NY) asked “Isn’t my vote less valuable than that of a Representative of a smaller state?” She pointed out that the presence of the U.S. Senate sets the political influence of smaller states at considerable advantage over larger states, and asked, largely but perhaps not entirely facetiously, “Shouldn’t we do away with the Senate?” Mr. Bensen replied that his state (Vermont) is more powerful than hers (New York), and Mr. Camarota of CIS agreed that the Senate presence causes skewing.

Mr. Prewitt of Columbia University cautioned that the nation’s founding fathers knew that “numbers are political, especially in a representative democracy.” He opined that requiring the Census Bureau to count some persons and not others will send the message that this is a political process, whether or not that is the intent of the proposed amendment. He suggested that the amendment would raise issues of taxation-without-representation given that citizens and noncitizens alike pay taxes. He added that military service-without-representation issues would arise as well, particularly for citizens living in areas that receive less political strength due to the amendment.

Johnny Killian of the Congressional Research Service suggested that the amendment would raise myriad court concerns. James Gimpel of the University of Maryland noted that there are greater burdens on districts with more citizens. He pointed out that noncitizens and nonvoters contact their Congressional representatives much less frequently than citizens and voters.

Andrew Spiropoulos of Oklahoma City University noted that the census has historically focused on inhabitants and not citizens. Except for the trappings specifically accorded to citizens, services provided to, and the conduct of all, persons are regulated by government action. However, he said that the fundamental issue this amendment is trying to get at, if indirectly, is immigration, and implied that this debate may be distracting.

Nina Perales of the Mexican American Legal Defense & Education Fund (MALDEF) argued that the amendment violates the Constitution’s 14th Amendment, which guarantees the equality of “all persons before the law.” She noted that it was written at a time (the 1860s) when Congress could have restricted the 14th Amendment’s power, but did not. She argued that the current proposal would shift political representation away

from highly-populated states that represent large populations of Latinos, speculating that, if a census conducted today would give Texas an additional seat, and each Texas member would represent 664,000 persons, adding that this amendment would require each member to represent an extra 20,000 persons. She noted that a similar outcome could be expected in Arizona, California, New Mexico, Florida and Texas.

UM Professor Gimpel focused particular attention on California's 31<sup>st</sup>, 33<sup>rd</sup> and 37<sup>th</sup> Congressional Districts, noting that incumbent are sometimes reelected with just over 50,000 votes. He contrasted the vote counts in those districts with counterparts in Michigan and Ohio, and he speculated that it would be possible that a Member of Congress who had received 200,000 votes in one of those states could be reapportioned out of a Congressional seat, whereas a one who had received just 50,000 votes could retain his or her seat. He extended his argument to say that it is theoretically possible to have a district that contains no citizens at all.

Ranking Democrat Maloney asked what other groups might be excluded from counting if Congress chose to "start down the path" of excluding individuals. In response, witnesses speculated that ex-felons, persons psychologically incapable of voting, the homeless, or other populations of individuals might be excluded. Taking it to the most extreme, Perales suggested that Congress could exclude from census counting anyone who did not turn out in the last election, or all children, since they are not permitted to vote.

Although not a member of the Subcommittee, Rep. Linda Sanchez (Lakewood) was given permission to sit on the panel. In a discussion with Ms. Perales, Rep. Sanchez pointed out that many legal permanent residents are on active duty in the military, protecting all Americans whether citizens or noncitizens, and that some are stationed in Iraq. In response to another inquiry by Rep. Sanchez, Perales said that Latinos would not be the only ethnic group harmed by the amendment, and that Anglos who live in and among the Latino community or even Anglos living within a heavily-Latino state such as California.

In the future, testimony may become available from the Committee at <http://reform.house.gov>.

## **LOWER CONFIDENCE IN POLICYMAKERS OBSERVED AFTER SPECIAL ELECTION, PPIC SURVEY SUGGESTS**

A survey held after the November 2005 special election finds that most California voters have a gloomy outlook about the future of California and that the initiative process needs reform. The survey, published by the Public Policy Institute of California (PPIC), also explores reasons for the voting down of every special election initiative measure, and finds increasing dissatisfaction with state leaders and state government among voters, compared to a year ago.

Capturing the views of 2,002 special election voters, the survey revealed discontent over the need for a special election with 60 percent of respondents disapproving of the election and 36 percent of those polled thinking it was a good idea. Voters responded negatively to questions about California's future and leadership, according to the survey. The majority of those surveyed: were unhappy about the direction California was going (68%), disapproved of Gov. Schwarzenegger's performance (56%) and were even less confident in the Legislature's performance (66% disapproval).

Voters were most concerned about the outcome of Proposition 73 (parental notification), Proposition 74 (teacher tenure), and Proposition 75 (union dues). None of the four ballot measures backed by Gov. Schwarzenegger gained approval from the voters. Of those four, respondents rejected each one for different reasons. Proposition 74 was rejected by those polled because of the belief that 5 years was too long for teacher tenure decisions and that teachers would be hurt by the ballot measure, among other reasons. Proposition 75 was opposed, among other reasons, because of the belief that it was unfair to impose restrictions on unions exclusively. Respondents voted down the budgetary controls contained in Proposition 76 chiefly because they were concerned that money would be directed away from schools and that the Governor would be given too much power. The ballot measure which would have reformed the way district boundaries are drawn (Proposition 77) was rejected, among other reasons, because voters believed that judges responsible for drawing new district lines would not be impartial.

California voters seemed to have greater faith in the initiative system than in their elected leaders with 48 percent of those polled expressing greater confidence in direct democracy decisions compared to 3 in 10 who think voters make poorer decisions than the Legislature. However confidence in the initiative system had

waned according to the survey's author because the initiative process had been met with higher approval ratings (58%) before the special election was conducted.

The survey also assessed specific criticisms of aspects of the special election and ballot initiative system. Those surveyed were more likely to have criticized the special election because of excessive amounts of money used to finance the campaigns (83%) and because the wording was complicated and confusing (55%). Voters also supported reforms impacting how initiatives qualify, were reviewed, and were financed.

This survey is the fourth in a series focusing on the statewide initiative process and the November Special Election. For more information on this report or to view a copy of the survey's findings, visit the PPIC website at: <http://www.ppic.org/main/publication.asp?i=645>

### **UNDOCUMENTED IMMIGRANTS MOST LIKELY TO BE UNINSURED, RAND FINDS**

A recent RAND Corporation report shows undocumented immigrants are most likely to be uninsured, ballooning the pool of uninsured persons by one-third in the United States in the past two decades.

In stark contrast to the study's 17 percent native born, 23 percent naturalized citizen, and 38 percent immigrants with permanent status who stated they were uninsured, nearly 68 percent of undocumented immigrant adults in the study did not have healthcare insurance.

Principal researchers of the study, published in the November/December 2005 edition of the journal *Health Affairs*, argue that their results illustrate the necessity to open and continue dialogue about healthcare and undocumented immigrants simultaneously.

The study found that public insurance (such as Medicaid) was received by 13 percent of native born citizens in addition to 10 percent of naturalized citizens and 10 percent of permanent residents, in comparison to the mere eight percent of undocumented immigrants who receive it. According to researchers, most of those undocumented immigrants who were insured were covered by their employers.

With respect to continual insurance coverage, undocumented immigrants were disproportionately represented as chronically uninsured (lacking health insurance for a consecutive two year period), making up 65 percent of that group. This is in comparison to their native born, naturalized, and permanent resident counterparts with the respective percentages of 12, 18, and 32.

The study examined 2,400 English or Spanish speaking adults from Los Angeles County between 2000 and 2001. Los Angeles is comprised of the largest immigrant population in the nation.

Compared to only five percent found in 1970, over half of the undocumented immigrants reported living in the US for less than five years. Also striking, according to the authors, is that between 1980 and 2000, the number of adults in the nation without health insurance increased by 8.7 million. Undocumented immigrants, nationwide, account for approximately a third of this increase.

The study concluded that factors contributing to the lack of health insurance for foreign born adults include lower educational attainment, low incomes, and employment in industries that do not offer insurance such as agriculture.

Additional information about this RAND study can be found at [www.rand.org](http://www.rand.org).

### **REPORT EXPLORES IMPACT OF REPEALING STATE AND LOCAL TAX DEDUCTIONS**

The Tax Policy Center of the Urban Institute and the Brookings Institution recently released a report on the impact of repealing state and local tax deductibility. Recent proposals to overhaul federal tax laws have considered eliminating the federal tax deductibility of state and local taxes on income, sales, and property.

According to the report's author, Kim Rueben, opponents of allowing state and local tax deductibility generally believe the matter to be one of fairness or equity – lower income individuals who do not itemize deductions face a higher cost of government services than itemizers. The current system benefits itemizers in higher-tax states over taxpayers in lower-tax states. Furthermore, opponents of the deductibility argue that if taxes are viewed as payment for government services rendered, they should be treated no differently from other forms of consumption. In addition, they declare that deductibility is essentially a way to provide intergovernmental assistance and that direct federal grants to state and local governments would be more a efficient way to subsidize certain public services.



To the contrary, proponents in favor of retaining the deductibility of state and local taxes argue that it is unfair to ask taxpayers to pay taxes on taxes -- that is, if another level of government is claiming that revenue, it is not really part of the individual's disposable income and paying taxes on it leads to double taxation, the report asserts. Also proponents argue that retaining the deductibility may be necessary to encourage higher-income taxpayers to support programs that primarily benefit lower- and middle-income households in the same state.

Just about all of the 46 million households who itemized in 2002 claimed a deduction for state and local taxes paid, amounting to \$308.7 billion -- made up of 82 percent who deducted for state and local income taxes and 87 percent who deducted real estate taxes. While households who take those deductions are in every state, concentrations in a few states are evident. According to the report, taxpayers in California and New York make up 20 percent of those claiming deductions for all state and local taxes, 23 percent of those claiming state and local income taxes, nearly 30 percent of the amount of the total state and local tax deduction and one-third of the deductions from state and local income taxes. Itemizers in California claim deductions totaling \$9,000, on average, the report finds.

State and local tax deductions are highest in places where state and local taxes are high. Some reasons that contribute to this is relatively high or progressive income or property tax rates or relatively high incomes and property values or both. As a result, California is at the top of the list because it has some of the most expensive real estate in the country, large concentrations of wealth, and a progressive income tax system. To illustrate this point, in 2002 the top five percent of California households paid 60 percent of California income taxes while the bottom 40 percent paid less than one percent, the report finds.

Rueben concluded that more than half of all state and local tax deductions were claimed by the eight percent of taxpayers with incomes exceeding \$100,000, and over 60 percent of state and local income taxes were claimed by households making \$100,000 or more. Those are the same households that are most likely to be subject to the Alternative Minimum Tax (AMT) because 90 percent of AMT revenues comes from households earning over \$100,000 and itemizing deductions.

In California's case, the 11 percent of households that earned \$100,000 or more consisted of 46 percent of state adjusted gross income and claimed 46 percent of listed deductions. But they claimed 63 percent of all state and local tax deductions and 72 percent of income tax deductions. According to the report, the higher percent of income tax deductions reflects California's greater reliance on a progressive income tax and lower property tax rates, a result of Proposition 13.

An Urban Institute Senior Research Associate and also an Adjunct Fellow with PPIC, Rueben estimated that \$24.8 billion this fiscal year, or \$693 billion in federal revenues from 2006-15 assuming no changes to current law, would be generated if deductions for state and local taxes were eliminated and the AMT remained in effect. This would include a savings of approximately \$45 billion from 2007-2010. If both state and local tax deductions and the AMT were eliminated, she projected that revenues would increase by \$21.4 billion for fiscal year 2005 and \$331 billion for fiscal years 2006-2015, if no extensions to the President's tax cuts are implemented.

Furthermore, the research found that retaining the property tax deduction would lead to smaller revenue gains for the federal government and would leave a larger gap to be filled from also repealing the AMT. There is a federal revenue increase of \$431 billion from fiscal years 2006-2015 if only the state and local income tax and sales tax deductions are eliminated, or a savings of \$318 billion if baseline provisions are extended and the AMT is not repealed or changed. If state and local income tax and sales tax deductibility were eliminated and the AMT was repealed, there would be a small savings of \$48.3 billion that would accumulate between 2006 through 2015 under current law and a cost of about \$437 billion if the President's tax cuts are extended.

Additional information is available from The Tax Policy Center, [www.taxpolicycenter.org](http://www.taxpolicycenter.org).

## **LATEST CENSUS "SMALL AREA" ESTIMATES REVEAL STATE AND NATIONAL GROWTH IN POVERTY RATES AND EARNINGS**

New census poverty data released on November 29, 2005, suggests poverty rates grew nationally and statewide between 2002 and 2003, with the average increase in California estimated at 0.5 percent. The state's poverty growth occurred in concert with a jump in the average household income compared to the prior year.

The revised data produced by the US Census Bureau's Small Area Income and Poverty Estimates (SAIPE) Program, provides poverty and income estimates annually, which are used in turn by the federal government as statistical inputs for formula program calculations. SAIPE produces data on the total number of people in poverty, the number of children below age 5 in poverty, the number of children between the ages of 5 and 17 in families in poverty, and median household income for states, counties or school districts. Title I funding apportionments under the No Child Left Behind Act, for example, are determined in large part by SAIPE statistics (for poverty in ages 5-17).

According to the most recent estimates, the number of people in poverty nationally and from all ages increased to 35.9 million in 2003 or 12.5 percent of the population, that's a 0.4 percent increase from the 2002 estimates. In California, overall poverty also grew, from 4.6 million (13.3%) to 4.8 million (13.8%) of the state's population. All other poverty measurements indicate similar trends of growth, according to the census estimates. California's number of children age 0-17 in poverty grew by roughly 76,000 from 2002 to 2003 while children in poor families grew by 58,000 in the same period.

Nationally the share of poor children under age 5 grew from 19 percent of the population to 20.3 percent of the population, that's over 4 million. In California, the share of young children in poverty was actually slightly lower at 20.1 percent or 521,000. The fact that the percentage of the youngest children in poverty was lower in California than in the U.S. as a whole was encouraging, but the change came not from a drop in California youth but from a large jump in the U.S. rate. The state's rate rose from 19.8 percent to 20.1 percent, whereas the U.S. rate leapt from 19.0 percent to 20.3 percent.

The SAIPE median income estimates suggest that while poverty experienced an uptick in 2003, Americans generally were simultaneously earning more money. Median household income experienced an average national increase of \$909 from 2002 to 2003. In California, that jump in earnings was over \$1,100. The only state to experience a decline in median household earnings was Texas, according to the estimates, while the District of Columbia experienced the highest median growth in family income.

For children in poverty aged 5-17 (the data used to distribute Title I funding), California showed slightly slower growth than the U.S. average. In 2003, 18.9 percent of California's school-age children lived in poverty, compared to 16.1 percent of all such children nationwide. However, because the state's rate grew more slowly than the national average (up 0.5 points for California compared to up 0.8 points for the U.S.), California may see a small reduction in its relative Title I receipts. (One caveat: It is important to note that the SAIPE data used for actual Title I allocations is calculated at the school district level, so there may be variations depending on the concentration of child poverty in one district versus another.)

For more information on SAIPE estimations or to view state-level, county-level or school district-level estimates visit the SAIPE website at: <http://www.census.gov/hhes/www/saipe/> .

## **CENSUS BUREAU RELEASES NEW DATA ON NATION'S HISPANIC POPULATION**

Newly available Census data reveal that 66,247,000 individuals identifying themselves as Hispanic (whose ethnic origin is Mexican, Puerto Rican, Cuban, Central or South American, or other Hispanic/Latino, regardless of race) live in the Western region of the nation. In total, 288 million Hispanics live in the US, as reported recently by the Census Bureau.

Although containing no California-specific data, recently released data tables with information about race, age, occupation, marital status, household characteristics, educational attainment, earnings, poverty, and civil labor force status of Hispanics are available from the Census Bureau. The information may be obtained from the Bureau at <http://www.census.gov/population/www/socdemo/hispanic/cps2004.html> .