



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 news bulletins regarding current activity on Capitol Hill that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.

TECHNOLOGY: HOUSE SCIENCE AND TECHNOLOGY COMMITTEE PASSES NANOTECHNOLOGY REAUTHORIZATION

On Wednesday, May 07, 2008, the House Committee on Science and Technology held a mark-up of HR 5940, the National Nanotechnology Initiative Amendments Act of 2008. HR 5490 amends the 21st Century Nanotechnology Research and Development Act to make several changes to the implementation process and priorities of the National Nanotechnology Initiative (NNI).

Four amendments were adopted in committee by voice vote. The amendments included two amendments by Rep. Eddie Bernice Johnson (TX) to include a representative from a "minority-serving institution" in the Presidents Advisory Committee on Nanotechnology; and to include the topics of "environmental health and safety" in nanotechnology education programs. The other two amendments, offered by Rep. Brian Baird (WA), dealt with ensuring remote access to nanotechnology education and nanotechnology facilities for secondary schools and researchers, respectively.

For more information visit http://science.house.gov .

IMMIGRATION: EDUCATION & LABOR EXAMINES IMPACT OF GUESTWORKER PROGRAMS

On Tuesday, May 6, 2008, the House Education and Labor Committee held a hearing entitled "Do Federal Programs Ensure U.S. Workers Are Recruited First Before Employers Hire From Abroad?" The Committee heard from a number of witnesses, including: The Honorable Leon R. Sequeira, Assistant Secretary for Policy, U.S. Department of Labor; Bruce Goldstein, Executive Director, Farmworker Justice; and Dr. Andrew Sum, Director/Professor, Center for Labor Market Studies, Northeastern University, Boston, Massachusetts.

In his opening remarks Committee Chair George Miller (Martinez) referred to his provocatively-titled Indentured Servitude Abolition Act, which would discourage employers from using disreputable guest worker recruiters and hold foreign labor recruiters and employers accountable for the promises they make. He noted, "As we look at greater protections for guest workers, we also have to ask whether labor protections in

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those programs are sufficient to shield U.S. workers from downward pressure on their wages and working conditions, and whether we are doing enough to recruit qualified U.S. workers to fill open jobs.” He concluded by saying: “As we debate reforms to our nation’s immigration laws, I hope that this hearing will highlight the critical need for Congress to enact stronger labor protections that will protect immigrants, guest workers, and U.S. workers – and for the Labor Department to enforce the protections already on the books.”

Issues raised at the hearing included:

- whether wages are being depressed because of guestworker programs;
- the rationale for continuing the H-2A temporary agricultural workers program and the H-2B temporary non-agricultural workers programs as separate programs with different requirements;
- whether agribusiness is doing enough to modernize its workforce and increase productivity, and whether employers are intentionally substituting immigrant guestworkers for younger U.S. workers; and
- whether younger workers are available and willing to take agricultural jobs.

For the testimony of the witnesses, go to: <http://www.edlabor.house.gov> .

## **ENVIRONMENT: SENATE ENVIRONMENT & PUBLIC WORKS HOLDS HEARING ON PERCHLORATE AND TCE IN WATER**

On Wednesday May 6, the Senate Environment and Public Works Committee held a hearing on the safety and regulation of perchlorate and TCE (trichloroethylene) in drinking water.

Perchlorate is a chemical that can leech into drinking water, interfering with the thyroid and hormone systems. In her opening statement, Chairwoman Barbara Boxer noted that in 2005 the GAO found nearly 400 sites in 35 states contaminated with perchlorate, of which 106 sites were in California.

Sen. Boxer strongly criticized the EPA’s lack of action on perchlorate and demanded an explanation from chief witness Benjamin H. Grumbles, Assistant Administrator for Water, U.S. Environmental Protection Agency. One flaw Boxer pointed to was that when the EPA issued a guidance for perchlorate cleanup at toxic waste sites, the agency based the allowed level on a 154-pound adult whose only exposure to perchlorate is from drinking water, despite the knowledge that the most vulnerable population to perchlorate exposure is a developing fetus exposed through the mother.

Boxer has introduced two bills, the first, the “Perchlorate Monitoring and Right to Know Act” (S. 24), would require EPA to restore the rule requiring that drinking water be tested for perchlorate, and would mandate that the results of those tests must be disclosed to the public. The second, the “Protecting Pregnant Women and Children from Perchlorate Act” (S. 150), requires EPA to quickly set a perchlorate standard for drinking water that protects pregnant women and children.

Some Committee members expressed concern at legislating the EPA, stating that this issue is better handled by scientists than by legislators. Boxer stressed that the EPA is not performing at acceptable levels and that the American public deserves to stay informed and protected. She warned that without action, individual states are likely to set their own regulations.

Grumbles stated that, “The Agency has placed a high priority on making a regulatory determination for perchlorate as soon as possible and intends to

make a final determination by the end of this year.” He explained that the agency makes its determination based on whether the contaminant is likely to cause an adverse health effect, whether it is known or likely to occur in public water systems at a frequency and level of public health concern, and whether, in the sole judgment of the Administrator, the regulation presents a meaningful opportunity to reduce risk for persons served by public water systems. Grumbles stated that at this time, it is not yet clear whether or not the agency will choose to regulate perchlorate.

For more information on this hearing, please visit: <http://epw.senate.gov> .

## **HOUSING: FAR-REACHING LEGISLATION TO ADDRESS CRISIS IN THE HOUSING AND FINANCIAL SECTOR IS APPROVED IN HOUSE; SENATE PROSPECTS UNCERTAIN**

On Thursday May 8, 2008 the House of Representatives approved and forwarded to the Senate H.R. 3221, a combination of several pieces of legislation seeking to help alleviate the nation’s worsening housing crisis. One portion of the bill deals with housing stabilization by seeking to expand the Federal Housing Administration’s insurance program to back new loans for borrowers threatened with foreclosure. The bill would provide new authority for the FHA to back refinanced loans, provided the holder of the original mortgage voluntarily reduced the debt owed to reflect the reduced value of a home. Another component would authorize federal bonding authority of up to \$10 billion to be used for refinancing for subprime mortgages, new financing for first-time buyers, and construction of additional low-cost housing.

The measure included a provision, authored by Reps. Gary Miller (Diamond Bar) and Jerry McNerney (Pleasanton) and sought by the bipartisan California Congressional Delegation, to make permanent the recent increase in the maximum loan limits offered by FHA and those supported by the government sponsored enterprises or GSEs -- Fannie Mae and Freddie Mac. All three entities are temporarily allowed to engage in activity with loans as high as \$729,750 in the highest-cost U.S. areas ... which includes the counties in which the majority of Californians reside. Without intervention, the temporarily-elevated limits will fall back to about \$363,000 for FHA and to \$417,000 for the GSEs. With its large volume of high housing prices, California is more affected by these limits than any other state. The McNerney-Miller provisions were first introduced as legislation on Monday as the Homeowner Opportunity Act, and was quickly added to the legislation that moved out today.

For more information, visit: <http://financialservices.house.gov/> .

## **PRESIDENT SIGNS BILL TO CONSIDER CREATING A MUSEUM OF THE AMERICAN LATINO**

On Thursday, May 8, 2008, President Bush signed S. 2739, a bill originally authored by Rep. Xavier Becerra (Los Angeles) that includes a provision creating the Commission to Study the Potential Creation of a National Museum of the American Latino.

The newly-passed law creates a Commission of 23 members who will be responsible, during an 18-month period following enactment, for researching a plan for establishing and maintenance a museum, as well as a fundraising plan for supporting the creation and maintenance of the Museum, and a report on outstanding issues. The Commission would also organize a national conference of both policymakers and experts to discuss the Museum’s viability. All this is scheduled to take action within 18 months of the bill’s passage.

For more information, visit <http://becerra.house.gov> .

## **HOMELAND SECURITY: HOUSE OVERSIGHT COMMITTEE EXAMINES HOSPITAL FUNDING AND EMERGENCY SURGE CAPACITY**

Beginning on Monday May 5, 2008, the House Committee on Oversight and Government Reform held two days of hearings on the surge capacity of hospital emergency departments in the event of a mass casualty incident such as a terrorist attack. A ‘snapshot’ survey completed by the majority staff of the Committee found that on Tuesday, March 25<sup>th</sup> at 4:30pm, none of the 34 level 1 trauma centers participating in the survey had sufficient ER capacity to treat the sudden influx of victims that would result from a terrorist bombing similar in size to the 2004 Madrid bombing.

Three of the five level 1 trauma centers in Los Angeles were so overcrowded at the time of the snapshot that they had already closed their doors to new patients. After the Madrid attack, 29 patients arrived at one hospital in critical condition. None of the Level I trauma centers surveyed in Los Angeles had the critical care capacity to handle this volume of severely injured victims. On average, the trauma centers surveyed had only two intensive care unit beds available.

One of the reasons for the hearing was because the Department of Health and Human Services has issued three Medicaid regulations that will reduce federal funds to public and teaching hospitals by tens of billions of dollars over the next five years. Last month, the House passed bipartisan legislation that would postpone the regulations and give Secretary Leavitt and Secretary Chertoff an opportunity to reevaluate their implications for homeland security.

The Committee first heard testimony from an independent expert on terrorism, an emergency room physician, a trauma surgeon, a nurse with expertise in emergency preparedness, and a state official responsible for planning for disasters like a terrorist attack. On the second day of the hearing the two federal officials with lead responsibility for homeland security and for Medicaid: the Secretary of Homeland Security, Michael Chertoff, and the Secretary of Health and Human Services, Michael Leavitt, delivered testimony and answered questions.

In opening remarks, Chairman Henry Waxman (Los Angeles) called attention to “a complete breakdown in communications between the Department of Homeland Security and the Department of Health and Human Services.” This is in spite of homeland security directive number 21, which requires the Secretary of HHS to coordinate with the Secretary of DHS specifically to ensure maintenance of a robust capacity to provide emergency care. Waxman continued, “When the Committee requested documents reflecting an analysis of the potential implication of the Medicaid regulations on hospital emergency surge capacity, neither Department was able to produce a single document.”

Roger J. Lewis, MD, PhD, an attending physician and professor in the Department of Emergency Medicine at Harbor-UCLA Medical Center confirmed that the findings of the snapshot survey were indeed consistent with a typical day. He addressed the growing inequality between funding and demand for hospital services, stating that, “It is irrational to believe that an emergency care system that is already overwhelmed by the day-to-day volume of acutely-ill patients would be able to expand its capacity on short notice in response to a terrorist attack or natural disaster.”

For more information on the above hearing, please visit: <http://oversight.house.gov> .

## **IMMIGRATION: WAYS & MEANS EXAMINES EMPLOYMENT VERIFICATION IMPACT**

On Tuesday May 6, 2008, the House Ways and Means Social Security Subcommittee held a hearing on “Employment Eligibility Verification Systems and the Potential Impacts on SSA’s Ability to Serve Retirees, People with Disabilities, and Workers.” The focus of the hearing was to examine the current E-Verify pilot program and proposed expansions, including the impact of increased immigration-related workloads on SSA’s ability to serve seniors, people with disabilities, and survivors of deceased workers. It also examined the potential impact on businesses and employees; the technical and implementation challenges of expansion; and the data security implications of having personal information in the SSA database accessible to six million businesses nationwide.

The Subcommittee heard from a number of witnesses, including: Rep. Ken Calvert (Corona); Richard Stana, Director of Homeland Security and Justice, Government Accountability Office; Barbara Kennelly, President and Chief Executive Officer, National Committee to Preserve Social Security and Medicare; and John Trasviña, President and General Counsel, Mexican American Legal Defense and Educational Fund, Los Angeles.

Rep. Calvert testified in support of his bill, H.R. 19, which would require employers to conduct mandatory employment eligibility verification using the E-verify system. He noted several provisions in his bill that would allow for a transition to mandatory verification that could benefit SSA databases. He acknowledged that there is no perfect system, but urged the Committee not to make the “perfect” the enemy of the good.

Mr. Stana stated that in 2005, GAO recommended that DHS include an assessment of the feasibility and costs of addressing program weaknesses, such as inability to detect identity fraud, in a planned evaluation of the E-Verify program, and that DHS has implemented this recommendation. Additionally, he testified that: “A mandatory E-Verify program would necessitate an increased capacity at both U.S. Citizenship and Immigration Services (USCIS) and SSA to accommodate the estimated 7.4 million employers in the United States. . . . Although DHS has not prepared official cost figures, USCIS officials estimated that a mandatory E-verify program could cost a total of about \$765 million for fiscal years 2009 through 2012 if only newly hired employees are queried through the program and about \$838 million over the same 4-year period if both newly hired and current employees are queried.”

For the testimony of all the witnesses, go to: <http://www.waysandmeans.house.gov> .

## **TRANSPORTATION: JOINT HEARING ADDRESSES FUNDING FOR TRANSPORTATION INFRASTRUCTURE**

On Thursday, May 08, 2008, the House Committee on Transportation and Infrastructure and the House Budget Committee held a joint hearing on the topic of funding transportation infrastructure. Topics of discussion included the implications of the National Surface Transportation Revenue and Policy Commission (NSTRPC) Report recommendations, and the reauthorization of the Highway Trust Fund laws.

Peter R. Orszag, Director of the Congressional Budget Office (CBO), and Patricia A. Dalton, Managing Director of the Physical Infrastructure Team at the Government Accountability Office (GAO), delivered witness testimony.

Orszag said that “Congress would face several challenges if it sought to enhance the quality of the nation’s infrastructure – among them determining what kinds of projects the nation requires; how those projects should be funded and by whom; and how to provide an environment that fosters private development, where that is an appropriate approach.” Further difficulties he enumerated were the immense estimated costs of infrastructure improvements and maintenance, separate and apart from building new transportation infrastructure; and how to prioritize projects to seek the greatest return during this time of economic hardship.

According to estimates from the Federal Highway Administration (FHWA), “additional spending of up to tens of billions of dollars each year on transportation infrastructure projects could be justified. Some of that spending would simply maintain the current performance of existing infrastructure”, he said. The difficulty for Congress is assessing which of those projects would be justifiable. Orszag continued: “Although the rationale for some additional spending is probably strong, the economic returns on specific projects vary widely. The evidence suggests that a relatively large share of net benefits would come from a relatively small share of projects. Accordingly, even if the Congress were to increase spending, it would be important to identify which projects provided the largest potential benefit from limited budgetary resources.”

Dalton suggested that this problem could potentially be addressed by developing a Capital Planning Model. A capital planning approach helps you to choose through “rigorous analysis” of projects which would yield the greatest return on the investment, she said. “For example, what kind of return can I expect from a rail project versus a highway?” Adopting a method to prioritize spending is essential to maximize investments.

Dalton suggested that investments be made a part of a unified budget. She remarked: “Having an investment component as a part of the unified budget would be helpful...to identify investments clearly in the budget” and help congress take them into account when making spending decisions. “

According to Dalton, the GAO is current looking into the NSTRPC report to assess the recommendations made therein. She did say, however, that their estimates were based on a scenario where every needed improvement was made, and did not prioritize based on returns on investment.

For more information visit <http://transportation.house.gov> .

## **ENERGY: ENERGY AND COMMERCE SUBCOMMITTEE ADDRESSES IMPLEMENTATION OF RENEWABLE FUEL STANDARDS**

On Tuesday, May 6, 2008, the House Energy and Commerce Subcommittee on Energy and Air Quality held a hearing entitled “Renewable Fuel Standards: Issues, Implementation, and Opportunities.” The discussion focused on the impact of the Energy Independence and Security Act (EISA) of 2007, specifically the impact of the ethanol mandate for renewable fuels. The Committee discussed the potential negative impact corn-based ethanol production in the U.S. is having on the costs of food in the U.S. and abroad. Opinions were expressed on both sides of the issue, with members disagreeing over whether or not it would be necessary to change this mandate so soon after implementation, or whether it will take more time to see the impacts of ethanol on a scale where decisions about its future could be made.

Rep. Jane Harman (Venice) said this issue has many important implications and must be addressed. She commented: “Climate change is linked to the political debate about fuel, food, and security.” She acknowledged that it may be too soon to drastically reverse policies, but added that if there is a potential impact the issue “deserves a second look.” She also said that both issues – food and energy – affect our fight against terrorists. “If our policies promote starvation...we may create more terrorists no matter how we get our fuel”, she said.

In order to provide a partial solution to this problem, Rep. Stephanie Herseth Sandlin (SD), who testified at the hearing, introduced H.R. 5236, the Renewable Biomass Facilitation Act. This bill “revises the definition of ‘renewable biomass’ to allow federally sourced biomass - and that would include trees, wood, brush, thinnings, chips, and slash -- that is removed as a result of approved preventive treatments – to count toward the renewable fuels mandate, provided it’s used for the production of biofuels.” Rep. Sandlin said the current definition “excludes all biofuels made from biomass from private sources unless it comes from those trees that are ‘planted’ in a ‘plantation’ and ‘actively managed,’ which could potentially exclude most woody biomass on private property. I think this is a misguided policy that squanders what could be an important source of renewable, homegrown energy.” Changing this definition may help us meet renewable fuels standards (RFS) and further reduce our dependence on foreign oil, she added.

Robert Meyers, Associate Assistant Administrator of the Office of Air and Radiation for the Environmental Protection Agency, and Mr. Nathaniel Greene, Senior Policy Analyst for the Natural Resources Defense Council, were among the witnesses delivering testimony. Meyers said that the AFS included “safety valves” to protect economic and environmental interests. He gave examples to illustrate: “For example, the Administration will be required to review the impact of the AFS annually and may adjust the annual requirement if short or long term conditions exist that adversely affect the production or importation of alternative fuels. Under certain circumstances, the Administration could issue a temporary waiver of any or all the requirements of the AFS. The AFS also includes an automatic “safety valve” that serves as an “economic backstop” to ensure that mandating 35 billions of alternative fuel does not excessively increase the cost of gasoline and diesel to American consumers... [T]he “safety valve” guards against unforeseen increases in the prices of alternative fuels or their feedstocks, protecting other markets from being adversely impacted and minimizing costs to consumers. This feature provides some market certainty – businesses can calculate their maximum cost of compliance. They then can use their ingenuity to deliver value and minimize their compliance costs.” The EPA will continue to work with Congress to address the issues surrounding the effective implementation of renewable fuels standards, he said.

Greene, on behalf of the Natural Resource Defense Fund, said that the RFS goals “of EISA may not have the negative impact attributed to corn-based ethanol. He commented: The Renewable Fuel Standard contained in EISA contributed important advances to our energy and climate policy that can help mitigate global warming, reduce the environmental impacts of biofuels, and start to take biofuels out of the food price equation.” He did recommend, however, that Congress could improve the foundation for RFS by “[r]eforming the current ethanol excise tax credit, the ethanol import tariff, and the biodiesel blending tax credit.”

For more information visit <http://www.energycommerce.house.gov> .

## **HOMELAND SECURITY: HOUSE HOMELAND SECURITY INVESTIGATES DHS RESILIENCE**

On Tuesday, May 06, 2008, the House Committee on Homeland Security held a hearing entitled, "The Resilient Homeland- Broadening the Homeland Security Strategy." The hearing investigated the Department of Homeland Security's ability to facilitate a quick return to effective operations in the wake of an attack or disaster.

The Honorable Stewart A. Baker, Assistant Secretary for Policy for the Department of Homeland Security, and Mr. Erroll G. Southers, Chief of Homeland Security and Intelligence for the Los Angeles World Airports Police Department, delivered key witness testimony.

Baker said "resilience is a part of [the Department's] approach to homeland security." Resilience - of our people, our infrastructure, our economy, our entire nation - is an essential element of ensuring the safety and security of the homeland." Resilience, according to Baker, goes beyond the government and is truly in the hands of the American people. He said that the Government must accept that it cannot prevent or respond to all disasters, and that the American people will rise to the occasion in situations that extend beyond the capabilities of the government alone. The Department's job, he argued, is to make sure that critical infrastructure is in place to allow individuals to take action when necessary.

He commented: "[B]uilding a resilient homeland requires us to trust our citizens. We must inform them - and trust them to inform others. We must equip them with the right tools and technologies - and trust them to use those tools to help themselves and others. I would like to highlight three concrete ways in which the Federal government is creating conditions that foster national resilience: (1) disseminating information that allow individuals to act quickly and wisely; (2) maintaining order; and (3) ensuring the availability of a core infrastructure that individuals will rely on."

Southers agreed that ensuring resiliency in the face of an unpreventable disaster should be integrated into our approach for homeland security. He remarked: "A resilient society is one that will not disintegrate in the face of adversity. Protecting property and successfully evacuating populations that are potentially in harm's way lessens the destructive impact of a natural disaster. Making infrastructures resilient renders them less attractive targets for terrorists. Preparing for the worst makes the worst less likely to happen. We cannot stop very terrorist attack. We can however, reduce the risk and enhance the capability for our continuity of operations."

Southers went on to describe how the City of Los Angeles, under Mayor Antonio Villaraigosa, has taken the lead in integrating resilience into their anti-terrorism efforts. Mayor Villaraigosa "has placed police and counter terrorism professionals in charge of security at Los Angeles International Airport, an economic anchor for southern California. This resulted in a model consisting of a protective design under the new leadership... LAX today is safer than it was just 18 months ago", commented Southers. He attributed the success of this approach to a "more contemporary and holistic approach to airport policing" that is "capable of intelligence analysis, information sharing and facilitates the seamless integration of critical infrastructure protection."

For more information visit <http://www.homeland.house.gov> .

## **ENVIRONMENT: DRAFT COASTAL IMPACT ASSISTANCE PLAN RELEASED BY STATE RESOURCES AGENCY**

On Thursday, May 1, 2008, the California Resources Agency released the Draft California Coastal Impact Assistance Plan and opened the 30-day public comment period on the document. The Plan is a result of "The Federal Coastal Impact Assistance Program (CIAP), established under the Energy Policy Act of 2005, that directs the Minerals Management Service (MMS) to distribute \$250 million per year for 4 years among six coastal states and their coastal political subdivisions (CPSs) with oil and gas production in the Outer Continental Shelf (OCS) off their coasts", according to California Secretary for Resources Mike Chrisman.

CIAP Guidelines require that all CIAP funding be used for projects and activities for the conservation, protection, or restoration of coastal areas, including wetlands; mitigation of damage to fish, wildlife, or natural resources; planning assistance and the administrative costs of complying with CIAP legislation; implementation of a federally-approved marine, coastal, or comprehensive conservation management plans;

or mitigation of the impacts of OCS activities through funding of onshore infrastructure projects and public service needs.

The 17 California Counties that are designated to receive funding under the Draft Plan are Alameda; Orange; Santa Clara; Contra Costa; San Diego; Santa Cruz; Los Angeles; San Francisco; Solano; Marin; San Luis Obispo; Sonoma; Monterey County; San Mateo; Ventura; Napa; and, Santa Barbara Counties.

For more information visit <http://resources.ca.gov/ocean/CIAP.html> .

## **ENVIRONMENT: COALITION OF WEST COAST GOVERNORS SUPPORT MARITIME POLLUTION PREVENTION ACT**

On Wednesday, April 23, 2008, a coalition of West Coast Governors sent a letter to the U.S. Senate Committee on Commerce, Science, and Transportation Chairman Daniel Inouye requesting his support of H.R. 802, the Maritime Pollution Prevention Act of 2007. California Governor Arnold Schwarzenegger, Oregon Governor Theodore R. Kulongoski, and Washington Governor Christine O. Gregoire, believe that the Act is an “important first step [in] protecting the health of our citizens in coastal regions and in expanding international global trade by vessels to and from the United States.”

The Act is the implementing legislation for MARPOL Annex VI, passed by the Senate in 2006, which would authorize the Environmental Protection Agency and the Coast Guard to issue enforcement regulations for the emissions from ships coming into U.S. seaports.

The letter states: “We strongly support an international regulatory solution to reduce emissions from ships. We believe it must be sufficient to meet the air quality needs of not only our three states, but all areas of the U.S. and Canada. Implementing the U.S. proposal to the International Maritime Organization (IMO) will reduce soot emissions, which will help address climate change. We all agree that now is the time to act on reducing the environmental impacts of ships.”

For more information visit <http://gov.ca.gov/press-release/9411/> .