



# 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.*

#### **HOMELAND SECURITY: SENATE ASSESSES SOUTHERN BORDER VIOLENCE AND U.S. RESPONSE**

The Senate Homeland Security and Governmental Affairs Committee held a hearing on Wednesday, March 25 on “Southern Border Violence: Homeland Security Threats, Vulnerabilities, and Responsibilities.” The witnesses were: The Honorable Janet A. Napolitano, Secretary, U.S. Department of Homeland Security; The Honorable James B. Steinberg, Deputy Secretary, U.S. Department of State; and The Honorable David W. Ogden, Deputy Attorney General, U.S. Department of Justice.

In his opening remarks, Chairman Joe Lieberman (CT) noted that over 6,000 Mexicans have been killed in the past year because of drug violence, and that 10 percent of the dead were government officials or police. The impact on the U.S. also has been significant, with the Department of Justice concluding that Mexican drug cartels are “the biggest organized crime threat in the U.S.,” and are present in 230 cities. Lieberman stressed, “We must do everything within our power to help the Mexican government disable the cartels and prevent them from exporting more of their drugs and crime to America.” Agreeing that the Obama Administration’s latest response to the violence represents “a significant first step forward,” Lieberman, nevertheless, stated: “But I don’t think it is enough.” He noted that last week he recommended an additional \$100 million for Customs and Border Protection and Immigrations and Customs Enforcement specifically to disrupt the cartels; providing CBP with \$50 million in additional funding to better coordinate its border response, including providing funding for the establishment or enhancement of fusion centers along the southwest border and for expanding the Integrated Border Enforcement Teams (IBETs) which bring together law enforcement entities from both sides of the border; and adding \$50 million to expand ICE’s Armas Cruzadas program, which investigates and interdicts the cross-border smuggling of firearms, and its Border Enforcement Security Teams (BESTs), which draw from eight U.S. agencies and offices, as well as state and local law enforcement and Mexican law enforcement, to crack down on drug trafficking.

Secretary Napolitano outlined some of the steps the Administration is taking to assist Mexico in its fight against the drug cartels and insure that the violence does not flow over to the United States. She said DHS is redeploying assets in support of border enforcement – doubling the number of ICE agents assigned to the

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Violent Criminal Alien Sections (VCAS) located in the five Southwest Border Field Offices, from 51 agents to 101. The VCAS works in coordination with U.S. Attorney's Offices to prioritize the felony criminal prosecution of recidivist criminal aliens. She also stressed the importance of collaboration with state and local law enforcement, noting that since July 2005, the BESTs have been responsible for 2,034 criminal arrests, 2,796 administrative arrests, 885 indictments, and 734 convictions. In addition, BESTs have seized approximately 7,704 pounds of cocaine, 159,832 pounds of marijuana, 515 weapons, 341,345 rounds of ammunition, 745 vehicles, and \$22.7 million in U.S. currency and monetary instruments. In addition, Napolitano testified, DHS will make up to \$59 million available in "Operation Stonegarden" funding to enhance state, local and tribal law enforcement operations and assets along the border.

She also stated that DHS is immediately quadrupling the number of ICE officers in the Border Liaison Program by redeploying agents to support the program. Currently, there are 10 border liaison officers in California and Texas – ICE will add 30 more to the southwest border. In coordination with the ATF, DEA, and state and local law enforcement, DHS will also begin short-term increases to operations and programs aimed at choking off guns and bulk cash for the gangs.

DHS will also triple the number of intelligence analysts on the southwest border. And CBP is now screening 100 percent of outbound rail cars on the southwest border to stop gun smuggling from the States, and ICE, under Operation Firewall, is addressing the threat of bulk cash smuggling across the border.

For the testimony of all the witnesses, go to: <http://hsgac.senate.gov> .

## **BUDGET: HOUSE, SENATE COMMITTEES REPORT BUDGET RESOLUTIONS FOR FY 2010; RECONCILIATION SOUGHT**

On March 26, 2009, the House and Senate Budget Committees reported out their separate budget resolutions. The House Committee vote was 24 to 15; the Senate panel also approved their measure on a party-line vote of 13 to 10. Both the House and the Senate are expected to bring their respective resolutions to the floor next week. The versions differ from President Obama's proposed \$3.6 trillion spending plan, and from each other, but generally maintain and share major initiatives on health care, education and climate change.

The House version includes a spending plan that would eliminate \$150 billion from President Obama's proposal, and would reduce next year's deficit to \$1.22 trillion compared with \$1.38 trillion under the Administration's request. The House proposal leaves out the tax break extension for business; eliminates about \$7 billion of requests from government agencies, cuts the deficit to about \$600 billion; eliminates the President's proposed permanent tax exemption for middle class families; and opts not to extend the \$800 tax cut for working families that was included in the stimulus package.

One major differences between the House version and the Senate version is the use by the House drafters of budget reconciliation -- a procedural element that would allow the Senate to pass some of Obama's major initiatives, including his health care proposal

and his higher education federal aid expansion proposal, with only a majority vote in the Senate. Also different is the larger decreases in spending in the Senate version, which would pare about \$15 billion from the President's requests for government agencies and programs; it also presumes greater cuts to the deficit than the House version.

For more information and specific details about each budget resolution can be found at: <http://budget.house.gov> and <http://budget.senate.gov/>.

## **ENERGY: SENATE SUBCOMMITTEE DISCUSSES ENERGY MARKET TRANSPARENCY AND REGULATION**

On March 25, 2009, the Energy Subcommittee of the Senate Energy and Natural Resources Committee held a hearing on draft legislation concerning energy market transparency and regulation. The purpose was to receive testimony on draft legislation to strengthen the oversight and transparency of energy markets to curb excess speculation.

Witnesses included: Dr. Howard Gruenspecht, Acting Administrator, Energy Information Administration; Ms. Anna Cochrane, Acting Director, Office of Enforcement, Federal Energy Regulatory Commission; Mr. Robert McCullough, Managing Partner, McCullough Research; and Mr. Gerry Ramm, Senior Executive, Inland Oil Company, Petroleum Markets Association of America. Committee members and witnesses considered two proposals: the Energy Market Transparency Act of 2009 and the Natural Gas and Electricity Review and Enforcement Act.

The Energy Market Transparency Act of 2009 directs the Energy Information Administration (EIA) to develop a plan to collect information identifying the ownership of U.S. commercially held oil and natural gas inventories, including company-specific data involving product volumes and storage and transportation capacity. The draft legislation seeks to bridge the gap in understanding the connection between the financial, or "paper," markets and the physical oil market, and is an attempt to address raising concerns about the numbers of investors who are participants only in the financial oil futures and derivatives market, not in the physical market. The Act would establish a Financial Market Analysis Office within the EIA because the EIA monthly oil market forecasts are currently based only on calculations of physical supply and demand, which has caused the agency to regularly underestimated price increases, like those experienced in 2008. Dr. Gruenspecht, Acting Administrator of the EIA raised three potential issues with the proposed Act, stating that while the "EIA strongly supports data transparency as a means of achieving its mission and agrees that additional data on physical and financial oil and natural gas markets would be helpful in increasing understanding of oil price discovery", there are potential concerns with the Act relative to "the feasibility of the specific data collection called for in the draft legislation, providing a broader perspective on other potentially relevant data sources, and, data confidentiality."

The Natural Gas and Electricity Review and Enforcement Act proposal would give the Federal Energy Regulatory Commission (FERC) "cease and desist" authority to augment the anti-manipulation authority granted to FERC in the Energy Policy Act of 2005. The proposal would also allow FERC to go to Federal Court to get an injunction preventing a market participant from engaging in harmful behavior. FERC and others argue that the authority to seek injunctions is necessary as a result of a recent anti-manipulation case during which a company distributed its assets such that those assets were no longer jurisdictional to FERC, while FERC was in the process of litigating the case. Cease and desist authority would give FERC the power to order a market participant to cease behavior that FERC believes is manipulative during the course of an investigation. This temporary order would suspend the participant's market activity until the Commission reached a final judgment in its manipulation case.

Both drafts and witness testimony are available at: <http://energy.senate.gov/>

## **RESOURCES: HOUSE PASSES WILDFIRE SUPPRESSION ACT**

By a vote of 412-3, the House overwhelmingly passed the “Federal Land Assistance, Management and Enhancement (FLAME) Act” (H.R. 1404).

The Act establishes a federal FLAME fund for catastrophic, emergency wildland fire suppression activities to be used when annually appropriated funds run out. The FLAME Fund can only be used for suppression of catastrophic, emergency wildland fires and only after the Secretary of Interior or Agriculture issues a specific declaration that the fire is large enough and dangerous enough to warrant tapping the fund. The FLAME Fund would be available for fire suppression activities on State and private land, as well as Indian tribal lands. The bill also creates grants for community fire prevention that will be used towards purchasing firefighting equipment and training local firefighters.

Over the last several years, the increasing costs of fighting wildland fires have forced federal land management agencies to "borrow " funds from non-fire programs, thus eroding the core mission of these agencies. Current estimates found that wildland fire activities now account for approximately 48 percent of the Forest Service budget, and 10% of the Department of Interior budget. Projections indicate that this trend will continue into the foreseeable future as a result of drought, climate change and other factors.

Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (NM) and Ranking Member Lisa Murkowski (AK) have introduced a Senate companion measure to the FLAME Act and President Obama included funding in his Fiscal Year 2010 budget request that compliments the FLAME Act.

## **ENERGY: ENERGY & COMMERCE SUBCOMMITTEE DISCUSSES ADAPTATION POLICIES IN CLIMATE LEGISLATION**

The House Energy and Commerce Subcommittee on Energy and Environment held a hearing titled, “Preparing for Climate Change: Adaptation Policies and Programs” on Wednesday, March 25, 2009. This hearing examined ongoing adaptation efforts, both domestically and internationally, and potential policies in climate change legislation that could assist in climate change adaptation efforts.

Witnesses included: Tom Karl, Director of the National Climatic Data Center, National Oceanic and Atmospheric Administration; John Stephenson, Director of Natural Resources and Environment, Government Accountability Office; Bishop Callon Holloway, Evangelical Lutheran Church in American, on Behalf of the National Council of Churches; Larry Schweiger, President and CEO, National Wildlife Federation; David Waskow, Climate Change Program Director, Oxfam American; E. Calvin Beisner, Ph.D., National Spokesman, The Cornwall Alliance for the Stewardship of Creation; and Lord Christopher Monckton, Chief Policy Adviser, Science and Public Policy Institute.

Witness testimony and an archived webcast of the hearing will be available at:

<http://energycommerce.house.gov/>

## **ENERGY: SUBCOMMITTEE DISCUSSES TRADE ASPECTS OF CLIMATE LEGISLATION**

The House Ways and Means Subcommittee on Trade held a hearing on “Trade Aspects of Climate Change Legislation” on Tuesday, March 24, 2009. It was the sixth in a series of hearings on climate change.

Witnesses included: John J. McMackin, The Energy-Intensive Manufacturers’ Working Group on Greenhouse Gas Regulation; Leo W. Gerard, International President, United Steelworkers; Dave Hamilton, Director of Global Warming and Energy Programs, Sierra Club; Professor Joost H.B. Pauwelyn, Professor of International Law, Graduate Institute of International and Development Studies, Geneva, Switzerland; and Robert E. Clay, CEO and Chairman, Board of Directors of Pridgeon & Clay, Inc.

The hearing focused primarily on how to minimize carbon leakage and maintain U.S. competitiveness. Leakage is a challenge to the development of a comprehensive solution to climate change. Witnesses agreed that if the U.S. were to establish tough global warming regulations without bringing other manufacturing nations on board, the production of energy intensive goods would shift to countries that are not participating

in the regulatory scheme, resulting in continued and even increased emissions and the movement and/or loss of jobs.

According to John McMackin, “there is a broad consensus that the leakage problem must be solved in any responsible global warming legislation. To fail to do so is irrational: it produces economic dislocation and job loss in exchange for no environmental benefit or, even, net environmental harm.”

Leo Gerard echoed concerns about the threat of leakage, citing concerns that the “threat (is) particularly acute among manufacturers of energy-intensive primary products like the ones made by members of the Steelworkers. In commodity-based industries like steel, glass, chemicals, rubber, and paper, even small differences in production costs can devastate an industry if they are not managed effectively. Finding a way to mitigate the competitive disadvantage that will be placed on these industries is not only an imperative, if we are to continue the recovery from the current recession, but it is an imperative if we are to actually achieve the goal of stopping climate change...”

Gerard went on to say, “I don’t care about the political aspects of this issue – but I do care, very deeply, about the jobs of my employees...those jobs are very clearly threatened by cap and trade unless it is universally applied throughout the world, especially in low cost countries.”

Professor Joost H.B Pauwelyn, explained that “fighting climate change will have costs, and addressing carbon and job leakage in a cost effective and administratively feasible way will not be easy. The devil will be in the detail. Solutions to address carbon and job leakage must be carefully calibrated, and may vary, based on industry and country-specific data,” and suggested that the WTO may be key to “avoiding wasteful protectionism or discrimination that serves neither the environment nor American jobs.”

Dave Hamilton urged the Committee to develop a balanced and comprehensive climate bill, stating that bringing a balanced proposal to the Copenhagen UNFCCC meeting in December of 2009 and the participation of developing countries in the negotiations will ultimately be more achievable if Congress takes action on a climate bill.

Full witness testimony can be found at: <http://waysandmeans.house.gov/>

## **ENERGY: TAX COMMITTEE ADDRESSES PRICE VOLATILITY IN CLIMATE CHANGE LEGISLATION**

The House Ways and Means Committee on Thursday, March 26, 2009 discussed the ways that climate change legislation can be designed to reduce or eliminate price volatility while still achieving specific science-based environmental objectives.

The hearing, “Price Volatility in Climate Change Legislation”, included the following witnesses: Dr. Douglas Elmendorf, Director, Congressional Budget Office; Dr. Daniel Lashof, Director, Climate Center, Natural Resources Defense Council; Dr. Dallas Burtraw, Senior Fellow, Resources for the Future; Dr. William Whitesell, Director of Policy Research, Center for Clean Air Policy; Michelle Chan, Program Director, Green Investments, Friends of the Earth – United States, San Francisco, California; Dr. Gilbert Metcalf, Professor of Economics, Tufts University, Medford, Massachusetts; and Dr. Margo Thorning, Senior Vice President and Chief Economist, American Council for Capital Formation.

William Whitesell, Director of Policy Research at the Center for Clean Air Policy, described the challenges of reducing price volatility, stating that “at one end of the spectrum is a carbon tax which—barring Congressional intervention—would provide certainty about the price of each ton of emissions. It would also eliminate volatility, as there would be no carbon market. Firms would merely pay the U.S. Treasury for their emissions. However, the trade-off for the carbon price guarantee is that the quantity of emissions cannot be predicted or guaranteed. Even if legislation provided for a rising carbon tax over time, the level of the tax or its rate of increase might be too low to achieve the reductions in emissions that we will need to meet climate objectives...(And), at the other end of the spectrum is a pure cap-and-trade program that lacks an effective method for limiting price volatility. It guarantees annual emission levels by setting a cap and creates a carbon market by allowing trading in carbon emission allowances. The trading of

allowances, along with allowance banking (the ability of firms to carryover extra allowances from one year to the next), gives regulated firms additional flexibility in timing their compliance investments. However, allowance prices may become volatile in a cap-and-trade program. Moreover, market manipulation and excess speculation could cause booms and busts in prices just as we have seen recently in commodity and financial markets.”

Whitesell suggested that the CCAP developed approach, called the Safe Markets Development Approach was a potential solution to the issue of price volatility. The CCAP Approach is part cap-and-trade program, and part carbon tax. During the first several years of the program, both components are in place to ensure that companies and regulators understand, can effectively regulate, monitor and operate the system. It manages interest rates using the same methods used by the Federal Reserve, and enforces cumulative emissions reductions while allowing some fluctuation in annual emissions as needed to stabilize allowance prices in the early years of the program. After about ten years, the program moves to a more traditional cap-and-trade program with annual emissions caps.

Michelle Chan argued in favor of a similar approach, which is the basis for Rep. Jim McDermott’s (WA) bill, “The Clean Environment and Stable Energy Market Act of 2009.” Congressman McDermott argues that the Act- HR 1683- offers a practical and pragmatic solution to reducing greenhouse gas emissions into the atmosphere. HR 1683 would require producers of products and resources that emit greenhouse gases to purchase a Federal Emission Permit. The permits would be available in an increasingly limited supply; the price for a permit would be established by the Secretary of the Treasury and periodically calibrated to ensure that demand for the permits does not exceed an annual, national allocation.

Dallas Burtraw articulated a need to adopted flexible policies, stating that “whether the choice is a cap or a tax, it would be a mistake to adopt an inflexible policy. Both can be designed to automatically adjust to information about program performance, according to decision rules that can be transparent to investors.”

Margo Thorning concluded that “to be effective, policies to reduce global GHG emission growth must include both developed and developing countries. Policies that enhance technology development and transfer are likely to be more widely accepted than those that require sharp, near term reductions in per capita energy use.”

Full witness testimony and links to HR 1683 can be found at <http://waysandmeans.house.gov/>.

## **ECONOMY: GOVERNOR ESTABLISHES ECONOMIC STIMULUS TASK FORCE**

Governor Arnold Schwarzenegger announced the creation of the California Federal Economic Stimulus Task Force on Thursday, March 26, 2009. The purpose of the Task Force is to track the American Recovery and Reinvestment Act (ARRA) funding coming into California, and working with the Obama Administration, help cities, counties, non-profits, and others access the available funding. It is also tasked with ensuring that the funding coming into the state is spent efficiently and effectively, and it will maintain a Web site so that Californians will be able to track the stimulus dollars.

"With our state's 10.5 percent unemployment rate, there is no better time to seize as many of the available federal economic stimulus dollars as possible to help our unemployed, put people to work, and provide tax relief to Californians," the Governor said in making the announcement. "This Task Force will keep track of all of the dollars coming into the state and ensure that Californians see how effectively those dollars are being spent."

Cynthia Bryant, Deputy Chief of Staff to the Governor and Director of the Governor's Office of Planning and Research, will lead the Task Force and serve as California's liaison to the federal government on the Recovery Act. Chief Deputy Director of the Department of Finance Ana Matosantos will be deputy coordinator of the Task Force, tracking the money coming into the state and the guidelines for competing for those funds, as well as serving as a liaison to the Obama administration. Fred Klass, Chief Operating Officer of the Department of Finance, will oversee accountability and auditing functions of the Task Force. Teri Takai, California's Chief Information Officer, will oversee information and transparency; Luis Portillo, Director of the Governor's Constituent Affairs office, will serve as public liaison; and Jeffrey M. Barker,

Chief Deputy Director of Communications to the Governor, will serve as the Task Force's communications director.

The state estimates that it currently stands to receive approximately \$85 billion from the ARRA - approximately \$50 billion in education, infrastructure and other spending, and \$35 billion in tax benefits.

For more information on California's share of the ARRA, go to: <http://www.recovery.ca.gov> .

### **PPIC PRESIDENT TO ADDRESS ROUNDTABLE LUNCHEON**

On Tuesday, March 31, 2009, Public Policy Institute of California President and CEO Mark Baldassare will be in Washington and will speak at the California State Society's Golden State Roundtable Luncheon at the Capitol Hill Club, 300 First Street, SE, in Washington DC. The cost to attend the luncheon speech is \$35 for members of the California State Society, or \$40 for non-members. The featured speaker is the founder and publisher of the PPIC Statewide Survey, which provides respected insights into the opinions of California voters regarding a wide variety of political and policy topics. For additional information, visit <http://www.californiastatesociety.org> .

### **TRADE: CALIFORNIA CITIES SEEKING TO HOST APEC 2011 MEETING**

California cities account for two of the primary competitors vying to host the Asia-Pacific Economic Cooperation annual meeting in 2011. The U.S. is slated to be the host of the meeting, to be held from November 12 through 20, 2011, but the precise location has yet to be decided. San Francisco, Los Angeles, and San Diego are seeking to serve as hosts for APEC, as are New York and Honolulu.

According to the State Department, the nine-day session will include various official and informal events, bilateral meetings, and media events that APEC member economies will attend. In total, up to 20,000 participants, including support staff, security, media, and businesspersons are expected to attend. Among the attendees are expected to be the heads of all 21 nations, including President Obama.

APEC was established in 1989 to enhance economic growth and prosperity for the region and to strengthen the Asia-Pacific community. Its present members -- which include 21 nations around the Pacific Rim -- account for 40 percent of the world's population, 54 percent of world GDP, and about 43 percent of global trade.

The location decision will be made by the Administration, led by the State Department, to which proposals were submitted in December 2008.

A statewide committee of business leaders has been formed to bring the ministerial and summit meetings of APEC to California in 2011. The committee is organized by the Bay Area Council Economic Institute (BACEI) with the support of the National Center for APEC. The California Chamber of Commerce is also providing support for the bids. For additional information, contact Paul Oliva a consultant to BACEI, at 415-235-5185 or [paul@olivaglobal.com](mailto:paul@olivaglobal.com) .