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.

**APPROPRIATIONS: HOUSE PASSES FY10 COMMERCE, JUSTICE FUNDING**

It took the House of Representatives more than two days, starting Tuesday, June 16, and ending on Thursday, June 18, 2009, to approve the FY 2010 appropriations for Commerce, Justice, Science, and Related Agencies (H.R. 2847). By the beginning of the week, Republicans had filed over a hundred possible amendments to be considered on the floor. After beginning debate on the bill Tuesday, the Democratic leadership pulled the bill and called a special session of the Rules Committee, which met early into Wednesday morning before crafting a structured rule that only allowed 30 amendments to be considered on the floor. As a result, when consideration of the bill began on Tuesday, Republicans called for recorded votes on almost all of the amendments. Those votes took all day Thursday to conduct, before the bill was finally approved.

When the dust settled, the bill looked about the same as it had come out of the Appropriations Committee. An additional $100 million was added for the State Criminal Alien Assistance Program (SCAAP) before the bill got bogged down on Tuesday. That brings funding for SCAAAP to $400 million in the bill, the same as the past few years. California receives over 40 percent of SCAAP funding to help reimburse the costs of incarcerating undocumented criminal aliens.

In other action on the floor, the House defeated, 208-218, an amendment offered by Rep. Devin Nunes (Tulare), which would have barred the implementation of the biological opinion released by the National Marine Fisheries Service, which in effect has stopped the pumping of water in the Central Valley.. The amendment was supported by Reps. Dennis Cardoza (Atwater) and Jim Costa (Fresno), but opposed by Reps. George Miller (Martinez) and Mike Thompson (St. Helena).

Information on the bill can be found at: [http://appropriations.house.gov](http://appropriations.house.gov).
**APPROPRIATIONS: SENATE HOMELAND SECURITY FUNDING & 302(B) ALLOCATIONS APPROVED**

On June 18, 2009, the Senate Appropriations Committee approved its FY10 funding for the Department of Homeland Security, as well as its 302(b) allocations. The allocations can be found at: [http://appropriations.senate.gov/index.cfm](http://appropriations.senate.gov/index.cfm)

The Homeland Security bill totals $42.9 billion in discretionary budget authority for fiscal year 2010, $2.9 billion (seven percent) above fiscal year 2009, excluding emergency funding provided in the American Recovery and Reinvestment Act and the Omnibus Appropriations Act, 2009.

Included in the bill are the following:

**Customs and Border Protection (CBP):** $10.1 billion, $120.6 million above the President’s request and $346.9 million above FY 2009. Funding within CBP for border security includes:
- $800 million for Southwest Border investments for Border Security Fencing, Infrastructure, and Technology (BSFIT), compared to $775 million in 2009 and $20.55 million above the request. According to the committee, this brings BSFIT funding for the Southwest Border to $4.3 billion since the program began in 2006. The American Recovery and Reinvestment Act included an additional $160 million to CBP for SW Border security technology and Border Patrol tactical communications. “Through a mix of fencing, technology, and border patrol agents on the ground CBP now has 697 miles of Southwest border under effective control, compared to 241 miles in FY 2005,” the subcommittee reported.
- $3.5 billion to fully fund 20,019 Border Patrol agents, of whom over 17,000 will be based on the Southwest Border – an increase of 6,000 since 2006.
- $80 million for Southwest Border counterdrug initiatives, including $40 million for additional scanning systems for southbound lanes and $14 million above the request for additional personnel and equipment to stop the outbound flow of weapons and currency used in the drug trade.
- $145 million for CBP’s Western Hemisphere Travel Initiative, as requested by the President, to continue deploying technology and infrastructure at the 46 busiest border ports of entry and facilitate travel and security for travelers.

**Immigration and Customs Enforcement (ICE):** $5.445 billion, $13 million below the President’s request and $455.9 million above FY 2009, including:
- $115 million for Immigration and Customs Enforcement (ICE) to combat international trade in illicit drugs, weapons smuggling and crimes associated with violence along the Southwest Border. According to the subcommittee, this is part of an overall $161 million increase over FY 2009 for ICE investigations and $55 million more than the President’s request. Funding includes:
  - $70 million, as requested, to expand operations related to Southwest border violence by initiating more ICE investigations, intelligence
activities, and international programs
- $20 million above the request for investigations of transnational gangs and cross-border weapons smuggling;
- $20 million above the request for expansion of Border Enforcement Security Task Forces; and
- $1.0 billion to identify dangerous criminal aliens and prioritize these individuals for removal once an immigration judge orders them deported;
- $196 million for Secure Communities, as requested, for a program that allows local law enforcement to check fingerprints of people booked on criminal charges for immigration and criminal records;
- $139 million for worksite enforcement investigations, $10 million above the request to hire 100 special agents to perform audits of employers.

United States Citizenship and Immigration Services: $136 million, $34 million above FY 2009 including $5 million to cover naturalization of immigrants serving in the U.S. armed services and $118.5 million, $6.5 million above the request, to operate the E-Verify system and further improve its accuracy rates.
- E-Verify: Includes a 3-year extension of E-Verify, as requested.

Grants: $4.216 billion for grants to first responders and partners in homeland security, included in that amount is:
- $420 million for SAFER grants (firefighter hiring grants)
- $380 million for FIRE grants (firefighter equipment grants)
- $350 million for Emergency Management Performance Grants
- $887 million for Urban Area Security Initiative
- $950 million for State Homeland Security Grants, of which $60 million is for Operation Stonegarden
- $35 million for Regional Catastrophic Grant Program
- $350 million for Port Security Grants
- $356 million for Rail/Transit/Bus Security Grants
- $120 million for Pre Disaster Mitigation Grants

More information can be found at: http://appropriations.senate.gov.

TELECOM: SENATE JUDICIARY CONSIDERS CELL PHONE COMPETITION AND PRICING

On June 16, 2009, The Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights held a hearing entitled “Cell Phone Text Messaging Rate Increases and the State of Competition in the Wireless Market.” Witnesses included: Randal S. Milch, Executive Vice, President and General Counsel, Verizon Communications, Inc.; Wayne W. Watts, Sr. Executive Vice President & General Counsel, AT&T Management Services, Inc.; Joel Kelsey, Policy Analyst, Consumers Union; and Laurie Itkin, Director of Government Affairs, Cricket Communications, Inc., San Diego, CA.

In his opening remarks, Chair Herb Kohl (WI) stated that the cellular industry in the past was very competitive. “In recent years, however, the picture has changed,” he opined. “Consolidation has left this industry highly concentrated. Four national carriers now control over 90% of the cell phone market. Two of them – today's witnesses AT&T and Verizon – combine to have a market share of 60%. Consumers' choices have become quite limited, and price wars seem to be a thing of the past. American consumers pay more for wireless phone service than most other developed nations – an average of $506 per year in 2007.” He was particularly concerned about the increased cost of sending text messages.
“From 2006 to 2008, the price of sending and receiving a text message among the four largest cell phone carriers increased by 100% -- from 10 to 20 cents per message. The four companies increased their text messaging prices in two steps -- first from 10 to 15 cents, and then from 15 to 20 cents -- within months or weeks of each other. These lockstep price increases occurred despite the fact that the cost to the phone companies to carry text messages is minimal -- estimated to be less than a penny per message -- and has not increased.” He concluded by calling on the FCC to do everything possible “to remove undue barriers to competition to ensure consumers the best rates and services.”

Mr. Milch of Verizon, however, objected to this assessment. He testified that text messaging pricing has been “decreasing rapidly, not increasing,” and that competition in the wireless industry remains vigorous. He stated that the average price for text messaging is now about one cent per message and most of Verizon’s customers now pay less than that. The average price per message in 2006, he said, was three cents, so prices have declined by two-thirds – to one penny on average – since then. He argued that the subcommittee should not focus on post-paid text messages, but on the “buckets” of messages provided under specific wireless plans. The post-paid messages sold individually without a plan account for less than one percent of the messages Verizon Wireless provides, he said. He also testified that the FCC has found that there is industry competition in the market and independent pricing behavior.

Mr. Watts also argued that there was strong competition in the industry, and reiterated that the FCC had concluded the same thing. “According to the FCC’s latest statistics,” he testified, “more than 95 percent of the U.S. population lives in census blocks with at least three competing wireless carriers, and more than half of the population lives in census blocks with at least five competing carriers.” He also stated that packaging plans give the maximum value to AT&T’s customers by providing them with stable monthly charges, rather than the drastic swings in monthly bills that can happen with a pay-per-use option. He also gave examples of how the companies are differentiating themselves and competing fiercely on such things as the types and prices of their various package plans.

Mr. Kelsey, however, disagreed. He argued that the industry is imposing non-competitive increases in text message pricing, as a result of “weak structural competition in the marketplace.” He argued that requiring one or two year contracts, with such terms as early termination fees, handset exclusivity, and required contract extensions when purchasing a new phone limit consumer choice and impede competition. He called for more government oversight and study to determine whether intervention was needed. Additionally, he urged that the Government Accountability Office should study the impediments to consumers who want to switch carriers and determine what impact they have on consumer choice and on effective competition, and that the FCC should fix the in-market exception for voice roaming and enter into a rulemaking on data roaming and handset exclusivity to lower barriers to competition.

The testimony of all the witnesses can be found at: [http://judiciary.senate.gov](http://judiciary.senate.gov).

**ENVIRONMENT: HOUSE RESOURCES CONSIDERS FARR’S OCEANS BILL**

The House Resources Subcommittee on Insular Affairs, Oceans And Wildlife held a hearing on Thursday, June 18, 2009 on H.R. 21, The "Ocean Conservation, Education, and National Strategy for the 21st Century Act." The bill, introduced by Rep. Sam Farr (Carmel), establishes a national ocean policy (NOP) to “protect, maintain, and restore the health of marine ecosystems.” A cabinet-level National Ocean Advisor is created and the Committee on Ocean Policy is directed to develop a national plan for coordinating federal activities in ocean and coastal waters. The NOP would be implemented on a regional scale by taking advantage of the existing regional ocean governance structures, such as fisheries management councils and state agreements, with regions being responsible for assembling partnerships of these organizations developing regionally appropriate strategic ocean plans.

Witnesses included: Rep. Farr; Monica Medina, Senior Advisor to the Under Secretary of Commerce
In testifying in support of his bill, Rep. Farr stated: “The ocean is sick, and if we don’t do a better job managing it, the situation will only get worse. And the effects of that disaster extend far beyond the shoreline. A sick ocean means sick animals, sick humans and a sick economy. The intent of this bill is to prevent that catastrophe by bringing all stakeholders to the table to find a better way to govern the ocean. We simply can’t afford to wait any longer, the ocean is just too important.”

Ms. Fletcher represented the Coastal States Organization, which represents the interests of the Governors of the 35 coastal states and territories in Washington, DC on legislative and policy issues. She testified in support of H.R. 21 and committed to working with the committee, nongovernmental partners, federal agencies and others to ensure healthy oceans in the future.

For testimony of all the witnesses, go to: http://resources.house.gov.

ENERGY: SENATE ENERGY & NATURAL RESOURCES COMMITTEE REPORTS

ENERGY BILL

On June 16, 2009 and June 17, 2009, the Senate Energy & Natural Resources Committee continued to mark up proposed energy policy legislation. On June 17, 2009, the Committee reported the American Clean Energy Leadership Act (ACELA) after multiple days of mark up sessions over the last three months.

ACELA is comprised of eleven pieces of legislation. In its current form, ACELA would generally:

- make changes aimed at establishing and changing financing opportunities for renewable energy. These changes would include the creation of a new "Clean Energy Investment Fund," which would be used to support more technology deployment, and the establishment of the Clean Energy Deployment Administration (CEDA). CEDA's primary purpose would be to create an investment environment for the development and deployment of clean energy technologies.
- establish a renewable electricity standard (RES). The utility, or seller of electricity, can meet the standard by: producing the specified amount of electricity or energy efficiency savings itself; purchasing renewable energy or efficiency savings; purchasing renewable energy credits or energy efficiency credits from entities with excess; making alternative compliance payments to the Secretary at a rate of 2.1 cents per kilowatt hour (money collected will go to states for renewable development or to offset increases in customer's bills). The required percentages are: 3-percent by 2013; 6-percent by 2016; 9-percent by 2018; 12-percent by 2020; and 15-percent by 2039. These targets do not apply to utilities selling less than 4-million megawatt hours per year. "Renewable" for the purpose of this legislation is defined as: wind, solar, ocean, geothermal, biomass, landfill gas, incremental hydropower, hydrokinetic, new hydropower at existing dams with no generation.
- establish the goals and policy for the development of a national transmission infrastructure, and require specific agencies to develop transmission and interconnection plans and FERC to coordinate the development of an interconnection-wide plan that achieves specific policy goals. FERC must promulgate a rule to embody the policy goals and develop a schedule to implement those policies within one year of enactment, and must keep the plan current and up to date. This bill also gives FERC jurisdiction over siting, when states have either been unable to site the facility or have denied the application, and gives FERC jurisdiction over facilities that produce 345 kilovolts and above that are included in the transmission plan.
- requires the National Academy of Sciences, the Secretary of Energy, the Bureau of Reclamation and others to conduct assessments, research and reports, as well as to develop roadmaps and policy recommendations, on issues relating to the interconnectedness of water use and energy.
- makes changes to the process for accessing and using public lands for renewable energy by: establishing permit processing offices; requiring BLM to undertake a programmatic environmental impact statement on solar development and the Forest Service to do the same for wind, solar and geothermal development; and requires the Secretary to establish pilot projects and authorizes the establishment of a leasing program if warranted by the results of those projects for wind or solar energy on public lands.

- establishes financing mechanisms for both small and large manufacturers to adopt advanced energy efficient production technologies and processes; establishes industry-led partnerships to develop industry-specific roadmaps to identify the breakthrough technologies necessary to reduce energy intensity and greenhouse gas emissions; and establishes competitive grants to industry and small businesses; expands the number and expertise of the Industrial Research and Assessment Centers to better meet the needs of small and medium manufacturers.

- establishes and strengthens energy efficiency standards, including federal standards for table and floor lamps, the Department of Energy's appliance standards program and the joint DOE-EPA Energy Star program.

- directs the DOE to set energy savings improvement targets for residential and commercial national model building energy codes at 30% in 2010 and 50% after 2016, and authorizes the Secretary of Energy to set further energy savings targets at the maximum level of energy efficiency that is technologically feasible and life cycle cost effective and on a path to achieving net-zero-energy or "carbon neutral" buildings. The bill would also require each State to certify whether or not it has reviewed the model codes and updated the provisions of state codes regarding energy efficiency and whether or not the State has achieved compliance with the building codes.

- establishes energy efficiency retrofit programs for states.

- establishes a goal to achieve an improvement of the nation's energy productivity of at least 2.5% annually by 2012.

- directs FERC to establish a national interconnection standard for small power production facilities (15 kW or less) which would cover nearly all residential-sized distributed generation.

- establishes a Federal advisory commission to conduct a comprehensive study of alternative means of safely managing or disposing of spent nuclear fuel and high-level radioactive waste.

- requires that the Department of Energy hold at least 30 million barrels of the total 1-billion-barrel SPR inventory in refined petroleum products, such as gasoline and diesel fuel.

- extends the current pilot offices for permit processing for oil and gas development for an additional five years, through 2020.

- provides for expedited leasing for geothermal development in areas in which production is already occurring under an existing federal oil and gas lease and in which co-production is possible.

- repeals the 2005 law that prevents the Secretary from collecting royalties for certain offshore energy development, and returns to the usual approach of giving the Secretary the discretion to provide royalty relief in certain circumstances.

- doubles the authorization level of the Department of Energy's energy R&D program from $3.28 billion in fiscal year 2009 to $6.56 billion in fiscal year 2013

- establishes a national indemnity program through the Department of Energy for up to 10 commercial-scale carbon capture and sequestration projects, and sets qualifying criteria that will help to ensure that critical early-mover projects will be conducted safely while addressing the growing concerns of reducing greenhouse gas emissions from industrial facilities.

- directs the Energy Information Agency (EIA) to collect new data identifying all physical petroleum holdings of the fifty largest oil traders, as determined by the CFTC; creates a new Financial Market Analysis Office within EIA; and creates a working group on energy markets that will report to Congress
both its assessment of the factors influencing oil prices, and also its recommendations for regulatory changes that might make markets function more smoothly in the future.

The text and a full summary of the legislation are available at: http://energy.senate.gov.

**HEALTH: HOUSE ENERGY & COMMERCE EXAMINES MEDICAL DEVICE REGULATION**

The House Energy and Commerce Subcommittee on Health held a hearing entitled, "Medical Devices: Are Current Regulations Doing Enough for Patients?" on Thursday, June 18, 2009. The hearing examined the Food and Drug Administration's (FDA) regulation of medical devices. Specifically, the panel looked at whether additional regulatory steps are necessary to ensure the safety, effectiveness and quality control of medical devices, such as X-rays, pacemakers, and heart valves.

Witnesses were: Marcia Crosse, Government Accountability Office; William H. Maisel, M.D., M.P.H., Director Medical Device Safety Institute, Department of Medicine, Beth Israel Deaconess Medical Center, Boston; Phillip J. Philips, Independent Consultant; and Peter Lurie, M.D., M.P.H., Deputy Director, Health Research Group.

In his opening statement, Chair Frank Pallone (NJ) opined that there is evidence that the approval system for medical devices is broken, and that its standards, procedures and rules don't meet modern needs of getting medical devices to those in need with confidence in their safety.

Ms. Crosse explained that FDA classifies medical device types into three classes, with class I including those with the lowest risk to patients (such as forceps) and class III including those with the greatest risk (such as pacemakers). FDA's responsibilities include premarket and postmarket oversight -- spanning, for example, both premarket review of devices and postmarket surveillance (the collection and analysis of data on marketed devices). In 2009, Ms. Crosse testified, GAO added FDA's oversight of medical products, including devices, to its list of high-risk areas warranting attention by Congress and the executive branch. Among the findings GAO has made regarding FDA's regulation of medical devices are:

- FDA does not review all class III devices through its most stringent premarket review process.
- FDA also faces challenges in postmarket surveillance of medical devices. In 2008, GAO reported that the number of adverse event reports associated with medical devices increased substantially from 2000 to 2006.
- GAO also found that FDA has not conducted required inspections of manufacturing establishments, another key FDA responsibility for medical devices marketed in the United States, Ms. Crosse stated. In 2008, GAO reported that FDA had not met a statutory requirement to inspect certain domestic manufacturing establishments every 2 years. Instead, FDA officials estimated that the agency has inspected domestic establishments every 3 years (for class III devices) or 5 years (for class II devices).

For the testimony of all the witnesses, go to: http://energycommerce.house.gov.

**FEDERAL FUNDING: FY2009 PILT PAYMENTS ARE ANNOUNCED BY INTERIOR**

The Fiscal Year 2009 PILT payments were made on June 11, 2009 to approximately 1,850 county and other local government jurisdictions across the United States. "Payments in Lieu of Taxes" (PILT) are Federal payments to local governments that help offset losses in property taxes due to nontaxable Federal lands within their boundaries.

For 2009, California will receive $34,397,858. In FY07, the state received $21,026,411, and in FY08, the payment was $33,234,973. The payments are allocated to counties with nontaxable federal acres in the county. Among the largest county recipients in California are: Riverside County, with a
payment of $3,105,827, based on 2,382,390 acres; San Bernardino County, with a payment of $2,958,395, based on 8,380,992 Acres; Tulare County, with a payment of $2,511,800, based on 1,532,011; and, Kern County, with a payment of $2,267,042 based on 1,080,086 acres.

For a complete list of PILT payments to California counties, go to: [http://www.nbc.gov/pilt/pilt/search.cfm#search](http://www.nbc.gov/pilt/pilt/search.cfm#search).

**ENERGY: FINDINGS SUGGEST ECONOMIC GROWTH AND GREEN JOB CREATION**

Energy Pathways for the California Economy and Next 10 released a report in June 2009, evaluating the state's energy demand and supply horizons, and the economic impact of accelerating deployment of renewable energy resources and energy efficiency trends in California.

According to the findings, five alternative forecasting scenarios indicate that as California improves household and enterprise energy efficiency, while accelerating deployment of renewable energy resources, the state economy will grow and create jobs. One scenario suggests that with 50 percent renewable energy and 1.5 percent annual efficiency increases, half a million new full-time-equivalent jobs, with over $100 billion in cumulative payrolls over 40 years will be created.

The report also indicates that renewable energy generation is more job-intensive than the traditional carbon fuel supply chain, and results in more benefits within the state economy.

The full report can be found at: [http://www.next10.org/](http://www.next10.org/).

**DEMOGRAPHICS: PEW FINDS TWENTY-TWO PERCENT OF CHILDREN IN THE UNITED STATES ARE HISPANIC**

According to a report released by the Pew Hispanic Center on May 28, 2009, Hispanics now make up 22% of all children under the age of 18 in the United States -- up from 9% in 1980.

Other significant findings include:

- a majority (52%) of the nation's 16 million Hispanic children are now "second generation;" 11% of Latino children are "first generation;" 37% are "third generation or higher."
- in 1980, only three-in-ten Latino children were second generation, while nearly six-in-ten were in the third generation or higher.
- approximately 7% of all Hispanic children are unauthorized immigrants
- by 2025, nearly three-in-ten children in this country will be of Latino ancestry.

More information and the complete report can be found at: [http://pewhispanic.org/](http://pewhispanic.org/).