To expand communications between Washington and California, the California Institute provides periodic news bulletins regarding current activity on Capitol Hill and other information that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.

**Appropriations: House Clears Six-Month Funding Bill; Senate To Act Next Week**

The House on Thursday, September 13, 2012, cleared H.J.Res. 117, the Continuing Resolution that will keep the government funded from the beginning of Fiscal Year 2013 on October 1st through March 27, 2013. The vote was 329-91. The Senate is expected to pass the CR next week.

The CR is a “clean” bill that makes no significant policy changes. It sets funding based on the $1.047 trillion annual level set in the 2011 debt ceiling deal. It also includes a small .6 percent increase.

The slight increase is necessary according to the House Appropriations Committee “to prevent catastrophic, irreversible, or detrimental changes to government programs, or to ensure good government and program oversight.” Some of the increase will go to the Customs and Border Patrol to maintain their current personnel levels. Both the Interior Department and the Forest Service will also get additional funds for firefighting programs aimed at western wildfires. The Veterans Administration budget will also get a boost in order to keep up with the processing of disability claims.

Before taking that vote, the House also passed a measure, 223-196, requiring the Administration to provide Congress with a report by October 15th setting forth an alternative proposal for the automatic cuts called for in defense and non-defense spending under the pending sequestration action. The bill, H.R. 6365, requires that the alternative rely only on spending cuts and not revenue raising measures.

For more information, go to:
HEALTH: ENERGY & COMMERCE SUBCOMMITTEE REPORTS SEVERAL BILLS

On September 11, 2012, the House Energy and Commerce Subcommittee on Health marked up several bills dealing with myriad health care agencies and issues. All of the bills were favorably reported by voice vote. Included in the markup were the following:

- H.R. 1206, the Access to Professional Health Insurance Advisors Act of 2011. Under the Patient Protection and Affordable Care Act (PPACA) health plans are required to spend 80 to 85 percent of premium revenue on “reimbursements for clinical services” and “activities that improve health care quality”. This requirement is known as the medical loss ratio (MLR). Independent agent and broker fees are currently included in an insurer’s MLR calculation. As a result, it has been estimated that brokers servicing the individual and small-business markets are seeing their revenue slashed by 20 to 50 percent. H.R. 1206 excludes compensation paid for licensed independent insurance producers from the premium portion of the MLR calculation. It also requires HHS to defer to a State's determination on whether enforcing the MLR requirement will destabilize its individual or small group markets for health insurance.

- H.R. 6163, the National Pediatric Research Network Act of 2012, introduced by Rep. Lois Capps (Santa Monica). The bill allows the National Institutes of Health (NIH) to establish a national pediatric research network comprised of pediatric research consortia which are formed from a collaboration of cooperating institutions in order to more effectively conduct research into pediatric disease and conditions, and provides that NIH may award grants to these consortia.

- H.R. 733, the Pancreatic Cancer Research and Education Act of 2012, introduced by Rep. Anna Eshoo (Palo Alto). An amendment in the nature of a substitute was adopted at the markup that expands the focus of H.R. 733 to recalcitrant cancers with low survival rates. The bill was retitled the Recalcitrant Cancer Research Act of 2012 and directs the National Cancer Institute to establish a scientific framework that will guide research efforts on recalcitrant cancers by identifying unanswered medical and scientific questions in order to advance diagnosis and treatment.

- H.R. 1063 - Strengthening Medicare and Repaying Taxpayers Act of 2011. The bill creates efficiencies in the Medicare Secondary Payer program to speed up the process of returning money to the Medicare Trust Fund while reducing costly legal barriers for both large and small employers.

For more information, go to:  
http://energycommerce.house.gov/markup/health-subcommittee-vote-hr-1206-hr-6118-hr-1063-hr-6163-hr-4124-hr-733 .

SPACE: SENATE COMMERCE EXPLORES THE PATH FROM LEO TO MARS

The Senate Commerce, Science and Technology Committee met on Wednesday, September 12, 2012 to discuss the progress of the implementation of the NASA Authorization Act of 2010 as it pertains to the goals of human exploration beyond low-Earth orbit ("LEO").

Witnesses included: Dr. John Grunsfeld, Associate Administrator, Science Mission Directorate, NASA; Dr. Fuk Li, Director, Mars Exploration Directorate, NASA Jet Propulsion Laboratory; Dr. John Grotzinger, Mars Science Laboratory Project Scientist, California Institute of Technology; Dr. Steven W. Squyres, Goldwin Smith Professor of Astronomy, Cornell University; Dr. Charles F. Kennel, Chair, Space Studies
Board, The National Academies, Distinguished Professor of Atmospheric Science (Emeritus), Senior Advisor, Sustainability Solutions, University of California San Diego, Scripps Institute of Oceanography; and Mr. Jim Maser, President, Pratt & Whitney Rocketdyne.

Issues discussed at the hearing included:
- Dr. Grotzinger of Cal Tech, provided the Committee with an update and photographs of the Curiosity rover's Mars mission, including the location and geography of Curiosity's exploration in the Mount Sharp crater, the design and planning of daily commands for the rover to complete and the search for elements of life.
- Dr. Kennel stressed the need for a focused, mission-driven vision with budget consideration for NASA. The National Research Council's decadal survey *Recapturing a Future for Space Exploration: Life and Physical Sciences Research for a New Era* stressed the need to maintain leadership in space exploration by finishing the James Webb telescope, completing the Wide Field Infrared Survey Telescope for dark matter exploration, and collaboration among agencies to set goals for earth science programs. Dr. Kennel also discussed the status of the NRC committee tasked with providing prioritized recommendations and decision rules that could enable and guide future planning for U.S. human space exploration. The recommendations will describe a high-level strategic approach to ensuring the sustainable pursuit of national goals enabled by human space exploration, answering enduring questions, and delivering value to the nation, he testified.
- Development of the Space Launch System (SLS) and the Orion Multipurpose Crew Vehicle as called for by the 2010 Authorization Act is underway, with several milestones being met such as the delivery of the Orion command module to the Kennedy Space Center.
- Witnesses stressed the need for a series of incremental missions and long-term, consistent goals designed to utilize the SLS and Orion programs to pursue human exploration beyond LEO.
- Testimony outlined potential problems with the "pay-as-you-go" funding model outlined in the 2010 Authorization Act that could impede steady progress and prescribe a low flight rate that prevents flight teams from staying mission-ready.
- Discussion was held on potential solutions to funding issues, including consolidating and eliminating non-essential NASA programs and redistributing funds to core programs in line with LEO goals, increasing NASA's budget to enable the agency to meet all goals set forth, and forging international partnerships to share costs.

For more information, go to: http://commerce.senate.gov/public/index.cfm?p=Hearings&ContentRecord_id=6a97cb7a-3782-469c-bfb3-b942fd4496fe.

**ECONOMY: HOUSE ENERGY AND COMMERCE HOLDS HEARING ON MOBILE APP INDUSTRY AND JOB CREATION**

The House Energy and Commerce Subcommittee on Commerce, Manufacturing and Trade held a hearing on Wednesday, September 12, 2012 entitled *Where the Jobs Are: There’s an App for That* to discuss the explosive growth of the app industry that has led to significant job creation and the generation of revenue via app purchases, advertising, and commerce.

In her opening statement, Chairman Mary Bono Mack (Palm Springs) noted that "an estimated 90 million US consumers spend approximately 60 minutes per day accessing the internet through smartphones, while another 24 million U.S. consumers spend 75 minutes a day accessing the Internet on their tablets – much of this access being gained through the use of mobile apps."

The hearing addressed the mobile application economy, the potential federal policy barriers to continued growth, and issues of consumer and developer privacy, data ownership, and regulatory clarity.
Witnesses included: Peter Farago, Vice President of Marketing, Flurry Inc.; Stephanie Hay, Co-Founder, FastCustomer, Resident Mentor, 500 Startups; Rey Ramsey, President and CEO, TechNet; and Morgan Reed, Executive Director, Association for Competitive Technology.

Issues discussed included:
- Peter Farago of Flurry Inc. testified that mobile computing through apps and the fast adaptation of smart phones to app technology is driving one of the largest shifts in consumer behavior in the last forty years. According to Mr. Farago, cumulative app downloads have surpassed 60 billion and have been a stimulator for the economy in terms of job creation. His testimony also indicated a need for innovative university programs for app-industry specific training to encourage students to engage in the app industry. The use of university and technical training programs could also encourage state shoring, by which entrepreneurship among app developers would remain dispersed across the country.
- Witness testimony indicated that among the 466,000 jobs created through the app economy, the majority of app developers are classified as small businesses of 5 employees or less.
- App related jobs are dispersed across the country as opposed to being centralized in Silicon Valley or New York.
- A study completed in 2008 by the Association for Competitive Technology demonstrated that 78% of top US app developers are small businesses and that the US remains dominant in the international app markets. The study further indicated that in-app revenue is predicted to generate $5.6 billion in 2012, up from $970 million in 2011.
- Witness testimony indicated that the mobile app economy is conducive to the growth of women in technology through women-led start-ups.
- Fast growth in the app economy has given rise to issues regarding intellectual property, data ownership, and regulatory clarity in terms of health care and consumer data privacy protection. Discussion was held on maintaining regulatory clarity and transparency for consumer benefit and awareness.
- Facilitating a reduction in the lack of information and availability of educational programming among various demographics that inhibit app market involvement or growth was also discussed.
- The need to adjust government regulations that prevent integration of app technology in the public sector due to administrative and bureaucratic barriers.

For more information, go to: http://energycommerce.house.gov/hearing/where-jobs-are-there%E2%80%99s-app

**TRANSPORTATION: SMALL BUSINESS USER FEES IN THE AVIATION INDUSTRY:**

**TURBULENCE AHEAD**

The House Small Business Committee met on Wednesday, September 12, 2012 to discuss the Administration's proposal to implement a $100 per departure fee on all transportation providers as part of the President's Plan for Economic Growth and Deficit Reduction. The Committee heard testimony from members of the aviation industry as to the potential impact of the $100 fee on industry growth, administration and regulation. Currently, aviation infrastructure is supported through an excise tax on fuel ranging from 19.3cents/gallon for Avgas users to 21.8 cents/gallon for non-commercial Jet A users. A $100 user fee would generate approximately $1.2 - $1.3 billion in revenue annually.

Witnesses included: Marian Epps, CEO, Epps Aviation, DeKalb-Peachtree Airport, Atlanta, GA, testifying on behalf of the National Air Transportation Association; Martha King, Co-Owner, Co-Chairman, King Schools, Inc., San Diego, CA, testifying on behalf of the National Business Aviation Association; Kenneth J. Button, George Mason University, University Professor, Director, Center for Transportation, Policy, Operations and Logistics and Director, Aerospace Policy Research Center, Arlington, VA; and Brad Pierce, President, Restaurant Equipment World, Orlando, FL, testifying on behalf of the Aircraft Owners and Pilots Association.
Issues discussed at the hearing included:
- The potential reduction in aviation related jobs and revenue as aviation activity declines to avoid the user fee. The aviation industry employs 1.2 million people and generates $150 billion.
- Several witnesses testified to the preferred use of fuel excise tax increases to the $100 user fee to prevent the creation of administrative burdens associated with new billing procedures.
- Martha King of San Diego testified that general aviation provides services to thousands of small and mid-sized American communities with little to no scheduled commercial airline service. Ms. King noted that 85% of companies that utilize business aviation are small to midsize businesses that would be financially impacted by a $100 user fee. She further testified that the aviation industry shrank between 30-60% since 2008, making the $100 user fee a barrier to growth and development.
- Discussion also included the limitations of the $100 user fee, including the arbitrary nature of the sum, the lack of connection between the amount of the fee and actual flight length, and the relatively small impact imposition of such a fee would have on the national debt. Testimony also supported examining the principle of market-based pricing for user fees.

For more information, go to:

TRANSPORTATION: SUBCOMMITTEE ASSESSES MARITIME TRANSPORTATION SECURITY ACT ON TENTH ANNIVERSARY

On September 11, 2012, the House Transportation Subcommittee on Coast Guard and Maritime Transportation held a hearing entitled "Tenth Anniversary of the Maritime Transportation Security Act: Are We Safer?"

The hearing focused on the implementation of the Maritime Transportation Security Act of 2002 ("MTSA") by the Department of Homeland Security, the United States Coast Guard, and other collaborative agencies. This legislation was developed to strengthen the security of the nation's waterways, ports and coastal regions through various regulations, issued from 2004 to 2010.

Witnesses included: Rear Admiral Joseph Servidio, Assistant Commandant for Preparedness, United States Coast Guard; Mr. Stephen Caldwell, Director, Homeland Security and Justice Issues, Government Accountability Office; Ms. Beth Rooney, Manager of Port Security, Port Authority of New York and New Jersey; Mr. Chris Koch, President and CEO, World Shipping Council.

Issues discussed at the hearing included:
- The Government Accountability Office's report on the Progress and Challenges Ten Years after the Maritime Transportation Security Act. The report outlined several key areas of improvement to security planning, port and vessel security, and international supply chain security that have been accomplished since the enactment of MTSA. The report also cited areas where challenges to progress have been noted in program management and implementation.
- The cost of maintaining and implementing security measures put forth by the Department of Homeland Security via MTSA. These costs encompass the purchasing of new equipment and technology. Witnesses emphasized that these costs are not one-time incursions, but are recurring costs that must be accounted for in order to maintain the improvements in port, vessel, and waterway security that have been implemented.
- The use of federal grant dollars to offset local costs incurred in implementing security regulations. Witnesses indicated that federal funds through the Port Security Grant Funds Program greatly benefit public sector entities in enforcing and enhancing security measures. Testimony included consideration for the elimination of cost sharing provisions in these grant funds to further eliminate burdens on public sector recipients.
- Awareness of the potential impact on the private liner shipping industry in the enactment of new security provisions.

HEALTH: SENATE AGING COMMITTEE HOLDS ROUNDTABLE ON IMPLEMENTING PHYSICIAN PAYMENTS SUNSHINE ACT

On Wednesday, September 12, 2012, the Senate Special Committee on Aging held a roundtable panel discussion on the status of implementation of the Physician Payments Sunshine Act. The Sunshine Act, signed into law in March of 2010, requires pharmaceutical, medical device, biological and medical supply manufacturers to report any payment or transfer of value to physicians to the Department of Health and Human Services (HHS). Centers for Medicare and Medicaid Services (CMS) was tasked with developing a rule for the medical device industry outlining specific guidelines for implementation by October 2011. The panel sought to address the delays in the rule release and implementation timetable by CMS.

Panel Members were: Mark B. McClellan, MD, PhD, Director, Engelberg Center for Health Care Reform, The Brookings Institution, Washington, DC; Diane Biagianti, Vice President, Chief Responsibility Officer, Edwards Lifesciences, Irvine, CA; Niall Brennan, Director, Policy and Data Analysis Group, Centers for Medicare and Medicaid Services, Washington, DC; Daniel Carlat, MD, Project Director, Pew Charitable Trusts, Washington, DC; Jeremy Lazarus, MD, President, American Medical Association, Washington, DC; Elizabeth O'Farrell, Senior Vice President, Policy and Finance Eli Lilly & Company, Indianapolis, IN; Douglas Peddicord, Ph.D., Executive Director, Association of Clinical Research Association (ACRO), Washington, DC; Charles Rosen, MD, Clinical Professor of Orthopedic Surgery, University of California, Irvine School of Medicine, Orange, CA; James H. Scully, Jr., MD, Medical Director and CEO, American Psychiatric Association, Arlington, VA.

Issues discussed at the hearing included:
- Several panel members indicated the need for specific timetables for rule release in order to allow industry agencies to develop requisite reporting systems in a timely manner. Diane Biagianti noted that further delay "may be contributing to additional confusion and possible wasted expense" as "manufacturers have had to guess as to what will be required of them in preparation of the implementation." Ms. Biagianti stressed that implementation will be more time consuming and costly for smaller companies. Mr. Brennan of CMS indicated in response that the organization was currently in the process of finalizing the rule, placing a tentative implementation timetable in 2013.
- Panel members discussed at length exemptions to reporting requirements, specifically Continuing Medical Education programs. Under the Sunshine Act, Continuing Medical Education programs and events would not be required to report value transfers to physicians that occur in putting together CME programs. Dr. Charles Rosen spoke out against this exemption, stating that many certified and non-certified CME programs are industry funded, and thus serve more as marketing events than medical education.
- Challenges in aggregating and organizing public disclosure data from multiple sources with clarity.
- Presentation of public disclosure data in an online, web-based format by CMS. Several panel members provided feedback on what features should be included by CMS and the necessity for user-friendly formats. Suggestions included searchability, downloadability, clarity of categories, and areas for public and physician comment.
- Education and outreach to physicians, industry agencies, and the public on the Sunshine Act provisions to promote smooth implementation.
  For more information: http://aging.senate.gov/hearing_detail.cfm?id=337599&

HOMELAND SECURITY: SUBCOMMITTEE EXAMINES RESILIENT COMMUNICATIONS

On September 12, 2012, the House Homeland Security Subcommittee on Emergency Preparedness, Response, and Communications held a hearing entitled Resilient Communications: Current Challenges and Future Advancements

Witnesses included: Ms. Bobbie Stempfley, Deputy Assistant Secretary, Office of Cybersecurity and Communications, U.S. Department of Homeland Security; Mr. David Turetsky, Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission; Mr. Kyle Malady, Senior Vice President, Global Network Engineering and Operations, Verizon; Mr. Terry Hall, President, APCO International; Mr. Trey Forgety, Director of Government Relations, National Emergency Number Association; and Mr. Chris McIntosh, Interoperability Coordinator, Office of Veterans Affairs and Homeland Security, Commonwealth of Virginia.

The Subcommittee noted that while much progress has been made at the Federal, State, and local levels in establishing operable and interoperable communications for first responders since the terrorist attacks of 9/11 and Hurricane Katrina, challenges remain. The hearing examined a number of topics related to the resilience of communications capabilities, including the impact of the June 29, 2012 derecho on 9-1-1 call centers, and the design, building, and operation of a nationwide wireless interoperable broadband network following the allocation of the D Block to public safety.

Issues discussed at the hearing included:
- the status of the First Responder Network Authority, or FirstNet, established when the D-Block was allocated to public safety. FirstNet, working with Federal, state, local, and tribal partners, will work to develop, build, and operate the nationwide interoperable wireless broadband network;
- Department of Homeland Security actions to enhance statewide coordination through the creation of Statewide Communication Interoperability Plans, Statewide Interoperability Coordinators, and Statewide Interoperability Governing Bodies; and
- the generator failures that caused the 911 problems following the June derecho and Verizon's immediate response and subsequent improvements to ensure that 911 services remain available in the event of commercial power loss in the future.

For more information, go to:

REPORT: FUELING CALIFORNIA RELEASES REPORT ON LOW CARBON FUEL STANDARD

On September 11, 2012, Fueling California: Consumer Alliance for Responsible Fuel Policies released “A Comprehensive Analysis of Current Research and Outlook for the Future,” an issue brief on California’s Low Carbon Fuel Standard. The issue brief analyzes the most current research available from various viewpoints of the LCFS.

Compiled by Dr. Wallace Walrod, Chief Economic Advisor for the Orange County Business Council, the issue brief reviews and analyzes 13 different reports commissioned by the Consumer Energy Alliance, Western States Petroleum Association, California Manufactures and Technology Association, California Trucking Association, California Energy Commission, and the California Air Resources Board, as well as a study done by the University of California, Davis – Institute for Transportation Studies. The issue brief is organized into four categories: 1) Supply: What impacts will the LCFS as proposed have on California fuel supply? 2) Cost: What is the impact of the LCFS as proposed on fuel costs? 3) Economy: What is the impact on the California economy; and 4) Two Concluding School of Thoughts: overall, is the LCFS feasible as currently framed?

“As a group that represents some of the nation’s largest fuel users, Fueling California wanted to assist policymakers, elected officials, business leaders, and the general public in understanding the range of
most recent and best available LCFS research,” said Robert M. Sturtz, Chairman of the Board of Fueling California and Managing Director of Strategic Sourcing-Fuel for United Airlines. “This report has attempted to capture and represent the many, often opposing views on California’s LCFS in an accurate, fair, and balanced manner. As California’s LCFS is a first of its kind fuel policy with potential far-reaching impacts, it is important that we look at all sides and potential outcomes of this policy at every stage of this process.”

Fueling California is a nonprofit alliance for responsible fuel policies. Board Members include United Airlines, Walmart, UPS, Chevron, Union Pacific Railroad, American President Lines (APL), Avis Budget Group, Con-way Inc., Harris Ranch, and a former executive from the Automobile Club of Southern California. The combined companies employ more than 500,000 California residents and contribute more than $3 billion annually in tax revenues to the state.

To obtain the issue briefing, go to: www.fuelingcalifornia.org.

**BRIEFING: INSTITUTE TO HOST CALIFORNIA ISO BRIEFING**

The California Institute will hold another in its series of Capitol Hill Lunch Briefings on Thursday, September 20, 2012. The briefing will be presented by the California ISO to discuss *Meeting California’s 33% Renewable Electricity Goals*. It will be held from Noon to 1 P.M. in Room B-340 Rayburn House Office Building, Washington, DC.

The lunch will feature a presentation by Dr. Keith Casey, Vice-President, Market and Infrastructure Development at the California ISO (ISO), the entity charged with reliable operation of most of California's electric grid. Dr. Casey's presentation will focus on progress toward meeting California's renewable electricity goals, challenges associated with integrating large volumes of intermittent resources such as wind and solar energy into grid operations, and new products in the ISO energy market that will provide the flexibility needed for high levels of renewable energy. Dr. Casey will also address the ISO's initiatives to maintain local grid reliability in San Diego and the L.A. Basin during outages at the San Onofre Nuclear Generating Station.

The California ISO is the non-profit, public benefit corporation charged with maintaining reliability of one of the largest and most modern power grids in the world. The ISO provides open and non-discriminatory access to the bulk of the state's wholesale transmission grid, supported by a competitive energy market and comprehensive infrastructure planning efforts. The ISO is partnering with California's energy and environmental agencies and others to implement a new vision of California's energy future.

For assessing compliance with Congressional gift ban rules, note that the California Institute is a 501(c)(3) charitable nonprofit organization that employs no lobbyists. We anticipate this will be a widely attended event.

If you would like to attend this lunch briefing, please contact the California Institute at 202-785-5456 or Sullivan@calinst.org.