



**THE CALIFORNIA INSTITUTE FOR FEDERAL POLICY RESEARCH**

419 New Jersey Avenue, SE, Washington, D.C. 20003 202-546-3700  
fax: 202-546-2390 e-mail: [randsell@calinst.org](mailto:randsell@calinst.org) web: <http://www.calinst.org>

# California Capitol Hill Bulletin

**Volume 12, Bulletin 6 – March 11, 2005**

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

## REP. DORIS MATSUI SWORN INTO OFFICE

Doris Matsui, the widow of former Rep. Bob Matsui, was sworn in to the U.S. House of Representatives on Thursday, March 10, 2005, to complete her husband’s term in the 109th Congress.

Congresswoman Matsui won election easily in a special election on March 8. She received 69 percent of the vote, while the nearest competitor of the other 11 in the field received only 8.5 percent.

Rep. Matsui served in the Clinton Administration as Deputy Assistant to President and Deputy Director of Public Liaison. Since then she has been Senior Advisor and Director, Government Relations with the law firm of Collier Shannon Scott in Washington. Ms. Matsui is a 1966 graduate of the University of California at Berkeley.

Congresswoman Matsui’s Committee assignments will be made in the near future. Some have speculated that she may win a seat on the House Rules Committee.

## HIGHWAY BILL CLEARS HOUSE WITH OVERWHELMING SUPPORT; MINIMUM GUARANTEE REMAINS AT 90.5%, BUT “HAMMER” STAYS TOO

After two days of debate, the House on March 10, 2005, approved a \$284 billion highways, transit and transportation safety measure by a vote of 417 to 9. Before final passage, the adoption of two Manager’s Amendments made sweeping changes to earmarks, cutting California’s share of both high priority projects (HPPs) and bus discretionary funds from figures reported in the committee version of the bill.

Language in the Manager’s Amendment made changes to the formula governing the minimum guarantee (MG) program. Lacking the fiscal resources to do so, the amended bill did not increase the current 90.5 percent minimum proportion that states are guaranteed to receive of their contributions to the Highway Trust Fund. However, the bill would statutorily set the MG “scope” - the proportion of the overall federal highway budget - that is examined in order to determine whether a state is or is not receiving its fair share at a firm 92.6 percent.

Under H.R. 3, the Transportation Equity Act: A Legacy for Users (TEALU), federal highway spending would grow to \$41.5 billion in 2009, whereas public transit obligations would peak at \$10.3 billion. Compared to authorizations under the prior transportation law, the Transportation Equity Act for the 21st Century -- better known as TEA-

### CONTENTS:

- Rep. Doris Matsui Sworn Into Office . . . . . 1
- Highway Bill Clears House With Overwhelming Support; Minimum Guarantee Remains at 90.5%, but “Hammer” Stays Too . . . . . 1
- President Bush Names Californian To Chair BRAC Commission . . . . . 3
- Fusion Energy Community Presses Case in Washington, Supporting Budgeted Amounts But Seeking Changes to Save U.S.-Based Research . . . . . 3
- House Agriculture Subcommittee Addresses Methyl Bromide Critical Use Exemptions . . . . . 4
- House Judiciary Reports Copyright Bill . . . . . 5
- Senate Welfare Bill Gains Committee Passage, \$6 Billion Child Care Increase Approved . . . . . 5
- California and White House Agree On “No Child Left Behind” Provision . . . . . 6
- House Immigration Examines Interior Enforcement Resources . . . . . 6
- Californians Seek Unity on Transportation, Speedy Reauthorization . . . . . 7
- Hahn, Villaraigosa To Face Off In LA Mayoral Race . . . . . 8
- PPIC Statewide Survey Examines Voters’ Attitudes Toward Making Health Policy Through Initiatives . . . . . 8
- Selected TEA LU Provisions & Changes . . . . . 8
- Minimum Guarantee . . . . . 8
- High Priority Projects . . . . . 9
- Transit New Starts . . . . . 9
- Bus and Bus-Related Program . . . . . 9
- Other Provisions . . . . . 10

21 -- TEALU's highway account would grow by 38 percent, while the transit budget would be ramped up by 51 percent, assuming all amounts are spent.

Since TEA-21 expired in 2003, Congress has struggled to send a successor authorization measure to the President's desk. Last year, the House and Senate each approved reauthorization measures, but the failure to reach a consensus among the Senate, House, and White House on overall funding levels assured the bill's demise in the 108th Congress. Temporary extensions have kept transportation programs in operation, maintaining federal spending at 2003 levels since then. Industry advocates and state and local authorities have pushed Congress to complete work on a long-term bill before the current extension runs out at the end of May.

A number of amendments were debated and voted upon during TEALU's consideration on the House floor, and Transportation Committee leaders from both sides of the aisle typically united to protest most of them. An amendment offered by Rep. Mark Kennedy (MN) authorizing new tolls to pay for the construction of interstate highway lanes was defeated by 155 to 265.

An amendment granting an extension to small urbanized areas (SUZAs) wishing to continue using a certain share of their urbanized area formula grants (UAFs) for transit operating expenses was approved 228 to 197. UAF funds apportioned to cities of at least 200,000 persons must be used for capital expenses only. A temporary waiver had been granted by the FTA however to cover cities that had recently passed the 200,000 threshold after calculation of 2000 census updates. Rep. James Oberstar (MN) had urged defeat of the amendment in the interests of fairness to other urbanized areas and retaining the integrity of the statutory formula used to apportion funds.

Rep. Oberstar also rose in opposition to an amendment submitted by Rep. Shadegg (AZ) that would make modifications to the statutory formula governing the Congestion Mitigation and Air Quality Improvement (CMAQ) grant program. Shadegg amendment language would have revised the CMAQ formula to make air quality regions not in compliance with EPA standards for fine and extra fine particulate matter (PM 10 and PM 2.5, respectively) eligible for CMAQ funds. Because of the disproportionate severity of air quality challenges in the state (particularly ozone and carbon monoxide pollution), the formula currently awards California 22 percent of CMAQ distributions. The proposed adjustments to the CMAQ formula, however, stood to cut California's share of CMAQ funds considerably. The amendment was withdrawn at the behest of Rep. Oberstar and other Committee leaders, although it is expected to reappear as the bill proceeds to conference negotiations. Rep. Shadegg agreed to withdraw the amendment but was assured that the issue would be considered during conference.

The White House's formal assent to TEALU's price tag in February gave critical momentum to this year's renewed reauthorization effort. However, although funding discrepancies have been resolved between the Bush Administration and House transportation leaders, the White House issued another veto warning this week, expressing concern for TEALU's retention of the "reopener" provision. The reopener or "equity hammer" would suspend the distribution of transportation funds to states after 2006 unless Congress acts to increase the minimum rate of return to 95 percent. (Specifically, it seeks an increase from the current 90.5 percent to 92 percent in 2006, 93 percent in 2007, 94 percent in 2008 and 95 percent in 2009.) Numerous House Members from donor states, led by Rep. Tom Delay (TX), have vied to increase the rate of return a state is guaranteed to receive in federal highway spending as compared to the amounts it sends to the highway trust fund (HTF) in highway user taxes and fees. Because of limited funding, competing programs, and the political pitfalls of increasing highway taxes in order to grow the transportation budget, an MG increase above the current 90.5 percent posed a difficult challenge. TEALU however is reported to alter the MG structure and scope to a 92.6 percent level. A provision folded into TEALU on the Floor would allow states the option of including their share of discretionary HPPs in the calculation of the MG formula. HPPs (special projects in member districts submitted by members for federal highway funding) do not currently count toward the MG.

The reopener provision is retained in the reported version of TEALU. "We're going to visit this subject again" said Young, who had originally favored a \$375 billion transportation plan but had to revise his bill's cost in light of fiscal constraints.

Inclusion of HPPs in the MG's scope was enough to partially placate the concerns of fiscal conservatives such as Rep. Jeff Flake (AZ); a perennial detractor of Congressional earmarks in federal law. A Flake amendment that would require each state to count HPP earmarks toward the MG's scope was withdrawn by the author in favor of Rep. Young's MG modification. Flake voted in opposition to the bill's final passage however.

The Senate has yet to introduce a companion measure, however Sen. James Inhofe (OK) Chair of the Senate Environment and Public Works Committee is reported to be considering holding a mark up of a bill in committee as early as next week.

For more information on TEALU, visit the House Transportation and Infrastructure website at: <http://www.house.gov/transportation> .

For various items regarding TEALU and its effect on California, visit the California Institute's transportation page, at <http://www.calinst.org/transpo.htm> .

The information and analysis is made available thanks to capabilities developed under the *Federal Formula Grants and California* project, a joint venture between the California Institute for Federal Policy Research and the Public Policy Institute of California (PPIC). For all products in the study series, visit the PPIC website at <http://www.ppic.org/main/series.asp?i=22> . The project includes two major transportation reports. A paper on California's relationship with federal highway programs is available at <http://www.ppic.org/main/publication.asp?i=467> , and a September 2004 report on federal transit programs is available at <http://www.ppic.org/main/publication.asp?i=550> .

### **PRESIDENT BUSH NAMES CALIFORNIAN TO CHAIR BRAC COMMISSION**

President Bush nominated Rancho Santa Fe resident, Anthony Principi, the former head of the Department of Veteran Affairs, for the chairmanship of the nine-member Base Realignment and Closure Commission. Principi, a Vietnam veteran, was the Secretary of Veteran Affairs for much of President Bush's first term. A graduate of the Navy's JAG program, Principi also served as Republican chief counsel and staff director to the Senate Armed Services Committee, and spent some time as a senior vice president with Lockheed Martin.

The BRAC Commission will review and alter the Pentagon's list of recommendations of bases designated for closure and realignment; that list is scheduled to be released on May 16. Principi's selection, which is unlikely to face opposition in the Senate, is a good sign for California's bases, particularly for military and Navy installations in the San Diego region. The BRAC Commission will almost certainly have two members with close connections to California. President Bush will send the Senate nine nominees for the closure commission on March 15. Six of those nominees are suggested by the party leaders in the House and the Senate. House Minority Leader, Rep. Nancy Pelosi (San Francisco), has already recommended Phillip Coyle III of Los Angeles, a former assistant secretary of defense, for a position on the Commission.

The presence of two Californians on the Commission might be encouraging news for California as the nation heads toward the upcoming round of closures and realignments. In the previous four rounds of base closures in 1988, 1991, 1993 and 1995, California absorbed a remarkably disproportionate number of personnel cuts, losing 93,546 military and civilian jobs. California's losses represented 55 percent of the nation's net personnel cuts from those four rounds.

The California Institute will be releasing a report containing an overview of the BRAC process and an analysis of California's historical experience with base closures in the next few days. It will be available on the Institute's website, <http://www.calinst.org/> .

### **FUSION ENERGY COMMUNITY PRESSES CASE IN WASHINGTON, SUPPORTING BUDGETED AMOUNTS BUT SEEKING CHANGES TO SAVE U.S.-BASED RESEARCH**

On Thursday, March 10, 2005, representatives of the nation's fusion energy sciences community visited Capitol Hill to meet with members of Congress from California and other states. Fusion research -- which seeks to advance plasma science, fusion science, and fusion technology -- is funded by through Department of Energy's Office of Science, and the related area of inertial confinement fusion is partially funded through defense accounts. California is a perennial winner of a very large share of federal fusion energy sciences funding.

Leaders of the fusion community were pleased that the President's Budget included \$290.6 million for the fusion energy sciences account. At the same time, however, they expressed serious concern about items within White House budget request, including a \$34 million reduction in U.S.-based research funding.

The budget provides support for the ITER project (the international burning plasma experiment) which is pursuing the goal of energy advancement via magnetic fusion. (An alternative approach, known as inertial

confinement fusion, is being pursued via the National Ignition Facility -- or NIF -- based at Lawrence Livermore National Laboratory in California.) However, the budget would fund the commitment to the European-based ITER project in part at the expense of research activity that would be conducted in the United States. Several significant cuts in U.S.-based research activity include a \$7.3 million reduction in fusion materials science research, operating funding cuts for the DIII-D (\$4.2 million) and NSTX (\$3.9 million) facilities, a \$7.2 million reduction in high energy density physics (which supports NIF), and \$6.7 million in other cuts in U.S.-based ventures.

The fusion sciences community is suggesting appropriations report language to direct the Department of Energy to restore funding for U.S.-based research work. They contend that funding is simply not sufficient to maintain a domestic fusion energy science research program that will allow the U.S. to benefit in the longer term from ITER, NIF, and other advancements.

The U.S. commitment to fusion energy is approximately one-third of the European commitment. Moreover, even at \$290.6 million, federal fusion science funding remains approximately one-third of the amount appropriated annually in the 1970s and 1980s, once inflation is taken into account.

Among the other federally-supported fusion energy sciences projects underway is the DIII-D National Fusion Facility, a tokamak reactor operated by San Diego-based General Atomics. For additional information, visit <http://fusion.gat.com/>. Various institutions and companies across California receive fusion research funds, including Lawrence Livermore National Laboratory, Lawrence Berkeley Laboratory, UCLA, U.C. San Diego, SAIC, Lockheed-Martin, Varian Associates, Boeing, and various other universities (including UC campuses at Berkeley, Davis, Irvine and Santa Barbara, as well as Cal Tech and Stanford).

## **HOUSE AGRICULTURE SUBCOMMITTEE ADDRESSES METHYL BROMIDE CRITICAL USE EXEMPTIONS**

The House Agriculture Subcommittee on Conservation, Credit, Rural Development and Research, chaired by Rep. Frank Lucas (OK) held a hearing to address international regulations relating to methyl bromide use for agricultural purposes. Methyl bromide is an extremely effective pesticide used by a number of agricultural producers, especially strawberry growers; however, use of the chemical contributes to the depletion of the ozone layer, leading to a variety of environmental problems, including global warming. In 1991, the United States entered into the Montreal Protocol, an international agreement aimed at reducing the use of substances that deplete the ozone layer. An important component of the Protocol dictated that the use of methyl bromide be eliminated by all participating nations by 2005. However, the Protocol included Critical Use Exemptions (CUE) for methyl bromide in areas where the inability to use the pesticide would cause significant market disruption. To date, few acceptable alternatives have been developed for methyl bromide, meaning that the reduction or elimination of its use would result in financial hardship for producers and consumers of crops grown using methyl bromide. The House hearing focused on CUEs, particularly the international process through which they are dispensed and the Administration's ability to secure the necessary CUEs for America's growers. There was great concern among the members of the Committee that the international review process for determining critical use had become largely political.

According to a press release from the Agriculture Committee, the process for approving a CUE is as follows. Agriculture industry members submit CUE requests for review to the Environmental Protection Agency (EPA) Office of Pesticide. That office forwards its completed reviews to the EPA Office of Air and Radiation, which is responsible for the methyl bromide phase out requirements. The Office of Air and Radiation grants the final nominations. Rep. Lucas complained that the EPA misled growers about the quantity of CUEs that will be available for 2006 and 2007. The Chairman estimated that complete elimination of methyl bromide use would cost the agriculture industry between \$400-\$450 million per year. Testifying at the hearing were representatives from the Administration and various growers' associations, including Ms. Michelle Castellano, Attorney and Vice President of the Mellano Company, San Luis Rey, CA, and Mr. Rodger Wasson, President of the California Strawberry Commission, Watsonville, CA.

Ms. Castellano testified that "we are faced with an international, political process which is attempting to circumvent the Critical Use Exemption process to force U.S. growers to discontinue the use of methyl bromide -- whether they have alternatives or not. It will force U.S. growers out of business, and those who do not go out of business will be non-competitive in the global marketplace. We believe that the agenda at the international level is

to work deliberately against U.S. interests.” Additionally, Mr. Wasson described the dilemma that California’s strawberry growers, who produce 88% of the nation’s strawberries, face in reducing methyl bromide use and finding alternatives. He stressed the importance of granting farmers multi-year CUEs and of shifting the methyl bromide discussion from reducing usage to reducing emissions.

Copies of the witnesses testimony can be obtained from the Committee’s website at: <http://www.agriculture.house.gov> .

In a related development, Rep. George Radanovich (Mariposa) introduced a methyl bromide bill after the hearing on Thursday. The bill would codify the production and use levels of methyl bromide CUEs being requested by the State Department for agricultural purposes for the years 2006 and 2007.

## **HOUSE JUDICIARY REPORTS COPYRIGHT BILL**

The House Judiciary Committee favorably reported S. 167, the Family Entertainment and Copyright Act of 2005, by voice vote on March 9. The bill exempts from copyright laws the makers of software that allows home DVD viewers to skip over what they consider to be objectionable material.

The bill also criminalizes the use of camcorders to record movies in a theater and makes the first offense punishable by up to three years in jail, and up to six years for subsequent offenses. Also, distributing a film before its release date would be punishable by up to three years, and up to five years if done for “commercial advantage or private financial gain.”

During the markup, Rep. Howard Berman (North Hollywood) obtained Chairman James Sensenbrenner’s commitment that the Committee Report to accompany the bill would underscore that the bill’s copyright violation exemption does not extend to manufacturers of devices used to skip advertising. Rep. Berman pointed out that in last year’s House version of the bill (H.R. 4077) specific language was included to exclude ad skipping device manufacturers from using the bill as a defense against copyright violations. That language is not in S. 167, which passed the Senate by voice vote on February 1. See, [Bulletin, Vol. 12, No. 5 \(3/4/05\)](#).

## **SENATE WELFARE BILL GAINS COMMITTEE PASSAGE, \$6 BILLION CHILD CARE INCREASE APPROVED**

On March 9, 2005, the Senate Finance Committee marked up and reported a comprehensive welfare reauthorization bill out of committee with bipartisan support. The Senate bill, known as the Personal Responsibility and Individual Development for Everyone (PRIDE) bill would renew the landmark 1996 welfare law that provides block grants to states for cash assistance and child care to poor families.

The five year bill reported out of committee would reauthorize the current \$16.5 billion Temporary Assistance for Needy Families (TANF) block grant at level funding, increase minimum work requirements for families on cash assistance from 30 to 34 hours per week, hikes a state’s requirements for families engaged in work related activities from 50 percent to 90 percent by 2010, augments the Social Services block grant (SSBG) by \$1 billion, shifts \$500 million in illegitimacy bonus funds to finance an healthy marriage program, and provides \$50 million to advance a responsible fatherhood competitive grants initiative.

The Personal Responsibility Work Opportunity and Reconciliation Act (PRWORA) of 1996 (PL 104-103) expired in 2002, although federal programs have been maintained since then through passage of eight temporary extensions. The most recent extension expires at the end of March, meaning that Congress will need to approve another extension to keep grants flowing to states.

The committee approve a chairman’s mark during deliberations, which included amendment language offered by Sen. Olympia Snowe (ME) increasing child care and development fund (CCDF) authorizations by \$6 billion. Sen. Snowe championed the effort to include a larger share of child care funds in last year’s version of the bill, succeeded in boosting child care levels by \$7 billion on the Senate floor. That amendment would have been financed by extending customs excise taxes. Sen. Snowe’s amendment this year however, proposed to offset the increase in child care funds by prohibiting certain legal immigrants from collecting Earned Income Tax Credit (EITC) refunds. EITC is a tax credit benefitting low income families that do not make enough money to owe income taxes.

The Snowe amendment's EITC offsets created concern for committee member Sen. Jeff Bingaman (NM) who rose in opposition to the amendment. Sen. Bingaman's submission of an alternative child care plan not affecting EITC was withdrawn after Finance Committee Chair and bill sponsor Charles Grassley (IA) pledged to work with Sen. Bingaman to find an acceptable compromise, before the bill's Floor consideration. Bingaman's plan would have offset the bill's additional child care costs by cracking down on corporate inversion practices.

A House measure (HR240) introduced earlier this year would add a less generous infusion of \$1 billion in additional child care funds, while imposing more stringent work requirements for cash recipients than current law (increasing the requirement from 30 hours to 40 hours per week). For information regarding the House bill, see [Bulletin, Vol. 12, No. 2 \(1/28/2005\)](#).

For more information on the PRIDE bill visit the Senate Finance Committee website at: <http://finance.senate.gov>.

For information regarding federal welfare laws and California, see Federal Formula Grants and California: TANF and Welfare Programs, a product of the ongoing formula grants study series produced jointly by the Public Policy Institute of California (PPIC) and the California Institute, available at <http://www.calinst.org/formulas.htm>, or from PPIC at <http://www.ppic.org/main/publication.asp?i=466>

## **CALIFORNIA AND WHITE HOUSE AGREE ON "NO CHILD LEFT BEHIND" PROVISION**

On Tuesday, the California Board of Education and the Bush Administration reached a compromise over how many California school districts should be penalized for failing to satisfy testing requirements under the "No Child Left Behind" Act. The compromise would reduce the list of underperforming districts by 141 and will help avert the state's losing approximately \$4 million in federal education funding.

Under the current rules, school districts failing to meet testing requirements two years in a row must be placed under an assistance program that provides additional federal funds to help improve test results. However, participation in the assistance program is not without consequence. Continued failure could lead to a requirement that the state take over a district, close schools, or dismiss staff.

The disagreement between the state and the federal government arose over how many school districts failed to meet the established standards. California identified 14 school districts with unacceptable marks, while the federal Department of Education asserted that 310 districts were required to become part of the state assistance program. Under the agreement, 184 school districts, including some of the states highest performing districts like Palo Alto Unified and Cupertino Union School District, will be placed in the assistance program. Unlike many other states, California has had a statewide assessment testing system in place for many years, and the federal tests overlap somewhat.

The federal provision that led so many school districts to be designated for assistance requires that 95 percent of each ethnic group and other subgroup, including the disabled and low-income students, participate in statewide testing. However, California law allows parents to opt their children out of the test, meaning that participation rates can be beyond the control of school administrators.

While the agreement was greeted with relief by state officials, who claimed the state would have been unable to fund 310 assistance districts, many school districts identified for the assistance program were upset with the result. Districts with the greatest needs in some of the most disadvantaged areas of the state bemoaned the fact that they were forced to share funds with high-performing districts elsewhere.

## **HOUSE IMMIGRATION EXAMINES INTERIOR ENFORCEMENT RESOURCES**

The House Judiciary Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on Thursday, March 10 to examine the sufficiency of resources to enforce immigration laws in the U.S. interior. The Subcommittee heard testimony from: Mr. Paul Martin, Deputy Inspector General, U.S. Department of Justice; Mr. Michael Cutler, Former INS Special Agent; Mr. Randy Callahan, Vice President, National Homeland Security Council; and Dr. Craig Haney, Professor, University of California at Santa Cruz.

Mr. Martin testified that: "In 1996 and in 2003, the OIG examined the INS's effectiveness at removing aliens after they had received final orders of removal from the Executive Office for Immigration Review (EOIR). In both reviews, we found that the INS removed more than 90 percent of aliens it detained pending their removal. However,

both reviews also found that the INS was far less effective at apprehending and removing non-detained aliens who had received final orders to leave the country. In both reviews, no more than 13 percent of the non-detained aliens in our samples left the country. Importantly, the 2003 review found that non-detained aliens in high-risk groups such as those from countries designated as state sponsors of terrorism and aliens with criminal records generally were not removed. In addition, we found that the INS had made little progress between 1996 and 2003 in implementing recommendations to improve its ability to remove aliens issued final orders of removal.” Mr. Martin noted that although some of the factors that hindered INS’s effectiveness at deporting aliens with final orders, others were not – notably a lack of sufficient detention space, detention officers, and too few investigators and special agents to locate aliens in order to carry out the removals.

Dr. Haney testified in his capacity as the detention expert appointed by the U.S. Commission on International Religious Freedom to study the treatment of asylum seekers in Expedited Removal proceedings. Expedited Removal was originally limited to aliens arriving at ports of entry without proper documentation. On August 11, 2004, the Department of Homeland Security announced an expansion of Expedited Removal to aliens apprehended within 100 miles of the Border within 14 days after entering the United States without inspection. The law requires that an alien placed in Expedited Removal must be detained until removed – unless that alien has a “credible fear” of persecution or torture upon return and they establish identity, and demonstrate that they are neither a security risk nor likely to abscond. Dr. Haney testified that: “Expedited Removal was created to strengthen the security of America’s Borders, without closing them to those persons fleeing persecution. The reality, however, is that non-criminal asylum seekers subject to Expedited Removal are detained - and released - on what often appears to be an arbitrary basis.” The Commission’s study, for instance, found that release (or “parole”) rates varied widely from place to place. The variations were quite extreme. For example we found that, during the months-long asylum adjudication process, ICE [Immigration and Customs Enforcement] (and its predecessor, the Immigration and Naturalization Service (INS)) released 76% of asylum seekers in San Diego, versus 58% in San Francisco, and down to a low of 30% in Los Angeles. Dr. Haney concluded that just a lack of detention beds accounted for the broad variations in release rates and argued that ICE needed to enforce its own policies and establish national quality assurance procedures.

For the testimony of all the witnesses, go to the Judiciary Committee website at: <http://www.judiciary.house.gov> .

## **CALIFORNIANS SEEK UNITY ON TRANSPORTATION, SPEEDY REAUTHORIZATION**

On March 9, 2005, members of California’s Democratic delegation, led by Rep. Zoe Lofgren (San Jose) addressed California transportation officials and the news media in Washington to express support for a transportation bill that is fair and meets California’s highway construction and public transit needs.

Convening on the first of two days of floor debate on the transportation bill (HR 3), a number of California House Democrats, many of whom serve on the Transportation and Infrastructure (T&I) Committee were joined by representatives from the Metropolitan Transportation Commission (MTC), the Bay Area Regional Transit (BART) Authority, and the Sacramento Regional Transit District to cite the importance of authorizing a long term transportation bill to advance the state’s economic productivity, mobility and safety considerations. “We hope to bring home the bacon” said Rep. Lofgren, Chair of the Democratic Congressional Delegation.

Each member in attendance outlined the pitfalls associated with continued delay of a finished transportation bill and committed to pursuing a finished bill as soon as possible. Rep. Ellen Tauscher (Walnut Creek) outlined the economic and environmental losses attributed to traffic delays, “every minute people spend stuck in traffic is time away from their families and lost productivity at work” said Rep. Tauscher, a member of the T&I Committee. According to Rep. Tauscher, the House transportation bill would generate 180,000 jobs in California, out of 1.8 million nationally. Rep. Mike Honda (San Jose), another member of the T&I Committee underscored the importance of California receiving a share of highway funds that is equitable “We’re going to fight to get our fair share” said Mr. Honda.

The top official from the San Francisco Bay Area MTC, gave his full backing to the California delegation; he also noted that California commits a higher level of local investments to transportation projects (\$18 billion in self

help initiatives), and cited polls indicating that transportation congestion continues to rise higher on the public's list of public policy priorities.

For more information on TEALU, visit the House Transportation and Infrastructure website at: <http://www.House.gov/transportation> .

### **HAHN, VILLARAIGOSA TO FACE OFF IN LA MAYORAL RACE**

In the Los Angeles mayoral race, Mayor James K. Hahn will square off against Los Angeles Councilman Antonio Villaraigosa in a runoff election on May 17. The runoff is mandated because neither received a majority of the vote in the five-candidate field. Villaraigosa garnered 33 percent and incumbent Hahn received 24 percent of the vote. The two men previously faced one another in the 2001 mayoral election, which Hahn won.

Former Assembly Speaker Bob Hertzberg narrowly missed the runoff, winning 22 percent of the vote. In addition, Councilman and former LAPD Chief Bernard C. Parks won 13 percent, and state Sen. Richard Alarcon took 4 percent.

### **PPIC STATEWIDE SURVEY EXAMINES VOTERS' ATTITUDES TOWARD MAKING HEALTH POLICY THROUGH INITIATIVES**

A new Public Policy Institute of California (PPIC) Statewide Survey analyzes voters' experience with and attitude toward making health policy decisions in the voting booth. In the 2004 election cycle, Californians were asked to vote on five health policy voters initiatives, addressing stem cell research, the mentally ill, children's hospitals, health care coverage, and emergency medical services. The PPIC survey, funded by The California Endowment, asked 2500 voters how and why they voted on those issues and how they feel about voters determining health policy issues. In general, the survey discovered "more trust and confidence in voters [as opposed to the state] when it comes to making policy choices." 75 percent of those surveyed said that it is a "good thing that voters can vote directly on public policies," and three out of four respondents "thought that the public policy decisions made by voters are probably better than those made by the government or the legislature."

For the full survey, including methodology and results, visit the PPIC's website at <http://www.ppic.org/main/home.asp> .

---

### **SELECTED TEA LU PROVISIONS & CHANGES**

The TEA LU manager's amendment that was considered on the House floor included a number of policy changes, including a change in the Minimum Guarantee (MG) and various changes to earmarked funding.

#### **Minimum Guarantee**

The bill does not change the 90.5 percent rate of return minimum percentage. A substantial increase was more than could be worked out in the current budgetary environment. However, the bill did include a reopener provision, which would in essence force Congress to reopen the MG percentage debate by mid 2006 or risk the suspension of federal highway programs.

After a heated, year-long debate over whether to include High Priority Project earmarks in the "scope" of programs to be counted in determining whether a state has received back its minimum share of gas tax payments as highway spending, the House TEA LU bill would strike a compromise. In essence, states would be given the higher amount of their MG apportionment with and without the HPPs accounted for. First, the traditional MG calculation would be run (HPPs are covered in the scope of programs counted for determining the MG share under current law). Then, a FHWA would assess whether any state would have received more funds if the HPPs were **NOT** included in the scope of the calculation, and "such sums as may be necessary" would be appropriated to ensure states are covered.

In addition, the bill would ensure that 92.6 percent of total funds be considered part of the scope calculations for MG distribution, and it would broaden the programs examined to include a number of smaller programs, such

as coordinated border infrastructure, freight intermodal connectors, safe routes to school, highway safety improvement, and high risk rural roads.

### **High Priority Projects**

California earmarks for highway program "High Priority Projects" or HPPs in the TEA LU bill reached \$1.1 billion in the version approved by the House of Representatives on March 10, 2005. The funds, to be spent over six years, from 2004 through 2009, accounted for 10.3 percent of funds all \$10.7 billion earmarked for all states..

California's percentage of HPPs declined from last week to this week. The version that the T&I Committee reported out to the House on March 2 had earmarked 11.3 percent of total funds for California (\$980 million out of \$8.9 billion).

The House-passed version also earmarked almost all funds authorized for HPPs nationwide. Language in TEA LU authorizes expenditures of \$11.1 billion, so the House's \$10.7 billion in earmarks would leave just \$400 million for the Senate or conferees to allocate. In reality, the Senate will likely earmark considerably more funding before any bill reaches final passage.

Interestingly, the California share of HPPs in the TEA LU bill closely resembles the share of HPPs in the version of the TEA-21 bill that passed the House in 1998. As an illustration, it may be instructive to remember that California's share of projects in the bill that emerged from a House-Senate conference that year had declined from 10.4 percent to 9.4 percent.

In addition to its myriad highway earmarks, the bill also makes a few edits to High Priority Projects that were contained in the original TEA-21 as enacted in 1998, including two in California. The bill adds flexibility to the \$10 million earmark for that had been limited to construction work at the San Diego and Arizona Eastern Intermodal Yard in San Ysidro, allowing funds also to be used for "related purposes." It would change the designation for a \$9.4 million earmark for San Francisco from "Third Street South Bay Basin Bridge" to "Bayview Transportation Improvements Project."

### **Transit New Starts**

Under TEA LU, California would receive nearly one-fourth of the nation's New Starts earmarks - \$948 million of the nation's 4 billion in total funding for so-called Full Funding Grant Agreements (FFGAs). The state's share of the House-passed bill's FFGAs is 23.7 percent, well above the state's already large (18%) share of New Starts funds under TEA-21.

Four California projects would be among the nation's 26 total projects: San Diego Mission Valley East LRT Extension (\$153 million), Los Angeles Metro Gold Line Eastside Extension (\$400 million), San Diego Oceanside Escondido Rail Corridor (\$113 million), and the final work on the San Francisco BART Extension to SFO (\$280 million). The four projects would be among a total of 26 active nationwide.

Under the New Starts account, the March 10 floor amendment made several minor changes. It added \$440,000 to the final year (2006) funding for the San Diego Oceanside Escondido Rail Corridor. The amendment also added three new California projects to the "Alternatives Analysis and Preliminary Engineering" list, the initial stage in the New Starts funding pipeline. These additions included the Alameda Fixed Guideway Corridor Project, the Sacramento Downtown Streetcar Project, and the San Diego Imperial County Mag-Lev Rail Airport Corridor Project. In addition, the bill modifies the name of one New Starts project that is at the final design and construction stage -- what had been defined as the Orange County Center Line LRT has been redesignated the Orange County Rapid Transit Project.

### **Bus and Bus-Related Program**

Earmarks in the TEA LU bill include \$196 million for California from the Bus and Bus-Related transit capital investment program. The total would represent 17.7 percent of the nation's \$1.1 billion in total earmarked funds, a share far above the state's 6.7 percent share of 1998-2003 bus earmarks under TEA-21. The state's share of funding in the TEA LU bill that the House approved was less than the state's share of funding a week prior -- the bill approved by the House T&I Committee had earmarked more than 20 percent of funds for California.

In all, California would receive 90 of the nation's 440 total bus earmarks. The state's projects would range in size from as small as \$250,000 over three years (the state's four smallest are in Burbank, Sylmar, and two in Carson) to as large a bus project as \$15 million for a Metro Gold Line Foothill Extension Light Rail Transit Project from Pasadena to Montclair and a \$14 million San Francisco Transbay Terminal to Caltrain Downtown Extension Project. Bus project spending is earmarked for 2006 through 2008.

### **Other Provisions**

The bill sets up a one-time rescission of \$12 billion in unobligated highway program balances, to be taken at the September 30, 2009 conclusion of TEA LU's authority. Funds would be rescinded from states in accordance with each's share of highway program funding, freeing resources to be reallocated.

The House TEA LU bill increases the small-state minimum on highway safety programs from one-half percent to three-quarters percent, which will divert dollars from California and other large states. (An additional 1 percent of funds will continue to be divided among four U.S. territories, and 3/4 percent by Indian tribes.) The core Highway Safety Program formula distributes funds to states based 75 percent on population and 25 percent on road mileage.

The Transportation Infrastructure Finance and Innovation Act (TIFIA) would receive a set-aside from the Discretionary Bridge Program (as opposed to the larger formula program for bridges). TIFIA would be designated to receive \$130 million in 2004 and \$140 million in each year from 2005 through 2009. The bill maintains TIFIA's maximum authorized credit at \$2.6 billion.

For MAGLEV (magnetic levitation trains), the amendment approved on March 10 changes the method for securing funding – which is set at \$15 million in 2004 and \$20 million in 2005 through 2009 – from a freestanding appropriation to a directed set-aside from the National Highway System account.