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California Capitol Hill Bulletin

Volume 10, Bulletin 21 – July 17, 2003

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. The e-mail edition is made possible in part by in-kind contributions from Sun Microsystems and IBM Corp.

NINTH CIRCUIT HOLDS FOR CALIFORNIA IN OXYGENATE WAIVER CASE

On Thursday, July 17, the U.S. Court of Appeals for the Ninth Circuit held that the Environmental Protection Agency (EPA) "abused its discretion" in denying California's request for a waiver from the 2% oxygenate requirement of the Clean Air Act. The Court also rejected EPA's contention that California lacked standing to appeal EPA's decision.

In responding to the decision, Governor Gray Davis stated: "It is my hope that the EPA will take a hard look at this court decision, realize they were wrong and give California what it needs: the ability to make gasoline with or without oxygenates as conditions warrant."

EPA had denied California's waiver on the ground that the State had not clearly demonstrated that a waiver would have a beneficial effect on ozone pollution, and ruled that it was unnecessary to consider the effect a waiver would have on particulate matter pollution. The Court concluded that the EPA abused its discretion in refusing to consider and weigh the effect of the proposed waiver on particulate matter pollution along with its effect on ozone levels.

The Court, therefore, vacated EPA's order denying the waiver and remanded the case to the court below for further proceedings. The Court's decision can be found at:

[http://www.ca9.uscourts.gov/ca9/newopinions.nsf/6237B1B27E6F7B7588256D65007EE477/\\$file/0171356.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/6237B1B27E6F7B7588256D65007EE477/$file/0171356.pdf?openelement) .

HOUSE JUDICIARY REPORTS INTERNET TAX MORATORIUM; SENATE HEARING HELD

On Wednesday, July 16, the House Judiciary Committee favorably reported by voice vote H.R. 49, the Internet Non-Discrimination Act, sponsored by Rep. Chris Cox (Newport Beach). The bill would make permanent the ban on collecting Internet access, multiple, and discriminatory taxes. Currently, legislation imposing a moratorium on the taxes is set to expire on November 1. Also on Wednesday, the Senate Committee on Commerce, Science and Transportation held a hearing on an identical Senate bill sponsored by Sen. Ron Wyden (OR).

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During the House Judiciary Committee mark-up, Reps. Mel Watt (NC) and Chris Cannon (UT) offered an amendment to clarify that the ban on Internet taxes applied regardless of the manner in which the Internet service was provided or packaged. The amendment, adopted by voice vote, effectively overturned some court decisions holding that if the service was bundled with traditional telephone service, it was not covered by the moratorium.

At the Senate hearing, witnesses providing testimony included: Joseph Ripp, Vice Chairman, America Online, Inc.; Paul Misener, Vice President for Global Public Policy, Amazon.com, Inc.; Mark Beshears, Assistant Vice President of State and Local Tax, Sprint Corporation; and Billy Hamilton, Deputy Comptroller, Texas Comptroller of Public Accounts.

Mr. Ripp, Mr. Misener, and Mr. Beshears voiced support for making the moratorium permanent, which they believe will continue to protect consumers from what they view as burdensome taxes. In contrast, Mr. Hamilton questioned whether the moratorium is still necessary. He also said, "Taxation of Internet access is a state issue, which Texas -- and every other state -- asks that it be allowed to address as a state."

In his testimony, Mr. Beshears added that the current moratorium warrants clarification because it does not address technological changes that have occurred since its enactment in 1998. Specifically, he mentioned that "high-speed Internet access -- DSL, "3G" wireless, cable modem, and direct satellite -- either did not exist or were in their infancy and not broadly available to consumers."

At both the House markup and the Senate hearing there was general consensus that the issue of Internet access and discriminatory taxes should be kept separate from the sales tax debate on whether, and how, to let states collect sales taxes on Internet transactions. Neither bill addresses the collection of sales taxes by remote vendors.

Testimony from the Senate hearing is available at: <http://www.commerce.senate.gov> .

HOMELAND SECURITY CHAIR CHRISTOPHER COX TAKES AIM AT FIRST RESPONDER GRANT FORMULA

Commenting that the method for distributing state and local homeland security grants "must be threat-based instead of political formulas," House Homeland Security Committee Chairman Christopher Cox on Thursday, July 17, 2003, opened a hearing entitled "First Responders: How States, Localities, and the Federal Government Are Working Together To Make America Safer." Witnesses included Massachusetts Governor Mitt Romney, Council on Foreign Relations (CFR) Senior Fellow Jamie F. Metzl, Los Angeles County Sheriff's Department Captain Michael Grossman, and Orange County Assistant Sheriff George Jaramillo.

Regarding the current first responders grant process, Chairman Cox stated that: "Washington must do its part to fix the broken pipeline," and "do a better job of providing states and localities the information they need to allocate those resources efficiently to those areas facing the greatest risk of attack."

Cox commented that "perhaps the most important point is that these funds can no longer be distributed based on political formulas. Nearly two years after the attacks of September 11th, grants are still being distributed to states using formulas that take no account of whether the recipient is, based on our best intelligence, at risk."

The current formula for allocating homeland security grants includes an unusually large (three-fourths percent) small state minimum, which distributes 40 percent of funds equally to each state -- regardless of size, terror threat or other needs assessment -- with only state population used to allocate the remaining 60 percent. For 2003, California received 7.95 percent of the nation's \$2 billion for Homeland Security State & Local Grants, despite the fact that the state houses more than 12 percent of the nation's population. (Some California advocates also note that the state's coastal and border location might justify an even greater share of homeland security funds, as compared to states further inland.) Comparing receipts per capita, California received \$4.68 in total funding for every person in the state, whereas far more per capita went to Wyoming (\$35.31), Vermont (\$29.37), North Dakota (\$28.68), Alaska (\$28.31), Delaware (\$23.43), and Montana (\$21.28). According to figures from the California Institute, using capabilities developed pursuant to the Federal Funds and California project -- a joint venture with the Public Policy Institute of California (PPIC) -- the state would have received \$65 million more (a total of \$6.53 per capita) if a more common allocation method was used. For a state-by-state breakout of FY 2003 formula grant spending, comparing actual allocations with a more typical approach, see Bulletin, Vol. 10, Nos. [11 \(4/25/03\)](#), [12 \(5/2/03\)](#), [17 \(6/12/03\)](#), [18 \(6/19/03\)](#), and [20 \(7/11/03\)](#), or refer to detailed tables on the California Institute website, at <http://www.calinst.org/datapages/DHS.htm> .

In testimony, Governor Romney endorsed having states be the pipeline for delivering the funds, and he urged a clear set of guidelines for determining which jurisdiction should be responsible for intelligence activities. Again questioning the funds allocation method, Chairman Cox asked Romney about a recent press report of a \$9.5 million grant to the Oak Bluffs Steamship Authority in Martha's Vineyard, MA, which stated that the director had "no idea what to do with the [unexpected federal] money".

Mr. Metz of CFR outlined their recent report on homeland security preparedness and their conclusion that first responder needs shortfalls would require a quintupling of homeland security funds and development of military-style preparedness standards. He agreed with Chairman Cox that there needs to be a change in the formula for funds allocation, stating "If not we will be diluting funds to the point of wasting them." For more details on their report, (see [Bulletin, Vol. 10, No.20](#)) , or visit the CFR website at <http://www.cfr.org> .

In addition to discussing interjurisdictional intelligence sharing between Los Angeles and Orange Counties, Los Angeles Sheriff's Department Captain Michael Grossman stated that the recent Urban Area Security Initiatives grants (for California details, see <http://www.calinst.org/datapages/dhs/threat03.htm>) do not sufficiently benefit the greater Los Angeles area and its nearly 13 million citizens. He noted that while Los Angeles and Long Beach have special needs, "there are 86 additional cities and many square miles of unincorporated county area" that also need assistance. He said that the dispersal method "does not address the overall regional readiness and needs requirements. Any attack in the Los Angeles/Orange County area would unquestionably require a regional response."

Orange County Assistant Sheriff George Jaramillo also discussed regional responses to threats, outlining the activities of their Terrorism Early Warning Group, and he urged streamlining of the grant allocation process. He also urged that "the grant process should be altered to factor in threat assessments."

Chairman Cox concluded, "Every state in the Union faces some risk and plenty of vulnerabilities. But the great disparity in the distribution of funds must be fixed on an objective basis so that states are better supported to face these risks." As Cox describes it, "the current grant process, established pre-September 11, is failing to consistently distribute money where it belongs or is needed. Careful scrutiny of the process suggests that it was established to handle a stream, not a flood, of new revenue."

Further details regarding the hearing will be available at <http://homeland.house.gov/> .

BIPARTISAN STATE AND LOCAL LEADERS WEIGH IN ON HOMELAND SECURITY GRANTS

Democratic and Republican leaders of the California State Assembly and Senate joined with Governor Gray Davis and the presidents of the California State Association of Counties (CSAC) and the League of California Cities to seek revisions to correct inequities in the formula used to distribute homeland security grants to state and local governments. Sent to coincide with the House Homeland Security Committee hearing on first responder grants (see preceding article), the letter was signed jointly by Governor Davis, Senate President pro Tempore John Burton, Senate Minority Leader Jim Brulte, Assembly Speaker Herb J. Wesson, Jr., Assembly Minority Leader Dave Cox, CSAC President and Sonoma County Supervisor Tim Smith, and League of California Cities President and Oakland City Attorney John Russo.

Noting that grant funding "is skewed to states where the threat of a terrorist attack is low, and states and localities where the threat is high do not get the help they need," the letter adds, "The only sensible policy is for the great majority of the Homeland Security Block Grant funds to be distributed to the states and localities with the threat to terrorism is greatest. To do otherwise wastes limited resources and endangers lives."

In addition to urging that the formula be based on threat levels, the letter also proposes a lowering of the three-fourths percent small-state minimum, which it notes "is much larger than in other federal programs."

CENTRAL VALLEY MEMBERS ARGUE FOR MOVING 129TH RESCUE WING

Twelve members of the California Delegation, most from the Central Valley area, are urging the Secretary of the Air Force to approve moving the operations of the California Air National Guard's 129th Rescue Wing to Castle Airport in Atwater. Last week's Bulletin reported on the efforts of Bay Area members of the Delegation to retain the Wing at Moffett Field. See, [Bulletin, Vol. 10, No. 20 \(7/11/03\)](#).

In their July 8 letter to Secretary James Roche, the members, led by Reps. Dennis Cardoza (Atwater) and George Radanovich (Mariposa), argue that the Castle facilities have been well maintained by Merced County and are well situated to provide a rapid response to state or federal emergencies throughout the state. Further, they state that there would a “significant cost reduction to both the unit and personnel as overall maintenance and cost of living expenditures will be significantly less....” The letter also argues that the move would provide a significant boost to an area with the highest unemployment rate in the nation, 17 percent. The members also point out that the community was known for its hospitality to the military before Castle AFB closed in 1994, and may prove to be an excellent area to recruit and train new members for the Air National Guard.

Other members signing the letter were: Reps. Gary Miller (Diamond Bar), Doug Ose (Sacramento), Devin Nunes (Pixley), Cal Dooley (Visalia), Wally Herger (Marysville), Bill Thomas (Bakersfield), Buck McKeon (Santa Clarita), Richard Pombo (Tracy), John Doolittle (Rocklin), and Ken Calvert (Corona).

CHILE & SINGAPORE FTAS MOVE AHEAD

The House and Senate both took major steps this week towards approval of the implementing legislation for the U.S.-Chile Free Trade Agreement (FTA) (H.R. 2738/S. 1416) and the U.S.-Singapore Free Trade Agreement (H.R. 2739/S. 1417). The two trade agreements are the first to be considered under the fast-track procedures approved by Congress last year in the Trade Promotion Authority (TPA) Act. The Administration formally submitted the Agreements to Congress on July 15, beginning the 90-day period during which Congress can consider the bills. The Agreements are non-amendable and subject only to an up or down vote.

On Monday, July 14, the Senate Judiciary Committee held a hearing on the issue of temporary entry of professional workers under the agreements. Under both agreements, a new category (W-9) of non-immigrant professional worker visa would be established; the Singapore FTA would allow 5,400 visas to be granted annually under this category, and the Chile FTA 1,400 visas. See, [Bulletin, Vol. 10, No. 20 \(7/11/03\)](#). During the hearing, some Senators expressed concern that the Agreements effectively amended U.S. immigration policy without the input of Congress. On Thursday, July 17, the Committee reported the Agreements to the Senate floor by a vote of 11-4. However, during that meeting, Sen. Dianne Feinstein, joined by other members, strongly opposed the immigrant worker provisions contained in the Agreements and ultimately voted against both FTAs because of their inclusion. Sen. Feinstein argued that with high unemployment rates being experienced throughout the country, especially in California’s high technology sector, the consequences of allowing more foreign professional workers in under the FTAs cannot be adequately predicted. She stated that trade agreements are not the appropriate place to change U.S. immigration laws and that those provisions should be separately considered by Congress. Later in the day, Senator Feinstein was joined by Sens. Jeff Sessions (AL) and Lindsey Graham (SC) in calling on the Administration to withdraw the two FTAs from Congress and strike their immigration provisions.

The House Judiciary Committee, however, approved the Agreements on Wednesday, July 16 by voice vote. Committee Chair James Sensenbrenner (WI) noted that the Administration had accepted the changes to the visa provisions recommended by the Committee last week to bring them more into line with the current H1-B visa laws. See, [Bulletin, Vol. 10, No. 20 \(7/11/03\)](#).

The House Ways and Means Committee and the Senate Finance Committee, which have primary jurisdiction over the bills, did not formally recommend changes to the Administration during their previous consideration of the Agreements. Under the terms of the TPA, the Administration consulted with both committees throughout the negotiations on the trade agreements. On Thursday, July 17, both the Ways and Means and the Finance Committees gave final approval to the bills, clearing the way for floor consideration next week. The Finance Committee reported the bills by voice vote. In the Ways and Means Committee, the bills were approved on bipartisan votes of 32 to 5 (H.R. 2739/Singapore) and 33 to 5 (H.R. 2738/Chile), respectively.

Ways and Means Committee Chair Bill Thomas (Bakersfield) in his opening statement referred to the bills before the committee as commendable world class models for future trade relations bills and trade agreements. Democratic Ranking member Charlie Rangel (NY) and his colleague Sander Levin (MI) voted in favor of the measures. However, they each raised concerns about Rep. Thomas’s and the Administration’s intent to use the framework included in the pending agreements to structure future bilateral and regional trade promotion plans with US partners, noting that other developing nations in Africa and Latin America may be less economically

sophisticated and have more lax labor and environmental standards in effect than Chile or Singapore. Rep. Thomas clarified his position, stipulating that the model for future action would not be an exact template for replication. Members of the committee were then assured by Thomas that other trade agreements currently in their formative stages would evolve into varying products based on the different facts, circumstances, geography and culture characteristics of the other trading partner candidates.

Both implementing bills are expected to be considered by the full House and Senate before the August recess begins at the end of next week.

JUDICIARY SUBCOMMITTEE ADDRESSES P2P PIRACY ISSUE

The House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property held a hearing on Thursday, July 17 to consider H.R. 2517, the "Piracy Deterrence and Education Act of 2003. The bill would increase the ability of the FBI to criminally prosecute copyright infringers, require it to develop a deterrence program and facilitate information sharing among law enforcement agencies, Internet service providers and copyright owners of information. The bill would also promote public awareness of the harm and criminality of downloading copyrighted materials, and allow content owners who have not registered their copyrighted works with the U.S. Copyright Office to nonetheless file criminal complaints for infringement. The bill is sponsored by Subcommittee Chair Lamar Smith (TX) and Ranking Member Howard Berman (Valley Village).

The Subcommittee heard from the following witnesses: Jana D. Monroe, Assistant Director of Cyber Division, Federal Bureau of Investigations; David P. Trust, Chief Executive Officer, Professional Photographers of America; Linn R. Skinner, Proprietor, Skinner Sisters; and Maren Christensen, Senior Vice President, Intellectual Property Counsel, Universal Studios.

Ms. Monroe testified that the bill "is a positive step toward making Americans aware of the security, privacy and criminal issues related to trafficking in copyrighted works." She outlined the steps the FBI is already taking to investigate cyber crime and prosecute the perpetrators and pledged the agency's continuing partnership with the subcommittee to further the effort to prevent cyber piracy.

Ms. Skinner, an embroidery expert, and Mr. Trust, a photographer, pointed out the importance of allowing non-registered copyright owners to the right to seek criminal recourse for violations. Mr. Trust testified that very photographers copyright each photograph or have the financial ability to pursue infringers in court.

Ms. Christensen detailed the problems the entertainment industry continually has with piracy and briefed the Subcommittee on the most recent case, where an incomplete work print of the movie "The Hulk" was pirated two weeks before the movie was to be released. She commended the subcommittee for considering H.R. 2517, and praised its authors for including provisions aimed at educating the public to the criminality of copyright infringement and not requiring copyright registration as a prerequisite for seeking recourse for infringement.

Testimony is available at the Committee's website, <http://www.house.gov/judiciary>.

HOUSE SUBCOMMITTEE CONSIDERS SPECIALTY CROP INSURANCE

On July 10, 2003, the General Farm Commodities and Risk Management Subcommittee of the House Agriculture Committee held a hearing on crop insurance products for specialty crop producers. California leads the nation in the number of specialty crop products that it produces, while the state of Michigan takes second place with production of 120 commodities. According Subcommittee Chairman Jerry Moran (KS), coverage for specialty crops has doubled since 1998 to \$8 billion last year, and it has become "an increasingly important risk management tool for many farmers, including nurserymen, citrus growers, and fruit and vegetable producers."

Those testifying before the Subcommittee included: Mr. Bill Brim with the Georgia Fruit and Vegetable Growers Association; Mr. Robert E. "Bob" Carden, Jr. for the Florida Citrus Mutual and Florida Nurserymen and Growers Association; Virginia State Senator and nursery owner John C. Watkins for the American Nursery & Landscape Association; and Mr. Russell C. Redding of the Pennsylvania Department of Agriculture.

The hearing centered on the Agriculture Risk Protection Act of 2000 as it relates to the insurance availability for specialty crop producers, and it explored what changes would be necessary in program product availability and delivery in order to better serve farmers, crop producers and specialty crop growers, and livestock producers.

Witnesses testified that specialty crop insurance subsidies generally fall behind insurance subsidies for general crops, which in turn greatly disadvantages specialty crop producers in the marketplace.

Speaking on behalf of the nursery community, Mr. Watkins said that “the crop insurance program falls short of adequately addressing the extreme diversity and unique situations presented by a free-market segment of agriculture that grows thousands of varieties - in every state - using an array of production systems and technologies.” He urged an efficient, affordable and sustainable crop insurance program. According to the USDA’s National Agricultural Statistics Service (NASS), the nursery and greenhouse industry remains the fastest growing agricultural sector in cash receipts, with crop sales at \$10.9 billion in 1997. The industry is currently valued at over \$13 billion.

For more information about this hearing or to obtain testimony, visit <http://agriculture.house.gov> .

CSBG REAUTHORIZATION CONSIDERED IN SENATE SUBCOMMITTEE

The Children and Families Subcommittee of Senate Health, Education, Labor and Pensions Committee held a hearing on July 10, 2003 on the reauthorization of the Community Services Block Grant (CSBG) program. CSBG is designed to alleviate poverty by funding initiatives that fight its causes, especially unemployment, inadequate housing, and lack of education opportunity. CSBG services are administered in localities primarily by the Community Action Agencies (CAAs) in coordination with other neighborhood-based entities.

The witnesses included Wade Horn, Assistant Secretary for Children and Families, Department of Health and Human Services; David Bradley, Executive Director, National Community Action Foundation; and E. Phillip McKain, President and CEO, CTE, Inc. (Community Action Agency).

Before he describing the Administration’s proposal for CSBG reauthorization, Mr. Horn expressed the Bush Administration’s strong support for the concept of community-based solutions to issues related to individuals in poverty. He went on to state that in FY2003, \$704.2 million was appropriated for the Community Services Act Programs. Mr. Horn testified that accountability constituted a cornerstone of the reauthorization proposal, since the current law does not provide a consistent means to require minimum standards of performance by CAAs in order to receive funding. In particular, Mr. Horn said that the President’s 2004 reauthorization proposal calls for the development of, and adherence to, national outcome measures for agencies funded under the CSBG and the Urban and Rural Community Economic Development (URCED) programs, and the design of a means to review, monitor, and remove local organizations that are not providing adequate services to the community. He emphasized the use of the Results Oriented Management and Accountability (ROMA) system as a model basis for establishing the national outcome measures for CSBG funding.

With respect to URCED funding, the Administration proposes to strengthen capability by increasing accountability and monitoring, and expanding the pool of applicants by re-defining entities eligible to receive funding to embrace other private, faith-based and community-based organizations. In addition, Mr. Horn testified that the Administration is not recommending reauthorization of the some CSBG Act discretionary programs, including the Rural Community Facilities program (RCF) and the Community Food and Nutrition Program (CFN), and argued that such programs duplicate the functions of other programs or provide services that the states can fund though the flexibility provided under other funding mechanisms like Temporary Assistance for Needy Families (TANF).

Mr. Bradley, though not disagreeing with the Administration’s proposal, said that there is a need to assess performance of state and federal stakeholders as well, and not just the performance by CAAs. He also called on the Subcommittee to provide more support and incentives for programs that coordinate and focus resources to achieve long-term poverty reduction.

For more information about this hearing or to obtain testimony, visit <http://health.senate.gov> .

GOLDEN STATE LUNCHEON FEATURES HOUSE RESOURCES CHAIRMAN RICHARD POMBO

On July 15, 2003, the California State Society convened a Golden State Roundtable Luncheon featuring remarks by Rep. Richard Pombo (Tracy). Rep. Pombo currently serves as Chairman of House Resources Committee. He also is a member of the Agriculture Committee, where he chairs the Livestock and Horticulture Subcommittee and sits on the Subcommittee on Department Operations, Oversight, Nutrition and Forestry, In

addition, Rep. Pombo is the California Region Representative for the House Republican Policy Committee. Reps. Ken Calvert (Corona) and George Radanovich (Mariposa) also attended the luncheon, and the latter, in his role as co-chair of the State Society, introduced Rep. Pombo.

Rep. Pombo spoke about several issues that the House Resources Committee has been working on during this legislative session. He lauded the House passage of the Healthy Forrest Initiative, and commented on the importance of sufficient energy and natural gas supplies in the state, as well as public land issues. Rep. Pombo said that one of the most important issues before the Resources Committee and, naturally, for California is water. Noting that the current water infrastructure in the state was designed in the 1950's with only the population projections available at that time in mind, Rep. Pombo called water issues the greatest challenge for California and its continued economic development. He expressed his support for the CALFED agreement, and its recognition that both new water resources and ecosystem restoration must be addressed. He praised Rep. Calvert for his leadership on the issue as Chair of the Resources Water and Power Subcommittee. And he emphasized the need for new water sources development that would have a minimal effect on the environment and be sufficient to provide for the state's future water demand.

SAN DIEGO WATER BILL MARKED UP IN HOUSE SUBCOMMITTEE; NATIONAL PARKS LEGISLATION CONSIDERED

On July 17, 2003, the House Resources Water and Power Subcommittee marked up and unanimously reported H.R. 1598. The bill amends the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed. Subcommittee Chairman Ken Calvert (Corona) and Ranking Member Grace Napolitano (Norwalk) noted in their statements that this bill will help decrease California's, and especially the San Diego region's, dependence on the Colorado River for its supply of water.

Two days earlier, on July 15, the Subcommittee on National Parks, Recreation, and Public Lands held a hearing on two bills, one, H.R. 532, to revise the boundaries of the Golden Gate National Recreation Area in the state and restore and extend the term of the Advisory Commission for the recreation area, and the other, H.R. 1289, to establish the National Parks Institute at the University of California, Merced.

Speaking in support H.R. 532, Rep. Tom Lantos (San Mateo) testified that the legislation would adjust the boundary of the Rancho Corral de Tierra Golden Gate National Recreation Area to permit the inclusion of lands directly adjacent to existing parkland as well as nearby lands along the Pacific Ocean. The bill is co-sponsored by Reps. Nancy Pelosi (San Francisco), George Miller (Martinez), Anna Eshoo (Atherton), Barbara Lee (Oakland), Ellen Tausher (Alamo), Mike Honda (San Jose), Mike Thompson (St. Helena), Pete Stark (Fremont), Zoe Lofgren (San Jose), and Lynn Woolsey (Petaluma). Senators Barbara Boxer and Diane Feinstein have sponsored companion legislation that passed the Senate by unanimous consent on April 3, 2003. Rep. Lantos said that expanding the boundary of the park would make it accessible to more than 6 million people who live within a one hour's drive of the park and will provide national park programs and experiences to millions of national and international visitors. In addition, he addressed concerns that were raised during the bill's consideration in the 107th legislative session, such as the question of agricultural leases within the park's boundaries, and the impact that such expansion would have on the backlog of deferred maintenance by the National Park Service.

Also testifying in support of this legislation, Ms. Audrey C. Rust, President of the Peninsula Open Space Trust (POST) located in Menlo Park, hailed H.R. 532 as a critical step in achieving a long-held goal to place lands of Montara Mountain into federal ownership, thus creating a southern entrance to the park along the Pacific coast, protecting significant ecological resources and linking tens of thousands of acres of existing federal, state, and county parklands. POST conducted the boundary study in conjunction with the National Park Service, which found that the acquisition of the properties in question will not impose a significant new management burden on the National Park Service.

Mr. Daniel Smith, Special Assistant to the Director, National Park Service (NPS) argued otherwise, however, and urged the Subcommittee to postpone action on H.R. 532. Mr. Smith said that NPS supported this measure last year, but because of the priority the Administration has placed on reducing the National Park Service's backlog of deferred maintenance, NPS has had to change its position on proposals that could divert resources from that effort.

He also testified that H.R. 532 would entail \$15 million in federal land acquisition costs and an unknown amount of operation, maintenance, and facility costs. Mr. Bill Pauli, President of the California Farm Bureau Federation joined Mr. Smith in his opposition to the measure. Citing the Federation's objectives for land ownership and preserving agriculture, Mr. Pauli expressed his concerns about preserving agriculture on more than 300 acres of land included in the acquisition proposal.

The Subcommittee also considered H.R. 1289, which would authorize the Secretary of the Interior to establish the National Parks Institute on the campus of the University of California at Merced, and provide that the Institute be jointly administered by the National Park Service and the University of California, Merced. Mr. Smith testified that the Administration has not developed a position with respect to this legislation. On the other hand, Dr. Carol Tomlinson-Keasey, Chancellor of the new UC campus, said that the administration of UC Merced is extremely enthusiastic about the prospect. She added that establishing a National Parks Institute at UC Merced would capitalize on the strength of the campus' partner, the Lawrence Livermore National Laboratory.

For more information or to obtain testimony, visit <http://resourcescommittee.house.gov>.

HOUSE PANEL EXAMINES U.S. SUPPORT FOR HIGH-PERFORMANCE COMPUTING

On Wednesday, July 16, the House Committee on Science held a hearing to consider U.S. strength in supercomputing and whether the industry is losing ground to competitors from other nations, with particular attention to the adequacy of federal agency plans for advancing the nation's capabilities. In light of the fact that the world's fastest and most efficient supercomputer is now in Japan, rather than the United States, the hearing sought to examine whether the U.S. is losing its competitive edge in the industry. Committee Chair Sherwood Boehlert (NY) called the competitiveness issues "a red flag that should capture the attention of all of us."

Entitled *Supercomputing: Is the U.S. on the Right Path?*, the hearing included testimony by Dr. Raymond L. Orbach, Director of the Office of Science at the Department of Energy (and formerly Chancellor of the University of California, Riverside); Dr. Peter A. Freeman, Assistant Director for the Computer and Information Science and Engineering Directorate (CISE) at the National Science Foundation; Dr. Daniel A. Reed, Director of the National Center for Supercomputing Applications (NCSA) at the University of Illinois; and Mr. Vincent Scarafino, Manager of Numerically Intensive Computing at Ford Motor Company.

Stressing the value of high-performance computing in the rapidly changing technological world, Dr. Orbach of the DOE Office of Science noted that, "Many times, scientific discovery is counter-intuitive, running against conventional wisdom." He also highlighted commercial advantages realized through supercomputing, including General Electric's ability to halve the number of flawed jet engines it sells, at a long-term savings of \$100 million, and General Motors' ability to save General Motors hundreds of millions of dollars in vehicle crash simulation, safety models, vehicle aerodynamics, thermal and combustion analyses, and new materials research.

Looking to the future, Dr. Orbach cited a Fusion Simulation Project to build a computer model that will fully simulate a burning plasma to both predict and interpret ITER performance and, eventually, assist in the design of a commercially feasible fusion power reactor – a venture that will require at least 50 teraFLOPS of sustained computing power. He also mentioned the nanotechnology development capabilities of the Lawrence Berkeley Laboratory. Finally, Dr. Orbach announced that ten percent of the National Energy Research Scientific Computing Center at Lawrence Berkeley Lab - now at ten teraFLOP peak speed - will be made available within the next few weeks for "grand challenge" calculations: "We are literally going to carve out 4.5 million processor hours and 100 terabytes of disk space for perhaps four or five scientific problems of major importance.

In response to inquiries regarding why the Japanese now have the worlds fastest and most efficient computer, Dr. Freeman expressed that while they may have the fastest, they do not have the complete lead in computing, and that a number of factors are involved in effective supercomputing. Several witnesses commented that the real reason is the sustained financial investment in supercomputing by the Japanese government. Dr. Orbach agreed and congratulated the Japanese and said that by paying attention to various elements of computer architecture, they developed a balanced machine rather than simply a peak-speed machine.

Rep. Zoe Lofgren (San Jose), in comments echoed by witnesses and other Committee members, noted that export controls encouraged the development of an encryption industry outside of the United States to the detriment

of the U.S. industry. Some witnesses noted that U.S. businesses are sometimes prohibited from selling to other countries where Japan is not, thereby disadvantaging U.S. competitiveness.

Dr. Freeman also commented that industry is a full partner in high-end computation - a uniquely American approach to science, research and development. Both IBM and Hewlett Packard were cited as key participants. Several witnesses pointed out that today's the high-performance computers are often assembled from various commercially-available components, rather than built from scratch. Freeman added that education is vital to furthering the industry: "We need trained people to develop and utilize technology, or it won't matter."

California plays a central role in supercomputing, housing four of the world's six fastest machines and directing a fifth. Within the state's borders are two IBM machines and a Linux machine at Lawrence Livermore National Laboratory, as well as another IBM machine at Lawrence Berkeley National Laboratory. In addition, the world's second fastest supercomputer (after the first-ranked machine built by NEC in Japan) is a Hewlett-Packard unit at Los Alamos National Laboratory, which is located in New Mexico but managed by the University of California. (For a complete list, see <http://www.top500.org/> .) Further, the National Science Foundation (NSF) currently supports three supercomputing centers, one of which is the San Diego Supercomputer Center at UCSD.

Fiscal year 2003 funding for so-called High-End Computing includes \$547 million for infrastructure and applications, and \$299 million for research and development. Key federal agencies include NSF at \$284 million, the DOE Office of Science (\$138 million), the Defense Advanced Research Projects Agency at DOD (\$99 million), the National Institutes of Health \$97 million), the National Aeronautics & Space Administration (\$94 million), and the National Nuclear Security Administration at DOE (\$81 million).

For further details, visit <http://www.house.gov/science/> .

SENATE COMMITTEE HOLDS SECOND HEARING REGARDING MANAGEMENT OF DEPARTMENT OF ENERGY LABS

On July 17, the Senate Committee on Energy & Natural Resources held the second in a series of oversight hearings on the management of Department of Energy laboratories. The hearing sought to help the Committee gain a better understanding of the governance of DOE laboratories. Testimony provided suggestions for improving the laboratories' abilities to achieve national goals, particularly those pertaining to nuclear stockpile stewardship. Witnesses also gave varied opinions about whether DOE laboratories should be managed by private organizations or universities.

Witnesses providing testimony included: Dr. Victor H. Reis of Hicks & Associates; Dr. William J. Spencer, Chairman Emeritus of International SEMATECH; Dr. John H. Gibbons of Resource Strategies; and Dr. William H. Schneider, Jr., President of International Planning Services, Inc. In his testimony, Dr. Reis stated that the lack of trust between DOE and its laboratories is the main cause of the management problems. In support of putting the laboratory operating contracts up for bid, he added that "competition can be used to refocus the labs on their mission, and continue to sharpen their strategic vision." Dr. Spencer suggested that the DOE weapons laboratories could be managed by private organizations, "with proper incentives and minimal government oversight," and he cited the involvement of the Bell System in the management of Sandia Labs as a successful example. Finally, Dr. Schneider described the differences between university-affiliated laboratory governance when the governing agency is the Department of Defense (DOD) as opposed to DOE. In contrasting the DOD governance of Lincoln Laboratory with the DOE governance of Los Alamos and Lawrence Livermore, he noted that very little micromanagement existed in the DOD experience.

DOE Secretary Spencer Abraham has previously announced his intention to open the Los Alamos contract for competitive bidding when the current agreement expires in 2005. Testimony is available at: <http://www.senate.gov/~energy/hearings/witnesslist.cfm?id=858>

PPIC STUDY FINDS START-UPS PLAY A CRUCIAL ROLE IN SILICON VALLEY ECONOMY

A new study released by the Public Policy Institute of California (PPIC) finds that "Silicon Valley's unique ability to reinvent itself" - particularly through the foundation and growth of start-ups - bodes well for economic expectations. Authored by Junfu Zhang, *High-Tech Start-Ups and Industry Dynamics in Silicon Valley*, examines the region's high-tech economy and reveals that almost all of Silicon Valley's job growth between 1990 and 2001

can be attributed to technology firms established after 1990. The report mentions the ability of new firms to be creative and innovative, which contributes to the dynamics of the region's business environment.

PPIC is a private operating foundation dedicated to improving public policy in California through independent, objective and non-partisan research. To view the report, visit <http://www.ppic.org>.

NEW FTC REPORT REPUDIATES DANGERS OF E-COMMERCE WINE PURCHASING

A new report by the Federal Trade Commission finds e-commerce bans enforced by states on the import of wine products from states such as California cost consumers as much as a fifth in extra purchasing costs. State bans on direct shipping were also stipulated to have a negligible effect on the internet sale of wine to minors.

The report entitled "Possible Anti-competitive Barriers to E-commerce: Wine" concludes state bans on shipping purchases raise wine prices by up to 21 percent for certain wine products and limit the selections available to wine market consumers. Furthermore, the report finds that of twelve states not enforcing outright bans on e-commerce purchases, abuse by minors was being successfully controlled through less restrictive policies, such as age and signature verification prior to delivery of goods.

Over half the states impose bans on interstate direct shipping of wine through e-commerce. With wine being a top California export, the result has meant millions of dollars in foregone revenue for California vintners, according to the California Wine Institute. In response to the report's publication, the Wine Institute, an umbrella organization of 645 California wineries, commended the FTC's findings and reiterated its opposition to the shipment bans, labeling them as "anti-competitive and discriminatory."

Although states have the right to impose restrictions on the import of wine and alcohol under the 21st Constitutional Amendment, Congress also passed an enforcement act three years ago granting states the authority to pursue federal penalties against wineries responsible for direct interstate wine shipments.

To receive more information or to obtain a copy of the report visit <http://www.ftc.gov> .

DESALINATION BRIEFING FOCUSES ON FEDERAL GOVERNMENT'S ROLE

On Friday, July 11, 2003, the U.S. Desalination Coalition held a luncheon briefing on recent improvements in desalination technology, existing and planned desalination projects throughout the country, and the opportunity for the Federal government to play a role in expanding the development of desalination projects. The Coalition is a group of municipal water agencies whose mission is to encourage the development of seawater and brackish groundwater desalination projects, and to raise the visibility of desalination at the federal level as an option in meeting the future demand for clean and reliable water. The membership includes the Los Angeles Department of Water and Power, the Metropolitan Water District of Southern California, the Municipal Water District of Orange County, the San Diego County Water Authority, the West Basin Municipal Water District (Los Angeles), and the American Water Company - Western Region. Several Florida water agencies are also members.

Mr. Bernie Rhinerson, Chairman of the U.S. Desalination Coalition, briefed the luncheon attendees on desalination efforts throughout the country. Mr. Rhinerson urged the federal government to recognize that desalination may be a solution to water shortages, particularly because the costs associated with desalination have fallen dramatically in recent years. He said that the Coalition is seeking anywhere from \$2 to \$2.40 per 1,000 gallons of desalinated water in federal funding. Mr. Rhinerson added that desalination projects are especially important and cost effective in states like California with severe water problems, and announced plans for opening desalination plants in Los Angeles, San Diego, and Monterey.

For more information about U.S. Desalination Coalition, visit <http://www.usdesal.org> .