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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 a computer server donation from Sun Microsystems.

SECURITIES LITIGATION ADVANCES IN HOUSE

On Wednesday, the House Commerce Committee's Finance and Hazardous Materials Subcommittee reported out, by a vote of 21-4, H.R. 1689, the Securities Litigation Uniform Standards Act of 1997. The bill, aimed at closing a loophole in the 1995 securities litigation reform law, requires plaintiffs to bring class-action securities fraud lawsuits concerning nationally traded securities in federal court. Since the enactment of the 1995 Act, plaintiffs' lawyers have begun to get around the stricter standards of the new law by bringing suit in state courts, which generally have looser pleading standards and discovery rules.

Prior to reporting the bill, the subcommittee, by voice vote, adopted a substitute offered by Chairman Michael Oxley (OH), which brings the bill in line with the version passed by the Senate on May 13. *See Bulletin, Vol. 5, No. 17 (5/14/98)*. The Securities and Exchange Commission supports the Senate passed bill. The subcommittee also defeated two amendments offered by Rep. Edward Markey (MA). One would have extended the statute of limitations under the federal law to three years from discovery, or five years from the occurrence of the fraud. The bill calls for a three year statute of limitations. The second Markey amendment would have extended liability to aiders and abettors of securities fraud. The first amendment was defeated by a vote of 6-20; the second amendment went down by voice vote.

The full Commerce Committee is scheduled to mark up the bill on June 24.

BAY-DELTA FUNDING CUT IN HOUSE APPROPRIATIONS SUBCOMMITTEE

The House Energy and Water Subcommittee cut its funding for the Bay-Delta restoration project to \$75 million, during its markup of FY99 funding on Wednesday. Last year, the subcommittee appropriated \$120 million -- \$45 million more than this year. The Senate Appropriations Committee moved last week to fund the Bay-Delta project at \$65 million -- a \$15 million increase over its funding last year. *See Bulletin, Vol. 5, No. 19 (June 4, 1998)*. After conference last year, Bay-Delta ended up getting \$85 million in FY98 funding.

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Overall the Subcommittee approved a \$20.6 billion bill for FY99, including almost \$4 billion for the Army Corps of Engineers for flood-control levees, dams, and beach erosion repairs.

The full House Appropriations Committee is scheduled to mark up the Energy and Water funding on June 17, and is expected to retain the \$75 million level. Supporters of the restoration project will fight to retain at least the House funding level during conference.

FUSION APPROPRIATIONS SET; NIF FUNDED FULLY; ITER FUNDING HALTED

The House Energy and Water Subcommittee of Appropriations completed its markup of its FY 1999 spending bill on Wednesday and provided \$232 million for the Fusion Energy Sciences program, a level identical to the Senate figure and a \$3.84 million increase over the President's budget request. The report expressed support for the increased emphasis on innovative approaches. The \$232 million level is roughly 40% below fusion spending in FY 1995. California receives a large portion of federal fusion expenditures.

Both the House and Senate bills would fund the National Ignition Facility, which is under construction at Lawrence Livermore National Laboratory and which will help maintain science expertise required for the stewardship of the nation's nuclear stockpile, and which could ultimately prove useful in commercial applications. The Senate report proposes the full \$284 million for NIF construction, and notes that NIF "remains on schedule and within the projected construction cost of \$1.46 billion", adding that "the committee is pleased with the management and oversight attention provided by LLNL on the project." Related to NIF is the \$213.8 billion for inertial confinement fusion (ICF) operating expenses specified in the Senate bill.

Report language from both subcommittees halt funding for ITER, the International Thermonuclear Experimental Reactor program, which had been a joint project of the United States, the former Soviet Union, Europe and Japan. The initial phases of ITER research were headquartered in San Diego. The House subcommittee's language urges that funding for closeout of the program come from prior year budgets, not from FY 1999 accounts.

Both bills also seek savings by requiring the decommissioning of the New Jersey-based Tokamak Fusion Test Reactor (TFTR), which was canceled in 1997 but remains at present under DOE caretaking. The House report also explicitly supports advances in ICF-related work "including heavy-ion drivers, high gain target concepts, and reactor concepts."

SENATE'S VA/HUD FY99 SPENDING PLAN ADVANCES

The Senate Appropriations Committee finished work on its spending plan for the Department of Veterans Affairs, Housing and Urban Development, and 17 independent agencies, which includes, among others, the National Science Foundation (NSF), Environmental Protection Agency (EPA), National Aeronautics and Space Administration (NASA), and the Federal Emergency Management Agency (FEMA).

With a 5.3% increase over FY98 spending levels, the plan will spend a total of \$93.3 billion for FY99, providing almost \$70 billion in discretionary budget authority in addition to the \$23.3 billion in mandatory spending. The plan is about \$750 million more than the President's FY99 request, with the increased spending reportedly targeted for veteran's health care and elderly housing programs. The bill provides \$9.54 billion for expiring section 8 contracts.

The spending plan also includes an increase in the FHA loan limit range to \$109,000 to \$197,000. Current law limits mortgages insured by the Federal Housing Administration to a maximum of \$170,363 in high-cost areas. In California, 23 of the 58 counties are already at that maximum FHA loan limit level. President Clinton had requested eliminating the current variable range and raising all areas to an FHA loan limit of \$227,150. Last week, the Senate Banking, Housing and Urban Affairs Subcommittee on Housing Opportunity and Community Development discussed an increase in the FHA loan limit. *See Bulletin, Vol. 5, No.15, (June 4, 1998).*

The spending plan funds EPA at a little over \$7.4 billion, NASA at \$13.615 billion, NSF at a modestly higher \$3.644 billion, and FEMA at \$1.354 billion (including \$864 million for disaster relief). NASA's budget, while \$150 million more than the President's FY99 budget request, would roughly equal the agency's FY98 budget, although there are concerns that the space station may cost more than anticipated. In its drafting of the

plan, the Subcommittee creates new accounts for the space station program to increase accountability of expenditures. Within NASA, the plan funds the space station at \$2.3 billion; launch vehicles & payload operation at \$3.24 billion; science and technology at \$4.26 billion; aeronautics, space transportation & technology at \$1.3 billion; and mission support at \$2.48 billion.

Under the plan, the Committee flat funds the Corporation for National and Community Service at \$425.5 million, rejecting the President's request for a \$73.8 million increase for FY99, though also not eliminating the program as has also been proposed.

The House VA-HUD Appropriations Subcommittee has tentatively scheduled mark-up of its spending plan for June 18th. For a more detailed breakdown of the Senate bill, visit the Committee's web site at: <http://www.senate.gov/~appropriations/99va2.htm>.

AGRICULTURE APPROPRIATIONS BEGINS JOURNEY IN SENATE & HOUSE

The Senate Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies approved \$56.8 billion for FY99, a \$7 billion increase over FY98's \$49.75 billion. On the other side of Capitol Hill, the House Agriculture Appropriations Subcommittee also approved its own \$58.3 billion spending plan this week.

In FY98, Congress approved \$13.75 billion in discretionary spending. In February, President Clinton requested \$13.68 billion in discretionary spending for FY99. The Senate measure would provide \$13.675 in discretionary spending; the House Subcommittee set discretionary spending at \$13.59 billion.

In addition to support agriculture related programs, the agriculture appropriations measures fund domestic food programs and child nutrition programs. Although no major changes are being proposed, both the child nutrition and WIC programs are also being considered for reauthorization this year. Both the House and Senate measures appear to fund the President's FY99 request for about \$9.2 billion for child nutrition programs and almost \$4 billion for the Women, Infants, and Children (WIC) program.

For more detailed information on the spending breakdowns in the Senate and House proposals, please visit the Senate Appropriations Committee web site at: <http://www.senate.gov/~appropriations/ag99.htm> and the House Appropriations web site at: <http://www.house.gov/appropriations/pr99agsu.html>

PRESIDENT SIGNS TEA-21; CORRECTIONS BILL STILL IN SENATE

On Tuesday, President Clinton signed legislation to renew the nation's surface transportation laws. TEA-21 authorizes about \$217 billion in total spending over the next six years. Although a follow-up corrections measure (H.R. 3978) passed the House last week, Senator Jay Rockefeller (WV) wants to amend the legislation to prevent a cut in veteran's benefits, which serves as the major offset to the bill's increased transportation spending. Among other technical corrections, the fix-it measure would restore provisions to reduce drunk driving which were accidentally omitted from TEA-21.

The House and Senate Transportation Appropriations Subcommittees have scheduled tentative mark-ups of their spending measures after the Fourth of July recess. Although TEA-21 guarantees about \$198 billion over six years in spending for highways and transit under new budget rules.

California's precise share of the TEA-21 funds is impossible to determine because of the future allocation of discretionary funds by the Secretary of Transportation. However, preliminary estimates by Caltrans predict California will receive back in federal transportation dollars about the same as the state's contributions in federal gas taxes (\$20 billion). For more information on California's share of the TEA-21 funds, and a list of California highway and transit projects in TEA-21, visit the California Institute website at: <http://www.calinst.org/pubs/tea21fact.htm>. For a summary of TEA-21 and authorization tables, please visit the Federal Highway Administration's web site at: <http://www.fhwa.dot.gov>.

HOUSE BILL TIGHTENS BANKRUPTCY RULES

On Wednesday, the House passed legislation making it more difficult for consumers to escape mounting debt through bankruptcy. The bankruptcy option was used a record 1.4 million times last year in the

U.S. California saw 210,000 filings in the 12 month period ending March 31, or nearly 15% of the nation's total filings.

The House bill, sponsored by Rep. George Gekas (PA) and passed 306 to 118, represents the largest overhaul of the U.S. bankruptcy code in 20 years and would grant relief to consumers only on an as-needed basis. Debtors contemplating bankruptcy would be subject to a test to determine how much relief was required and would be required to repay what they could.

Of particular significance to California is a provision to require filers with income above the median national family income level, about \$50,000 a family of four, to be subject to means-testing, requiring payment of debts if adequate discretionary income is available. California's median income is roughly 10% above the national average, but living costs are also above national averages.

Individuals would be prohibited from hiding assets in their home properties, with conversion to home assets within a year of filing bankruptcy excluded from protection (many states shelter homes from creditors in bankruptcy proceedings).

The Clinton Administration has expressed strong opposition to the measure.

For the latest state-by-state bankruptcy filings, see the U.S. Administrative Courts' website at: http://www.uscourts.gov/Press_Releases/bk398.pdf. (This is a 308K file in adobe acrobat .pdf format.) For California county-level comparisons of median household income for reference purposes, see the California Institute website at: <http://www.calinst.org/pubs/Saipe-calif.htm>.

LEGISLATORS MEET WITH INDUSTRY, GOVERNMENT REPRESENTATIVES ON ENCRYPTION

Senator Dianne Feinstein and Rep. Zoe Lofgren (San Jose) held separate meetings this week in an attempt to revitalize the effort to relax export controls on encryption software. Sen. Feinstein called a meeting for June 9 attended by high technology CEOs and government representatives, including Attorney General Janet Reno and FBI Director Louis Freeh. Among the CEOs were: Scott McNealy of Sun Microsystems, Bill Gates of Microsoft, and Jim Barksdale of Netscape. The purpose of the meeting was "to facilitate a meaningful and frank discussion" of the issue, according to Feinstein. After the meeting, the Administration indicated it may take some steps to loosen controls, but it would not say how far it would go.

Rep. Lofgren, along with a bipartisan group of other members involved in the issue, met with several of the high-tech CEOs the next day. After the meeting, the legislators urged the Administration to make a decision quickly on relaxing export controls on encryption, and stated that both the House and Senate are ready to move a bill this year. Rep. Lofgren reiterated that the Administration's continued restrictions on encryption exports will lead to a "loss of jobs with no increase in security."

HOUSE TELCOM SUBCOMMITTEE HOLDS COPYRIGHT HEARING

The House Commerce Committee's Telecommunications, Trade, and Consumer Protection Subcommittee held a hearing last Friday on H.R. 2281, the WIPO Copyright Treaties Implementation Act. In opening remarks, several members of the subcommittee, including both the Chairman of the full Committee, Thomas Bliley (VA), and its ranking member, John Dingell (MI), expressed their intention to ensure that the doctrine of fair use is fully protected in the bill to alleviate the concerns of universities and libraries.

The subcommittee heard from several witnesses representing the information technology industry, copyright holders, and libraries. Chris Byrne of Silicon Graphics, Inc. testified on behalf of the Information Technology Industry Council ("ITI"). Although ITI supports the bill, Mr. Byrne offered a few suggestions on improving it, and bringing it more closely in line with the Senate-passed bill, S. 2037. *See Bulletin, Vol. 5, No. 17 (May 14, 1998)*. He proposed that the bill contain language like that in the Senate bill clarifying that there is no mandate on a manufacturer of legitimate computer equipment and electronics to respond to each and every specified technological protection measure created to protect copyrighted materials. He also suggested that the bill include a more narrow definition of the copyright circumvention devices that are prohibited, to ensure that multi-use devices and software which are widely used for legitimate, non-infringing purposes are not inadvertently prohibited.

Prof. Robert Oakley, Director of the Georgetown University Law Center Library, testifying on behalf of the American Association of Law Libraries and other library organizations, also argued that the anti-circumvention provision should be amended. He stated that by mandating without limitation that technological protection measures that block access cannot be circumvented, the bill may preclude libraries from allowing patrons to access lawfully obtained digital works that contain such protections. He proposed that the bill be amended to prohibit circumvention only for the purpose of facilitating or engaging in infringement.

On the other hand, Steven Metalitz, testifying on behalf of the Motion Picture Association of America, argued that the anti-circumvention language in the bill is sufficiently narrow. He stated that further amendments to the provision would risk the enactment of language that did not meet the requirement in the WIPO treaty for "adequate legal protections and effective legal remedies" against trafficking in circumvention software and products.

HOUSE K-12 EDUCATION SUBCOMMITTEE EXAMINES HEAD START

The Subcommittee on Early Childhood, Youth, and Families met this week to discuss the renewal of the expiring Head Start program. According to the General Accounting Office (GAO), Head Start's "ultimate goal . . . is to improve the social competence of children in low-income families." Administered by the Department of Health and Human Services (DHHS), the size of a Head Start grant is based on a complex formula that incorporates the state's share of kids under age 6 and families with incomes below the state poverty line.

Over thirty years old, Tuesday's hearing focused on how well the Head Start program meets today's families' needs and what information is available to measure Head Start's success, particularly at the local level. Rep. Loretta Sanchez (Garden Grove), a 1965 graduate of the Head Start program, testified before the Subcommittee that her participation in the program changed her life. She urged continuation of the program's current structure and spoke against incorporating vouchers, English fluency, and paternity tests into the program. Rep. John Mica (FL), also testified and praised the overall success of the Head Start program, but passionately described the problems created by too much administrative overhead and low-paid, poorly trained teachers in his local program and other small service area programs. He said he believed Head Start had strayed from its original mission, becoming a minority grouping and minority employment program. He suggested vouchers, block grants, and chartering of Head Start programs as possible alternatives.

Representatives from two of California's Head Start programs also testified before the Subcommittee. Ms. Jackie O'Connor Dollar, Director of the Napa-Solano Head Start, described Napa-Solano's successful expansion from a local to a regional program and its effective collaborations with both public and private organizations. Ms. Yolie Flores Aguilar, President of the largest Head Start program in the country, run by the Los Angeles County Office of Education, recommended requiring programs to offer family literacy services and expanding Head Start to younger children. Both Ms. Dollar and Aguilar said that to reach a goal of providing full-day, full-year Head Start services for all children, changes should be made to encourage more collaborative public-private partnerships and to maximize local control.

Both also recommended expanded access to Head Start for those trying to move from welfare-to-work, and increased program monitoring and performance measures. In 1997 about 38% of Head Start families were in need of full-day, full-year child care services, but only about 44% of that number received those services, according to the GAO's written testimony. At the hearing, the GAO said a lack of information on program performance, especially at the local level, made it difficult to determine if the program is meeting families' needs.

For copies of the written testimony, please contact the Subcommittee at 202/225-6558 or watch the House Education and Workforce Committee web site at <http://www.house.gov/eo> for posting.

RENEWAL OF THE COMMUNITY SERVICES BLOCK GRANT ALSO CONSIDERED

Last Friday, the Subcommittee on Early Childhood, Youth, and Families of the House Committee on Education and the Workforce discussed renewal of the Community Services Block Grant (CSBG) program.

According to the Subcommittee, the CSBG provides federal funds to states and local agencies for activities designed to have "a measurable and potentially major impact on causes of poverty."

CSBG funded programs serve 11.5 million people, in 96% of the 3,200 counties nationwide. California received about 9% of the total, or \$43 million in CSBG funds for FY97.

Funds for CSBG are allocated according to each state's share of funds in 1981 -- a method which shortchanges growing states such as California, which has increased from just over 10% of the nation's population in 1980 to just over 12% today.

Subcommittee Chairman Frank Riggs (Windsor) said he wants to focus on three themes in reauthorizing the CSBG: strengthening local program control, requiring reporting on program funding and performance, and encouraging greater community and monetary participation through public-private partnerships with CSBG funded agencies. Subcommittee Ranking Member Rep. Matthew Martinez (Monterey Park) said he wants to focus on improving literacy programs and allowing local agencies to keep unspent funds at the local level.

Mr. Michael Micciche, Director of the California Department of Community Services and Development, testified on behalf of Governor Wilson and the National Association for State Community Services Programs (NASCSPP) in support of the current CSBG program. On NASCSPP's behalf, he recommends Congress continue to allow local flexibility to tailor programs to meet local needs.

Mr. Lloyd Throne, Director of the Redwood Community Action Agency, also testified at the hearing on his community's success in attracting private dollars in addition to his CSBG funding. In 1980, the Redwood CAA was incorporated using \$160,000 in CSBG money. This year the agency's budget is \$11 million. Although its CSBG funding is at roughly the same level, \$178,000, it now accounts for less than 2% of the agency's budget. Nationwide, \$4 in private funds are raised for every one CSBG dollar. In addition to enhancing public-private collaboration, Mr. Throne also suggested better coordination between federal and state reporting requirements.

Last month, the Senate Committee on Labor and Human Resources also held a hearing to discuss the CSBG reauthorization. Watch for both House and Senate action on legislation later in the summer. If you would like a copy of the written testimony, please contact the Subcommittee at 202/225-2427(check) or watch the Committee's website at <http://www.house.gov/eo>.

METHYL BROMIDE PHASE-OUT FOCUS OF AGRICULTURE SUBCOMMITTEE

According to the U.S. Environmental Protection Agency, methyl bromide is "one of the most commonly used pesticides in the United States" for "soil fumigation, postharvest treatment of perishables and nonperishables at storage facilities, and quarantine purposes." However, the EPA regulates methyl bromide for its toxic effects on public health and ozone depletion potential.

Under the Montreal Protocol, an international agreement to phase out ozone depleting substances, methyl bromide is scheduled for international phase out in industrialized countries by 2005 and developing countries by 2015. However, the Clean Air Act, the U.S. law that governs ozone depleting substances, requires discontinued use of the chemical by 2001. In addition to a longer timetable for phase out, the Montreal Protocol also provides exemptions for quarantine and emergency uses of methyl bromide. According to USDA, the Clean Air Act does not provide similar exemptions.

The Subcommittee on Forestry, Conservation, and Research of the House Agriculture Committee met Wednesday to discuss the approaching 2001 deadline. Subcommittee discussion focused on the discrepancies between international and U.S. regulation of methyl bromide, and the availability, efficacy, and cost of alternatives to the chemical.

Reps. Bill Thomas (Bakersfield) and Wally Herger (Marysville) both testified before the Subcommittee that a planned 2001 U.S. ban on the use of methyl bromide would cause significant crop and job losses, as well hurt U.S. grower's competitiveness in world markets, if effective alternatives are not found. Also testifying before the subcommittee, Rep. Dan Miller (FL) urged phase out of the use of methyl bromide on the Montreal Protocol schedule. Rep. Miller's bill, H.R. 2609, would not allow U.S. phase out of the chemical until 2015,

unless viable alternatives are found. Sixteen Californians are co-sponsoring the bi-partisan bill, which is jointly referred to the Committees on Commerce and Agriculture.

At the hearing, the Administration said it is willing to support "targeted legislative change to the U.S. Clean Air Act as the 2001 phaseout date approaches" if contained in a bi-partisan measure that complies with the Montreal Protocol. Research has not found a single replacement for methyl bromide, according to the testimony of the representatives from EPA and USDA. USDA's Kevin Pitts reported "that much more work is still needed to develop effective alternatives by the January 1, 2001 phaseout date for methyl bromide." He said there are some alternative chemicals available, but they must be combined with others for maximum effectiveness and most only have limited regional use.

Used primarily as a soil fumigant, methyl bromide allows intensive production of the high value crops which account for a large segment of California's agriculture production. USDA said preliminary estimates place the phase out cost between \$600 million and \$1 billion, depending on the effectiveness of methyl bromide alternatives. In 1995, California led the nation in agriculture exports valued at \$11.72 billion.

Finally, Mr. David Riggs, President of the California Strawberry Commission and representing the Crop Protection Association before the Subcommittee, submitted with his written testimony research and analysis on methyl bromide alternatives. His testimony echoed the need for a level playing field for American growers in the world agriculture markets, including looking beyond the Clean Air Act and Montreal Protocol regulations. A number of environmental groups oppose use of the chemical.

For details, contact the Subcommittee at 202/225-2171 or watch the House Committee on Agriculture's web site for posting at: <http://www.house.gov/agriculture>.

CENSUS CASE BEGINS WITH ORAL ARGUMENTS

Oral arguments began today in an unusual case, destined for the U.S. Supreme Court, over whether to use sampling techniques to complete the 2000 census. A three-judge panel, comprised of one appeals judge and two district judges, was used to facilitate the movement of the case to the high court for final ruling. The case will also test whether the Congressional leadership may bring a lawsuit against the Administration. The Clinton Administration's Census Bureau intends to use sampling techniques to complete the 2000 census in order to minimize undercounting. In 1990, the census missed 4 million U.S. residents, 834,000 of whom were in California. The figures influence federal formula calculations as well as voting district apportionment. The court has given no indication of when they may rule in the case.

CALIFORNIA COMPANIES AND LABS TO PARTICIPATE IN COALITION OF PLASMA SCIENCE RECEPTION

Plasmas are gases in a special ionized state and comprise over 99% of the visible universe. To learn more about the scientific, commercial, and practical applications of plasma, attend the Coalition for Plasma Science's reception on Wednesday, June 17 from 4:30 to 7:30 p.m. in the Rayburn House Office Building Foyer. The event will feature hands-on demonstrations and displays by Coalition members, including representatives from the Lawrence Berkeley and Lawrence Livermore National Laboratories, UCLA Institute of Plasma and Fusion Research, as well as California companies. Please direct RSVPs to 202/789-1828.