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# California Capitol Hill Bulletin

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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.*

## **HOUSE COMMERCE MARKS UP COPYRIGHT LEGISLATION**

The House Commerce Committee reported out H.R. 2281 last Friday, by a vote of 41-0, after accepting bipartisan compromise amendments addressing legitimate encryption research and fair use. H.R. 2281 implements the two WIPO copyright treaties signed by the United States and provides limited liability for on-line service providers when third parties post unauthorized copyrighted material on the Internet.

The fair use amendment deletes the provision in the bill prohibiting the use of any device primarily designed to circumvent technological protection measures (TPM). Instead, two years after enactment of the bill, the Department of Commerce will determine if any class of users has been, or is likely to be, negatively impacted by the anti-circumvention provision, and if so, exempt that class from the provision for two years. Every two years, the Department will again review the impact of the provision and provide new exemptions or extensions as appropriate. The amendment passed by voice vote.

The encryption research provision, also passed by voice vote, exempts legitimate cryptographers from the provision prohibiting the use of encryption to circumvent anti-copyrighting devices, and requires the Department of Commerce to report to the Committee on the implementation and impact of the amendment. Rep. Billy Tauzin (LA), who offered the amendment, indicated that there are only about 50 cryptographers in the United States engaged in encryption research.

Rep. Ed Markey (MA) was successful in including an amendment, accepted by voice vote, to deal with privacy concerns, when so-called "cookies" are attached to a consumer's computer system to record information on that person's particular Internet use habits. Under the Markey amendment, if the copyright holder conspicuously discloses to the consumer the data it is collecting, or its intention to collect data, and offers the consumer the

## **CONTENTS:**

House Commerce Marks Up Copyright . . . . .	<a href="#">1</a>
Omnibus Trade Bill Includes Fast Track . . . . .	<a href="#">2</a>
Securities Litigation Passes House . . . . .	<a href="#">2</a>
House Extends China Normal Trade Relations	<a href="#">2</a>
Senate Passes Commerce, Justice Funding Bill; Includes Ag Guestworker, SCAAP . . . . .	<a href="#">3</a>
Panel Examines Border Visa Tech; Senate Joins House in Loosening Requirements . . . . .	<a href="#">3</a>
House Passes Border Smog Reduction Act . . . . .	<a href="#">4</a>
Reps. Dreier And Cox Introduce Y2K Liability and Antitrust Bill . . . . .	<a href="#">4</a>
Members Urge Internet Tax Moratorium Bill	<a href="#">4</a>
Boxer Hosts East-West Technology Forum . . . . .	<a href="#">5</a>
Encryption Ad Campaign Launched . . . . .	<a href="#">5</a>
California Receives Welfare to Work Grants . . . . .	<a href="#">5</a>
House Passes Reauthorizes WIC Program . . . . .	<a href="#">6</a>
House Resolution on Affordable Housing . . . . .	<a href="#">7</a>
Nuclear Fuel Rods Cross State . . . . .	<a href="#">7</a>
House Transportation Appropriations Bill . . . . .	<a href="#">7</a>

right to prevent the data collection, then the consumer may not circumvent any technological protection measure included in the cookie.

The Judiciary Committee had primary jurisdiction over the bill and reported a version significantly different from the Commerce Committee, so the Rules Committee will have to determine how the differences between the two will be handled when the bill comes to the floor.

## **SENATE FINANCE MARKS UP OMNIBUS TRADE BILL INCLUDING FAST TRACK AUTHORITY**

On Tuesday, the Senate Finance Committee overwhelmingly approved the Trade and Tariff Act of 1998 by a vote of 11-1. The omnibus trade bill includes fast-track trading authority for the President as well as authorization of trade preferences for Africa and the Caribbean Basin. The Chairman's mark was offered as a substitute for H.R. 1432, the African Growth and Opportunity Act.

The most notable provision in the bill is the inclusion of the Reciprocal Trade Agreements Act known as "fast track" trade negotiating authority. This legislation establishes an expedited procedure that allows the President to send trade agreements to Congress for an up or down vote, and no opportunity to amend the agreement. Chairman William Roth (DE) included the following two changes to the fast-track language based on floor amendments from last fall: (1) to establish a mechanism to monitor unfair trade practices and market exclusionary practices by other countries with respect to U.S. agricultural exports; and (2) to require that the International Trade Commission initiate a study of individual trade agreements at the time they are initiated by the President, thereby providing a resource for Congress when analyzing the agreement.

The omnibus bill also includes the text of a Senate bill (S. 1216) to implement an international shipbuilding agreement, and extends through 2000 the Trade Adjustment Assistance program, which provides training to workers in industries where jobs are lost as a result of trade agreements.

Senate Majority Leader Trent Lott (MS) said the legislation could be considered on the Senate floor in September. House Speaker Newt Gingrich (GA) promised last month that the House will consider fast-track legislation this fall but indicated he would prefer the Senate to act first.

For more information check out the Committee's website at <http://www.senate.gov/~finance/>.

## **SECURITIES LITIGATION PASSES HOUSE**

The House on Wednesday overwhelmingly passed, by a vote of 340-83, H.R. 1689, the Securities Litigation Uniform Standards Act. The bill will close a loophole in the 1995 securities litigation reform law by requiring plaintiffs to bring class-action securities fraud lawsuits concerning nationally traded securities in federal court. See, [Bulletin, Vol. 5, No. 22 \(6/25/98\)](#). Since the enactment of the 1995 Act, plaintiffs' lawyers have evaded the stricter standards of the new law by bringing suit in state courts, which generally have looser pleading standards and discovery rules.

Although H.R. 1689 is very close to the version passed in the Senate (S. 1260) on May 13, ([see Bulletin, Vol. 5, No. 17 \(5/14/98\)](#)), a conference committee would be needed to iron out some details. Therefore, after passing H.R. 1689, the House called up the Senate bill and amended it with the House-passed bill. S. 1260 will now go back to the Senate, in the hope that it will be passed as amended by the House, and sent it directly to the President for signature.

The bill was introduced by Reps. Anna Eshoo (Atherton) and Rick White (WA) and co-sponsored by over half of the California congressional delegation.

## **HOUSE EXTENDS NORMAL TRADE RELATIONS FOR CHINA**

The House on Wednesday rejected a resolution that would have denied normal trade relations (NTR) to China. Previously known as most-favored nation (MFN) status, the President's signature on the IRS reform bill on Wednesday formally changed the trade phrase to normal trade relations. NTR grants China the same

low, non-discriminatory tariff rates that are enjoyed by the vast majority of U.S. trading partners. Only seven rogue countries are denied NTR currently.

The vote of 166-264 was not as close as some had thought it might be, given the recent allegations of China's involvement in the elections and its improper acquisition of sensitive missile technology. Opponents of extending NTR raised those arguments, as well as the continuing call to punish China for its deplorable human rights and labor standards record. Proponents, nevertheless, insisted that continuing "constructive engagement" with China was even more important at this time, because of the Asian financial crisis, and the tensions between India and Pakistan.

## **SENATE PASSES COMMERCE, JUSTICE, STATE FUNDING BILL; INCLUDES AG GUESTWORKER PROGRAM, SCAAP FUNDING**

The Senate today passed the \$33.2 billion funding bill for the Departments of Commerce, Justice, State, and other agencies by a vote of 99-0. Prior to final approval the Senate approved an amendment to the bill, by a vote of 68-31, broadening the H-2A agricultural guestworker program, which allows legal migrant farm workers to enter the U.S. on a temporary basis. Under the amendment, employers would have to pay the migrants the minimum wage, or the prevailing wage rate for the area, whichever is higher. The growers would also pay a user fee of 8.3 percent of a laborer's salary into a federal fund to administer the program and provide better housing for the migrants.

Although the amendment contains no cap on the number of workers allowed into the states, Sen. Dianne Feinstein was successful in adding language that gives the Department of Labor discretionary authority to place a cap on the H-2A visa petitions from farmworker associations, such as the National Farm Bureau.

The bill also strikes section 110 of the 1996 immigration reform act, which would have required INS to have in place by this October a technological system at the border that would monitor border crossings (*see below article*).

The Senate funding bill also includes \$500 million for the State Criminal Alien Assistance Program (SCAAP) to partially reimburse the states for the costs of incarcerating illegal criminal aliens. The House bill contains \$585 million, the same amount that was appropriated last year.

## **HOUSE JUDICIARY PANEL EXAMINES BORDER VISA TECHNOLOGY DEVELOPMENT AS SENATE JOINS HOUSE IN LOOSENING IMPLEMENTATION REQUIREMENTS**

On Thursday, the House Judiciary Subcommittee on Immigration held a hearing on the technologies being used to implement Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which requires that the Immigration and Naturalization Service (INS) have in place an automated system for tracking the entry and exit at U.S. borders by October 1, 1998. A number of elected officials organizations and organizations have expressed concern that an inadequately-tested automated system could cause debilitating delays at border crossings.

As mentioned in the above article, the Senate on Thursday voted to repeal the section 110 requirement. Last November, the House voted to put off the implementation deadline by one year, and added a provision that commerce should not be impeded by implementation of the new program. Rather than postpone, the Senate moved today to repeal the provision altogether via an amendment to the Commerce, Justice, State appropriations bill, which now moves to conference.

The INS has been experimenting with a number of automated techniques, including smartpasses, hand scans, remote video, and other methods. These trials are still underway, however, and a Gannett story recently quoted an INS official saying that even a feasibility study is not expected until 1999. Canadian border legislators have particularly vocal in their criticism of the new requirements, and the Administration has also expressed its opposition. Business advocates in the San Diego area cited the \$2.8 billion per year spent by Mexican visitors in that region and expressed concern that long waits could be stifling, and added that exports to Mexico could also suffer from slowed commercial transport.

## **HOUSE PASSES BORDER SMOG REDUCTION ACT**

On Monday, the House passed by voice vote H.R. 8, the Border Smog Reduction Act. Sponsored by Brian Bilbray (Coronado) the bill would amend the Clean Air Act to deny entry into the United States of certain foreign vehicles that do not comply with state laws governing motor vehicle emissions.

The bill would allow Customs officials to eventually turn commuter vehicles away at the San Diego border if they do not meet, after a six month grace period and two warnings, California's stringent air quality requirements. Bilbray commented that "H.R. 8 is a modest but effective way to help improve both our air quality and the environment."

In an effort to ensure that H.R. 8 does not create a federal mandate for states, the text of the bill allows for as much flexibility as possible. Initially, the bill will only be applicable to California and eligible border states can "opt in" later to the California program. Also, if a state decides to opt in, it will have the choice of adopting the California model or developing an alternative program in conjunction with the federal government.

Currently, California law requires that foreign vehicles entering the state daily meet California vehicle standards, but the law is not enforced because federal agents at the border lack the authority to enforce state law. H.R. 8 would provide such authority by allowing federal officials to deny entry of high polluting vehicles. The bill would not impact vehicles properly registered in the state, nor residents of Mexico or tourists. H.R. 8 is aimed exclusively at "gross-polluting" commuter vehicles, driven by individuals who legally enter the United States on a continuous basis for education or employment purposes.

For more information refer to Congressman Bilbray's web site: <http://www.house.gov/bilbray/> and refer to H.R. 8.

## **REPS. DREIER AND COX INTRODUCE Y2K LIABILITY AND ANTITRUST BILL**

Reps. David Dreier (San Dimas) and Chris Cox (Huntington Beach) last week introduced H.R. 4240, the Y2K Liability and Anti-Trust Reform Act, to provide incentives for U.S. companies to fix computer problems related to the transition to the Year 2000 (Y2K). The bill limits damages related to Y2K-related failures to actual business losses, if the particular company has met certain targets for avoiding problems. First, computer companies are required to make Y2K fixes available to customers for their non-Y2K compatible hardware and software. Those fixes must be available cost-free for products sold after December 31, 1994. Companies that use computers can gain similar liability protection if they make all reasonable efforts to fix the Y2K problems in their systems, run a test by July 1, 1999, and notify all customers and the President's Y2K Commission of the prospects for their own Y2K failures by August 1, 1999. The bill also includes an anti-trust exemption for the period beginning on the date of enactment and running through December 31, 2001. Under the exemption anti-trust law will not apply to any agreement among parties designed to respond to computer date failures or mitigate the impact of such failures on the public.

Members' offices wishing to co-sponsor the bill should contact Brian Faughnan at x52305.

## **MEMBERS URGE SENATE TO TAKE UP INTERNET TAX MORATORIUM BILL**

The 23 members of the California Republican delegation have sent a letter to Senate Majority Leader Trent Lott urging "swift action" on the Internet Tax Freedom Act. The legislation H.R. 4105 in the House and S. 442 in the Senate, would place a moratorium on the collection of taxes by state and local governments on access charges to the Internet. The House passed its bill, sponsored by Rep. Chris Cox (Huntington Beach), on June 23 by voice vote.

The letter notes the particular importance of this legislation to California because its current economic boom and future competitiveness are so closely linked to the state's high technology industry. Without the legislation, the letter goes on, continued success and growth may be vulnerable to inconsistent and burdensome Internet tax and regulatory policies.

The House-passed bill, which calls for a three year moratorium and specifically excludes sales taxes, represents a compromise negotiated with state and local authorities. The Senate bill would extend the moratorium to six years, and also contains other provisions opposed by state and local officials.

### **BOXER HOSTS ANNUAL EAST-WEST TECHNOLOGY FORUM**

On Wednesday, Sen. Barbara Boxer hosted the annual East-West Initiative, which brings business leaders from five states together with federal government policymakers to build cooperation and understanding and to bolster economic growth and generate new jobs in those states. In addition to California, over 100 business leaders from Massachusetts, North Carolina, Washington, and Utah took part in the half-day forum. The event was co-hosted by Sens. Edward Kennedy (MA), Lauch Faircloth (NC), Orrin G. Hatch (UT), and Patty Murray (WA).

After opening remarks by Sens. Boxer and Kennedy, the participants joined one of three break-out sessions on biotechnology, telecommunications, and education and technology. Government officials from the Patent and Trademark Office, Food and Drug Administration, Departments of Justice, Labor, Education, and other agencies addressed each group. Discussions revolved around ways to better implement federal policies to foster technology growth and jobs in the future.

### **ENCRYPTION AD CAMPAIGN LAUNCHED BY COALITION**

The Americans for Computer Privacy coalition unveiled a multimedia ad campaign designed to educate the public and policymakers on the encryption issue. The coalition, comprised of several high technology companies, were joined at a press conference yesterday by the congressional members leading the drive to loosen U.S. export controls on encryption technology: Reps. Zoe Lofgren (San Jose), Bob Goodlatte (VA), Rick White (WA) and Sens. Conrad Burns (MT) and Patrick Leahy (VT).

The education campaign includes television ads airing on selected cable networks in the Washington, D.C. market. The ads began on July 22 and will run until the August congressional recess and then resume in September. ACP will also conduct an Internet-based ad campaign running from July 27 through September 30. The campaign will feature ad banners on numerous websites reaching approximately 6.25 million web surfers. The banners will give the user the opportunity to be linked to telephone and address information for his or her congressional representative, as well as respond to an ACP questionnaire on the action taken by the user to contact Congress.

Rep. Lofgren applauded the action of the group and reiterated the need for expeditious consideration of her bill, H.R. 695, the SAFE Act, co-authored by Rep. Goodlatte.

### **CALIFORNIA RECEIVES \$190.4 MILLION FOR WELFARE TO WORK GRANTS**

On Monday, President Clinton and Labor Secretary Alexis Herman formally announced that California has been approved for a Welfare to Work grant of \$190.4 million. This grant will assist the hardest-to-employ welfare recipients to receive skills training, work experience, and resources necessary to find and retain employment. With the highest number of welfare recipients, approximately twice the number of any other state, California is getting the largest formula grant to be authorized this year. California joins twenty-seven other states, including Illinois, Michigan, and Texas, in putting the Administration's Welfare to Work initiative into action. Rep. Buck McKeon (Santa Clarita) was instrumental in crafting formula that ensured California would receive 17% of funds.

Under the Budget Reconciliation Act of 1997, \$2.2 billion will be allocated by formula over two years to states based on their population of poor people and adult recipients of Temporary Assistance for Needy Families (TANF). Another \$711.5 million in grants will be awarded on a competitive basis directly by the Secretary of Labor to local communities for projects that emphasize innovation, collaboration, and sustainable strategies to attain quality employment, earnings, and other successful outcomes for welfare recipients.

Several organizations in communities across California were awarded 13 competitive grants totaling \$35.6 million last month as a result of the first round of competition. These grants are meant to complement formula grants. Some of the recipients were: Los Angeles County Private Industry Council; Private Industry Council of San Francisco, Inc.; the Cambodian Family; and the City of Los Angeles Housing Authority. All of the organizations demonstrated innovative methods of moving welfare recipients to work through close collaboration with government entities and employers.

California is receiving a state formula grant because its plan has been approved by the department, enabling the Secretary of Labor to disburse its Welfare to Work formula funds. Eighty-five percent of the funds will be sent to Private Industry Councils that will design and operate collaborative, integrated programs tailored to meet local labor market needs.

The grants may be used to fund unsubsidized or subsidized employment; work experience; on-the-job training; mentoring and other post employment retention and support services, such as child care and transportation assistance. California plans to strengthen and build local partnerships through a One-Stop Career Center system, and improve linkages between county welfare departments, private industry councils, and other state and local workforce preparation, education and human service programs. Service gaps will be identified and local strategies will be implemented.

For general information please see the Department of Labor's web site at <http://www.dol.gov> or for more specific information regarding a state's grants or the employment and training administration look at the web site at <http://wtw.doleta.gov>.

## **HOUSE PASSES LEGISLATION TO REAUTHORIZE WIC PROGRAM**

On Monday, the House approved legislation to reauthorize several nutrition programs for low-income families and school children. The bill, H.R. 3874, would reauthorize through 2003 the Women, Infants and Children (WIC) nutrition and health program which helps poor pregnant women and children up to age 5. The program is set to expire on September 30. California received nearly 17 percent of WIC funds in 1997 because of the state's relatively high child poverty figures.

Under the measure, grocers and individuals who defraud the WIC program would be subject to tougher penalties, including a \$25,000 fine for embezzling or stealing WIC food stamps. The bill would further allow a five-year pilot project to test the effectiveness of providing free breakfasts to all students. Under the Child and Adult Care Food Program (CACFP), after-school snack programs for teenagers would be authorized for four years and, in an effort to stem the tide of youth after-school crime and violence, the eligible age for participating in the after-school and summer food programs would be raised from 12 to 18. See, [\*Bulletin, Vol. 5, No.19, \(6/4/98\)\*](#).

The bill would also reauthorize other programs through 2003, including the authorization of appropriations for the WIC program and for the WIC farmers market nutrition program; requirements to use certain WIC funds for allocations to State agencies for costs of nutrition services and administration, and for program infrastructure and information, projects of regional or national significance, and breast-feeding promotion and support activities.

For further information regarding this legislation, see the web site at <http://thomas.loc.gov> and refer to H.R. 3874.

## **HOUSE PASSES RESOLUTION CONCERNING AFFORDABLE HOUSING**

On Monday, the House considered a resolution (H.Con.Res. 208) stating that access to affordable housing should be a national priority. The Senate concurred with this resolution. Under suspension of the rules, the resolution passed by a final vote of 390-0. The Senate received the resolution on Tuesday and referred it to the Committee on Banking. The resolution sponsored by Rep. Rick Lazio (NY) and 169 co-sponsors states that the goal of providing access to affordable housing should be pursued with several policy objectives, including: "the ability of the private sector to produce affordable housing without excessive

government regulation," encouraging certain tax incentives; and facilitating home ownership by making loans and mortgages more accessible.

### **NUCLEAR FUEL RODS CROSS BAY SAFELY AND CONTINUE BY RAIL**

On Tuesday, a freighter carrying spent nuclear fuel rods in its cargo hold sailed across San Francisco Bay and docked without incident at the Concord Naval Weapons Station. Three steel casks containing spent nuclear fuel rods from a South Korean reactor were loaded onto a train that evening. Following extensive safety checks, the train left the base and arrived in Martinez early in the morning. The train then switched to a northbound track to its storage destination at the Idaho National Engineering and Environmental Laboratory (INEEL). Safety experts tested the cargo for radiation leaks both on board the ship and once it was placed on the train.

Federal and Contra Costa County officials said the shipment proceeded according to plan, undisturbed by protesters in Martinez or light shipping traffic in San Francisco Bay. Numerous elected officials and civic and environmental advocates had questioned the necessity of shipping radioactive material through as densely populated an area as the San Francisco Bay or the Sacramento area, but Department of Energy officials argued that the risk of a cask breach was one in a billion. Proponents of the shipment have claimed that this is a means of keeping nuclear material out of the hands of terrorists.

Government officials have said they are obligated to ship the waste from South Korea under a 40-year international treaty. The spent nuclear fuel being accepted from research reactors in the Republic of Korea and other countries contains uranium that was enriched in the United States and initially exported under President Eisenhower's Atoms for Peace program. These countries agreed to forego development of nuclear weapons in return for U.S. assistance with peaceful applications of nuclear energy.

### **HOUSE APPROPRIATIONS APPROVES TRANSPORTATION SPENDING BILL**

On Wednesday, the full House Committee on Appropriations approved by voice vote an unnumbered Transportation spending bill of \$46.9 billion for FY99. See, *Bulletin, Vol.5, No.24* (7/16/98). The House bill would match funding guarantees for highways and mass transit set by the transportation authorization law (PL 105-178) enacted this summer. The bill passed with little dissent, but a major point of debate did occur with a proposed \$29 million cut in Coast Guard funding, giving the service \$3.9 billion. Chairman Frank Wolf (VA) of the Transportation Subcommittee said he would support an effort to increase funding in conference if Senate and House negotiators could locate additional funds.

The committee approved two amendments by voice vote. One would add language in the committee report to give priority for funding in conference to two Federal Aviation Administration (FAA) weather observation systems that were not funded in the House bill. The other amendment would have the FAA work with local officials to help reduce noise at the new airport in Denver.

The House will likely debate the bill next week and the Senate is expected to take up its Transportation spending bill (S. 2307) this week.

For more information on the transportation spending bill refer to the web site at:

<http://www.house.gov/appropriations/pr99trsu.html>.