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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 in kind donations from Sun Microsystems and Qualcomm, Inc.

ALL 52 CALIFORNIA HOUSE MEMBERS AND BOTH SENATORS SIGN JOINT STRIKE FIGHTER LETTER

Reminding us of their ability to stand cohesive despite a charged atmosphere, a unanimous California Congressional delegation wrote today to the Department of Defense seeking full and fair consideration of California's entry during the upcoming process of selecting a production site for the Joint Strike Fighter (JSF).

The letter, spearheaded by Rep. Buck McKeon (Santa Clarita) and signed by all 52 Members of Congress from California as well as by both Senators Dianne Feinstein and Barbara Boxer, points out to the Department of Defense the advantages of the state's proposed JSF production location, Site 4 of Plant 42 – the formerly classified B-2 bomber production facility in Palmdale.

The California letter asks DOD to "require the two competing prime contractors to complete a cost comparison" of the California site "as a benchmark to any other sites being considered for JSF production." The letter promotes the "state-of-the-art production facility, proximity to strategic military bases (Edwards, China Lake, Pt. Mugu, Nellis), a highly-skilled workforce, and an unparalleled statewide network of tens of thousands of aerospace suppliers."

The JSF is to be a new generation of strike aircraft and is unique in that it will serve the Air Force, Navy and Marine Corps simultaneously. Last November, the Boeing Company and Lockheed Martin Corporation were awarded contracts to compete in the demonstration phase of the program. Each firm will develop two prototypes of the jet, which will compete in a "fly-off," with the winning company selected in 2001. The first JSF jets are to be operational in 2008, and DOD is expected to purchase at least 2,500 of the fighters, with the United Kingdom to purchase 60.

In addition to California's advantages in terms of location, economies of scale, supplier networks and a skilled workforce, the writers note that the State of California has offered tax credit incentives "which can yield a savings of between \$280 million and \$350 million to the JSF program."

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LETTER FROM BIPARTISAN MAJORITY OF CALIFORNIA DELEGATION URGES FAIRNESS FOR TITLE I EDUCATION APPROPRIATIONS

Thirty-one California Congressional delegation members, led by Rep. Randy (Duke) Cunningham (San Diego) and Vic Fazio (West Sacramento), wrote this week to the Chair and Ranking Democrat on the House Appropriations Committee as well as the leaders of the subcommittee on Labor HHS and Education seeking a fair share of Title I education program formula dollars for California and other growing states.

Sent early on Tuesday, the letter asks that the House conferees disagree with a Senate backed provision to lock in outdated data on child poverty, which would promise “a severe penalty for states like California with growing numbers of poor and immigrant children in our public schools.”

Despite a longstanding provision in Title I which already ensures that no state can lose more than 15% in grant funds from one year to the next, Senators from states with fewer poor children inserted a “100% hold harmless” provision in last year’s education appropriations bill, thereby freezing allocations so that there was no change whatsoever between 1997 and 1998. See [Bulletin, Vol.5, No. 31 \(9/24/98\)](#). This year, the Senate bill again included this 100% freeze.

The House version of the bill, which was considered by the full House on Thursday evening, does not include the funding freeze. Despite the fact that both houses have acted on the bills, the Labor-HHS-Education appropriations bill is likely to be included in a continuing resolution later this week.

Further background on this Title I data currency issue is available on the California Institute’s website at <http://www.calinst.org/pubs/title1fact.htm>.

CONGRESS SENDS BILBRAY ANTI-BORDER SMOG BILL TO PRESIDENT

The Senate on Monday and the House on Wednesday passed H.R. 8 to reduce pollution from commuter vehicles at the U.S.-Mexico border. Both chambers acted by voice vote. The bill, introduced by Rep. Brian Bilbray (Imperial Beach), now goes to the President for signature.

The bill will require foreign-registered cars and trucks to meet U.S. state and local vehicle emissions standards before continued entry into the U.S. at the Mexico border is allowed. It is aimed at targeting individuals and businesses who register their vehicles in Mexico in order to avoid the higher standards in the U.S., and contains provisions to penalize individuals who repeatedly attempt to enter the U.S. with non-compliant vehicles. First time offenders could be charged up to \$200, with repeat offenders facing fines of \$400. The bill is expected to reduce air pollution in the San Diego area by about 13 percent.

H.R. 8 does not apply to vehicle entries at the Canadian border, but those northern border states could opt into the program if they choose.

On a somewhat related matter, late Thursday evening under suspension the House debated a Bilbray “sense of the Congress” resolution chiding Tijuana for permitting its inadequate sewage infrastructure to allow sewage spills to flow northward into the San Diego area.

INTERNET TAX BILL FINALLY PASSES IN SENATE

After several days of debate and a cloture vote to end a filibuster, the Senate on Thursday passed the Internet tax moratorium bill, S. 442, by a vote of 96-2. As finally passed, the bill imposes a three year moratorium on taxes on access charges to the Internet, but grandfathers in those states, including California, which have already enacted such a tax, so long as the state legislature reconfirms the tax within one year.

The major difference between S. 442 and the earlier passed House bill H.R. 4105 is the scope of the work required of the commission established under the bill. The Senate voted 68-30 to require the

commission to examine sales taxes on other forms of purchase, such as through catalogue and phone sales. The National Governor's Association argues that the states are already losing about \$4 billion annually in lost revenue, because they cannot tax mail and phone sales where the seller does not have a presence in the state. Opponents of the provision argued, unsuccessfully, that the bill should be limited to Internet taxes, so that the study could be timely and efficiently completed.

Supporters of the bill hope that the House will adopt the Senate-passed version, otherwise it is likely as time runs out in the session that the bill would die.

HOUSE AND SENATE PASS BILLS DELAYING BORDER ENTRY SYSTEM

Late last Thursday night, the House and Senate passed bills, H.R. 4568 and S. 2540, temporarily delaying the implementation of an automated border entry system until October 15 of this year. The measure is necessary because the 1996 immigration reform act required that the system be in place by October 1, and the INS could not meet that deadline.

The required system would document the entry and exit of every alien entering the United States, including those coming in from Canada. Opponents have complained that such a system on the Canadian border would cause massive traffic tie-ups.

Negotiations continue between the House and Senate on how to address the issue permanently. Sen. Spencer Abraham (MI) wants to exempt all land and seaport entry points from the system, whereas Rep. Lamar Smith (TX) supports only a one-year delay in implementing the program. In addition to uncertainty on a permanent fix, the temporary measure still requires further work, because the House and Senate passed their own versions of the bill, although they are nearly identical.

MEMBERS CALL FOR CONTINUED EFFORTS TO EXPAND ENCRYPTION EXPORTS

Reps. Zoe Lofgren (San Jose) and Anna Eshoo (Atherton) joined seven other members of the House and Senate in urging Vice President Al Gore to continue to liberalize U.S. export controls on encryption products. The letter applauds the Administration's September 16 decision to ease some controls and back away from mandatory key recovery requirements (*see [Bulletin, Vol. 5, No. 30 \(9/17/98\)](#)*). Nevertheless, the members argue, this is but a first step in the Administration's recognition of the "increasing ubiquity of robust encryption and the critical need for U.S. industry to remain the dominant global supplier of this technology."

In addition to Reps. Lofgren and Eshoo, the letter was signed by Reps. Bob Goodlatte (VA), Sam Gejdenson (CT), Rich White (WA), and Sens. John Ashcroft (MO), Patrick Leahy (VT), Conrad Burns (MT), and Ron Wyden (OR).

The letter was released at a press conference held by the Americans for Computer Privacy on Wednesday. Speaking at the conference, Rep. Lofgren pointed out her belief that the efforts of the Congress, industry, and American people made the Administration recognize that it would have to take some action to ease encryption controls. She stressed that this endeavor must not wane and pledged to continue her efforts next year to have meaningful legislation passed.

CALIFORNIA MEMBERS CALL FOR INCREASED INS FUNDING TO ELIMINATE NATURALIZATION BACKLOG

Twenty-four members of Congress from California signed a letter calling for the reprogramming of \$146 million in Immigration and Naturalization Service funds to help clear up the backlog of applicants waiting for naturalization. The letter to the House and Senate conferees of the Commerce, Justice, State Appropriations bill urges them to approve the reprogramming in the appropriations bill. If

the reprogramming is approved, INS plans to add that money to \$25 million in current carryover funds to beef up efforts to alleviate the backlog.

The letter cites the almost 2 million applications that are backlogged and the current two to three year wait for naturalization approval. California, according to the letter, suffers disproportionately from the backlog. The three INS Service Centers in California, located in Los Angeles, San Francisco and San Diego, account for 36 percent (694,925) of the entire U.S. backlog.

VA-HUD APPROPRIATIONS SENT TO PRESIDENT

The House on Tuesday and the Senate on Thursday approved and sent on to the White House a \$93.4 billion appropriations bill for Veterans Affairs, Housing and Urban Development, and Independent Agencies. The bill, shepherded through the House by subcommittee chair Jerry Lewis (Redlands), funds NASA at \$13.7 billion, or \$200 million above the Administration's budget request, with \$2.27 billion targeted for the International Space Station. Also included is \$3.7 billion for the National Science Foundation, an increase of \$242 million over FY 1998. The Federal Emergency Management Agency is funded at \$826.9 million, with \$25 million slated for pre-disaster mitigation. For a specific details, see an Appropriations Committee press release at <http://www.house.gov/appropriations/pr99agcf.html>.

HEAD START CONFERENCE AGREEMENT REACHED

By voice vote this afternoon, the Senate agreed to the conference report on a bill reauthorizing the Head Start preschool program, and the House was expected to do the same late Thursday evening.

The bill, S. 2206, temporarily shifts new Head Start funds to program improvements. Under current law, three-quarters of new funds each year must be spent on expanding enrollment and one-fourth on quality improvements. The measure would allow 60 percent of new funds in fiscal 1999 to be used for program quality improvements such as higher teacher salaries and training, with 40 percent designated for expansion of the program. The conference report expands grants for family literacy, youth development, and community policing, and adds funds for as well as authority for parenting and gang programs.

In a positive development for California, the bill contains a House-originated provision requiring that future growth in Head Start funding be allocated based upon "the most recent data available on the number of children less than 5 years of age from families whose income is below the poverty line." Outdated poverty data have been a longstanding problem for California and other growing states.

For further information, see [Bulletin, Vol. 5, No. 31 \(9/24/98\)](#). The conference report is available on the Library of Congress website at [http://thomas.loc.gov/cgi-bin/cpquery/R?cp105:FLD010:@1\(hr788\):](http://thomas.loc.gov/cgi-bin/cpquery/R?cp105:FLD010:@1(hr788):).

FDA MODERNIZATION REVIEWED

The House Committee on Commerce met Wednesday to review the implementation of the Food and Drug Administration Modernization Act of 1997 (FDAMA). FDAMA included a broad set of new and clarifying regulations touching almost all areas of FDA's activities. The Act addresses the types of evidence most appropriate for premarket review of medical devices, the availability of appeal and administrative review procedures for Agency decisions, reauthorizes for five more years the Prescription Drug User Fee Act of 1992 (PDUFA), and allows for fast tracking review processes of new advances in the care of critical patients, among many other topics.

FDA Acting Commissioner Michael Friedman, M.D., gave the Committee a report on the agency's performance in carrying out the implementation to date. Although FDA is generally performing the majority of actions required by the Act on time, according to Dr. Friedman, the agency will be

severely challenged to accomplish full implementation because of the widening gap between obligations and resources. He testified that the Congressional Budget Office estimated the cost of compliance with the legislation at \$50 million and yet the Agency has not received any additional resources for implementation. Friedman fielded questions from Reps. Henry Waxman (Los Angeles), Anna Eshoo (Atherton), Chairman Tom Bliley (VA) and other committee members on specific aspects of the implementation.

The committee also heard testimony from a number of other witnesses including industry representatives, patients, and doctors. Overall most shared the sentiment that FDAMA was an important piece of legislation, that FDA has made tremendous strides in attempting to meet both the spirit and the letter of the law, that implementation is not yet complete, that final judgement cannot yet be rendered on the success of the implementation, and that areas of disagreement and concern remain about specific aspects of the law and its implementation. Many also lamented the lack of resources available to the FDA in fulfilling FDAMA.

Ralph Kauffman, MD, for the American Academy of Pediatrics praised improvement in the therapeutic needs of the pediatric population and thanked Rep. Waxman for his efforts in this regard. He expressed concern that by providing incentives to pharmaceutical companies to perform pediatric studies when requested, this aspect of FDAMA will lead to more studies, but not studies of medications needed by only a small group of children.

Joseph Scodari, President and Chief Operating Officer of Centocor, Inc., spoke on behalf of the Biotechnology Industry Organization (BIO). He praised the FDA for having successfully approved Remicade, a new Centocor therapy for Crohn's disease, through a fast-track process, testifying that the "fast-track aspects of FDAMA have contributed directly to having patients receive this and other important new therapies as quickly as possible."

Calling FDAMA "the most comprehensive change to the laws governing the regulation of medical devices since 1976", Health Industry Manufacturers Association's (HIMA) James Benson went on to discuss both positive ways in which FDAMA has been implemented, as well as concerns HIMA has about specific aspects of the implementation, including disappointment that industry has not been allowed to be more involved in collaboration with the FDA on development of guidance documents for complex provisions.

SAFE DRINKING WATER ACT AMENDMENTS CONSIDERED

The Health and Environment Subcommittee of the House Commerce Committee met Thursday to hear testimony on the implementation of the 1996 Safe Drinking Water Act (SDWA) Amendments. The Environmental Protection Agency (EPA) Acting Assistant Administrator for Water, Charles Fox, described the 1996 amendments to the 25 year old act as having made "significant change(s) in how the SDWA works, emphasizing comprehensive public health protection through regulatory improvement, increased funding, new prevention programs, and public participation." The amendments brought risk-based priority setting into the forefront, meaning that EPA will decide which contaminants to regulate based on data about the adverse health effects of the contaminant, its occurrence in public water systems, and the projected risk reduction.

Creating a contaminant occurrence data base was another aspect of the 1996 Act. States also now have greater flexibility to implement the Act. Funding is significantly increased through higher State drinking water program grants and a new Drinking Water State Revolving Fund (DWSRF) for infrastructure improvements for water systems to enable water utilities to meet requirements of the SDWA. According to Fox, "the amendments also acknowledged that drinking water protection must be a shared effort across the drinking water community. EPA has used this concept to guide implementation." An expanded series of SDWA-authorized National Drinking Water Advisory Council

(NDWAC) working groups on issues ranging from small system needs to a new approach to benefits assessment have taken place. By November, new National Primary Drinking Water Standards will be issued on Microbial and Disinfectants, and Disinfection Byproducts. Studies in California of birth defects and miscarriages associated with Disinfection Byproducts were cited as crucial in focusing national attention on this issue.

Testimony was also heard from representatives of the Association of State Drinking Water Administrators, American Water Works Association, American Public Health Association, Association of Metropolitan Water Agencies, National Association of Water Companies, National Rural Water Association, and the Natural Resources Defense Council. Many witnesses described the 1996 amendments as having fixed “something that was broken” and applauded the efforts of the EPA in its implementation. Several expressed the view that it is too early to render a verdict on the changes.

San Jose Water Company’s Richard Roth was at the hearing representing the National Association of Water Companies. He praised the Consumer Confidence Reports (CCR) final rule announced by the President in August by which all community water systems will be required to disclose to their customers each year the state of their drinking water supply. He called this rule the “high point in the implementation of the Act to date” but contrasted that with complaints about the Revolving Loan Fund interface between congressional intent that State Revolving Loan Fund financial assistance be available to all community water systems, both public and private, and various state laws that prevent private water systems from access to the funds. Many of his fellow panelists shared concerns about both this Federal-State interaction, and the money in the Fund being insufficient.

Mr. Roth also informed the committee of ten lawsuits against several community water systems for allegedly delivering contaminated water, even though the companies claim to have been in full compliance with state and federal standards. In March of this year the California Public Utilities Commission instituted its own investigation into the adequacy of existing drinking water standards, which resulted in a temporary stay of the judicial proceedings. The California PUC has set May, 1999, as its goal for a final determination of its investigation.

For further information, see the House Commerce Committee’s web site at <http://www.house.gov/commerce>.