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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.

HOUSE PASSES Y2K LIABILITY LEGISLATION

By a vote of 236-190, the House on May 12 passed H.R. 775, which is intended to curb lawsuits resulting from the Y2K computer glitch. See, *Bulletin, Vol. 6, Nos. 14 (4/29/99) & 15 (5/6/99)*. Prior to passage, the House defeated a more narrowly drawn substitute amendment offered by Reps. Zoe Lofgren (San Jose), John Conyers (MI), and Rick Boucher (VA). The Lofgren substitute would have retained the 90 day cooling off period, specificity of pleadings, and proportional liability, but would have struck the provisions limiting punitive damages and class action lawsuits. The substitute was defeated by a vote of 190-236. The House also rejected an amendment by Rep. Robert Scott (VA), by a vote of 192-235, that would have stripped the bill of the punitive damage limits, and an amendment by Rep. Jerrold Nadler (NY), by a vote of 180-244, that would have stripped the class action provisions from the bill.

Three minor amendments were added to the bill by voice votes. The first, offered by Rep. Tom Davis (VA), includes restitution in the definition of awards capped under the bill and makes the bill applicable to suits filed by January 1, 1999. The second, offered by Rep. Jim Moran (VA), exempts from the bill all third-party claims in personal injury cases. The final amendment, offered by Rep. Sheila Jackson-Lee (TX), clarified that class action notices to individuals can be written in laymen's terms.

An attempt to recommit the bill with instructions to include an amendment granting U.S. jurisdiction over foreign manufacturers of non-Y2K compliant products was defeated 184-246.

Although the Administration has indicated the House bill as drafted would probably draw a Presidential veto, it did indicate this week that it wanted to work in a bipartisan fashion to reach an acceptable compromise. The stalled Senate bill, S. 96, may be considered by the Senate again before the Memorial Day recess at the end of this month.

NEW MEMBERS ROUND OUT UNANIMOUS SUPPORT FOR ELECTRICITY DEREGULATION

Slightly more than two years ago, the California Congressional delegation signed the first of what would become an impressive series of letters signed by the entire 52-member House delegation. That letter

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dealt with the restructuring of the electric utility industry and the desire to allow landmark legislation passed by the State Legislature, AB 1890, proceed without federal interference.

On April 26, all the new California delegation members elected since that letter was sent -- Steve Kuykendall, Gary Miller, Barbara Lee, Lois Capps, Mike Thompson, Grace Napolitano, Doug Ose and Mary Bono -- signed a letter to House Commerce Committee Chairman Tom Bliley to add their voices to those of their colleagues in the California delegation who wrote to Bliley two years before. In reaffirming the unanimity of the California Congressional delegation on the issue, the letter informs the Chairman that the implementation of the law over the last two and one-half years has been a success. Additionally, they urge that "any federal legislation that might be developed must recognize the fundamental change that is already underway in our state, and allow California's electricity competition program to be implemented as the authors intended."

COMPROMISE NEARS ON SUPPLEMENTAL: MAY RESOLVE CENSUS, TOBACCO ISSUES

House and Senate conferees are continuing negotiations over the fate of an emergency supplemental appropriations measure (H.R. 1141) which will likely provide \$11.5 billion for the NATO military campaign in Yugoslavia, assuming a number of high-profile differences can be resolved.

If successful, the process is also likely to ensure that the federal government will not share in funding won by states in a settlement with the tobacco industry. House negotiators have reportedly agreed to accept a Senate provision to ensure that the \$246 billion in tobacco settlement funds would stay with states. The White House has sought to recoup \$4.6 billion per year in settlement funds due to federal costs under Medicaid, despite the fact that courts have rejected that argument. A recent study estimated that California would have lost \$447 million in 2001 alone, if federal Medicaid recoupment were to go forward.

Reports also indicate that the spending package may resolve the longstanding dispute over the collection and use of statistically-sampled data as part of the 2000 census. When the issue could not be resolved last fall, Congress elected to fund the Departments of Commerce, Justice and State for the entire fiscal year, but prohibited use of funds after June 15 of this year unless the sampling issue is resolved.

SENATE IMMIGRATION EXAMINES AGRICULTURE WORKFORCE

The Senate Judiciary's Immigration Subcommittee held a hearing on the agricultural workforce on Wednesday, May 12. In her opening remarks, Sen. Dianne Feinstein urged that the agriculture guestworker program should be bifurcated. A federal registry should be established, she suggested, listing available agricultural workers and farms in specific states that needed workers. Then, premium wages for workers in this registry would be established. Workers would be required to work for a specific period, and green cards would be provided to those that have been in the United States for years.

Rep. Howard Berman (Valley Village) testified that an agriculture worker shortage does not exist in the United States and cited a 1997 GAO report supporting this contention. He argued that an expanded guestworker program would only bring in more immigrants who would eventually overstay their visas and add to the undocumented immigrant population. He proposed instead an approach (previously enacted but never implemented as the Replenishment Agricultural Workers (RAW) program). Under that approach, if a shortage of farm laborers arises, workers from other countries would be allowed to apply to work in agriculture, accrue credits and, after three years of working at least 90 days a year in agriculture, become permanent residents. Both Senator Feinstein and Rep. Berman stressed that wage rates were key, with Berman stating that average wages would rise if agricultural workers were increasingly legal.

Among the other witnesses was Josh Wunsch, representing the American Farm Bureau and Michigan Farm Bureau. Mr. Wunsch contended that there is a worker shortage in some areas, because of stepped-up enforcement of by the Immigration and Naturalization Service to apprehend undocumented workers. He argued that the current H-2A program should be reformed and the currently-required Adverse Effect Wage Rate is excessively high, and should be replaced with the prevailing wage standard with a ten percent premium

to ensure domestic workers are not displaced. Mr. Wunsch also supported Agricultural Worker Registries to act as repositories for workers and farmers looking to find one another.

Complete copies of the testimony can be obtained from the Committee's website at:

<http://www.senate.gov/~judiciary> .

HOUSE SUBCOMMITTEE HOLDS HEARING ON IMPLEMENTATION OF NET ACT

The House Judiciary Committee's Courts and Intellectual Property Subcommittee held a hearing on the implementation of the NET Act, enacted in 1997. The Act reversed the consequences of *United States v. LaMacchia*, which held that electronic piracy of copyrighted works could not be prosecuted under the federal wire fraud statute, and that criminal sanctions for copyright infringement do not apply in instances in which the defendant does not realize a "commercial advantage or private financial gain." Since its enactment, no federal prosecutions have been brought under the Act, and federal sentencing guidelines have not been drafted.

Timothy McGrath, Interim Staff Director of the U.S. Sentencing Commission detailed the complexities of drafting guidelines to implement the Act. However, he stressed that the Commission is moving forward and will publish guidelines as soon as possible.

Tod Cohen, Vice President and Counsel, New Technology, Motion Picture Association of America, testified that MPAA has received a favorable response from law enforcement agencies, such as the Justice Department and FBI, and that it has referred four downloadable media infringement cases to the FBI in recent weeks. Mr. Cohen stressed, however, that federal sentencing guidelines need to be enacted to effectively implement the Act. He stated that using the retail value of downloaded media would understate the losses to the industry, but would be better than the current scheme of using the infringing value, because of the difficulty of putting a dollar figure on the loss to the copyright owner.

HOUSE SUBCOMMITTEE HOLDS HEARING ON EDUCATION TECHNOLOGY UNDER ESEA

The House Subcommittee on Early Childhood, Youth, and Families held its second in a series of reauthorization hearings on Tuesday to discuss Education Technology under Title III of the Elementary and Secondary Education Act (ESEA). Chairman Michael Castle (DE) stated that access to technology is important to students as well as teachers, and that it will also help teachers deal with expanded class sizes.

Testifying before the committee were, the Honorable Eugene Hickok, Secretary, Pennsylvania Department of Education; Dr. Henry Marockie, State Superintendent of Schools, West Virginia Department of Education, Professor Dale Mann, Program in Educational Administration, Department of Organization and Leadership, Teachers College, Columbia University; Dr. Robert McNergney, Professor of Educational Leadership, Foundations and Policy, Curry School of Education; Ms. Terri Austin, Executive Director, Organizational Department, Anderson Community School Corporation; and Mr. Bruce Droste, Director, The Virtual High School, The Concord Consortium.

Many of the witnesses testifying before the subcommittee spoke of the new role that technology has played in education, reciting stories about technology programs that had worked successfully to improve the quality of education for the students, and the overall retention of material learned. One example provided by Dr. Marockie was a program that was set up in West Virginia called the "Reinventing Education Program." A web site was set up, with the help of IBM, to provide a standard for math education in the state that all teachers and students could follow. Another issue brought up by the witnesses was the ability of teachers to customize their individual learning plans for each student as needed.

All of the witnesses testified that the Federal Government needed to play a lesser role, however, in the regulations they placed on the states in the use of funds for technology. The witnesses also told the subcommittee members that fully funding technology was an important step for the future of education, and investing now would bring dividends later.

For more information, see <http://www.house.gov/eeo/>

HOUSE PANEL HOLDS HEARING ON MAINTAINING A HIGH-QUALITY TEACHER FORCE

Chairman Howard "Buck" McKeon (Santa Clarita) of the Subcommittee on Postsecondary Education, Training and Life Long Learning held the final in a series of four hearings Thursday to discuss ways of developing and maintaining a high-quality teaching force.

Testifying before the committee were: Dr. Emily Feistritzer, Executive Director, Center for Educational Information; Ms. Katrina Robertson Reed, Associate Superintendent for Administrative Services, District of Columbia Public Schools; Dr. Robert Strauss, Professor of Economics and Public Policy and Management, Carnegie-Mellon University; Dr. Beverly Young, Associate Director for Teacher Education and K-12 Programs, California State University; and Dr. Marci Kanstoroom, Research Director, Thomas B. Fordham Foundation, Research Fellow, Manhattan Institute. Chairman McKeon and Rep. Matthew Martinez (Monterey Park) both noted in their opening statements that there is a growing need for the recruitment, and retention of high caliber teachers across the nation.

Dr. Feistritzer told the subcommittee members that alternative routes for certifying teachers were needed to continue with the current pace of new teaching slots. And these alternative programs could not and should not be emergency credentials, which many states are considering as an alternative to the traditional college level programs now in place. She singled out three states that have created successful alternative certification programs: Texas, New Jersey and California. These programs are more efficient than normal programs for granting credentials because of their ability to identify individuals who are likely to quit after the first three years. During questioning, Dr. Feistritzer stated that these state programs could be duplicated for other states to follow. She also noted that the program places prospective teachers directly into the schools so they receive first-hand experience.

Dr. Young spoke of the California State University program that currently prepares 12,000, or 60%, of California's new teachers. Dr. Young described the Beginning Teacher Support and Assessment (BTSA) Program which recently received \$50.3 million in funding, compared to \$17.5 million last year, an increase which has vastly increased the number of teachers in California able to participate in the program.

SENATE HOLDS TITLE I REAUTHORIZATION HEARING

The Senate Committee on Health, Education, Labor and Pensions continued its reauthorization hearings on the Elementary and Secondary Education Act, this week dealing with Title I program for disadvantaged students. Testifying before the committee were Christopher Cross, Chair, Independent Review Panel; Lis Graham Keegan, Superintendent of Public Instruction, Arizona Department of Education; and Iris T. Metts, Secretary of Education, State of Delaware.

All three witnesses told the committee that making Title I funds portable should be something that Congress considers when they reauthorize the Act later this year. Mr. Cross pointed out that Congress should first and foremost fully fund Title I, increasing its current budget of \$8 billion a year to \$24 billion a year. If Title I was fully funded, according to Mr. Cross, the issue of aides teaching classes rather than teachers would not be an issue. He also added that if Title I is fully funded, half should be spent on evaluation and research and the other half on investment for continuing education for teachers. Ms. Keegan testified regarding the issue of making Title I funds portable, and she used the example of legislation recently passed in Florida allowing students who went to schools that received failing reviews to use state funds to go to a different school. Ms. Keegan said making state funds available to these students is a step in the right direction, but she stressed that they should also receive federal funds.

For more information, see <http://www.senate.gov/~labor/>.

BIPARTISAN MAJORITY OF CALIFORNIANS SIGN FUSION FUNDING LETTER

A bipartisan majority of the California Congressional delegation, led by Reps. Duke Cunningham (San Diego) and Ellen Tauscher (Pleasanton), wrote to the leaders of the House Energy and Water Subcommittee of Appropriations seeking to fund the fusion energy sciences program at \$250 million or more in FY 2000.

The letter noted that, "fusion energy science funding fell 40 percent between FY 1995 to FY 1997, from approximately \$370 million to \$225 million. Since that time, the budget has remained essentially level, except for the inflation that continues to erode the program's effective buying power." It also notes that, "Despite these declines, fusion research has made significant progress towards the eventual realization of this essential energy source of the future." The letter urges no less than \$250 million for fusion energy science research in FY 2000, plus an additional \$10 million for decommissioning of the Tokamak Fusion Test Reactor facility.

California is a perennial winner of fusion funding, with as much of one-third of federal fusion spending. Combined military and civilian energy fusion funding of \$270 million per year supports roughly 1,400 direct jobs in the state at companies such as General Atomics and SAIC, universities (including U.C. campuses at Berkeley, Davis, Irvine, Los Angeles, San Diego and Santa Barbara), and national laboratories at Livermore, Berkeley, and Sandia-Livermore.

SUPERFUND/BROWNFIELDS LEGISLATION CONSIDERED

The House Committee on Transportation and Infrastructure's Subcommittee on Water Resources and Environment held a hearing Wednesday on Chairman Sherwood Boehlert's (NY) H.R. 1300, the "Recycle America's Land Act of 1999." The measure is intended to encourage the redevelopment of brownfields by eliminating barriers caused by the fear of Superfund liability; provide small businesses, recyclers and municipalities with immediate Superfund relief; protect innocent landowners from Superfund liability; reauthorize \$1.5 billion in funding to ensure that Superfund meets the needs of the program and covers liability relief; greatly increase information to the public on the Superfund cleanup process; and encourage the cleanup of over 500,000 brownfields across the country. Californian co-sponsors of the bill include Reps. Cal Dooley, Steve Horn, Ellen Tauscher, and Bob Matsui.

The Subcommittee first heard from Environmental Protection Agency Administrator Carol Browner. She stated that the Superfund program is now faster, fairer and more efficient after a series of administrative reforms and that the progress made has eliminated the need for comprehensive Superfund legislation. The Administration instead supports narrowly targeted Superfund legislation that would build on these administrative reforms. She called H.R. 1300 a good faith effort, but went on to explain several specific concerns, among them her contention that H.R. 1300 would increase litigation and exempt many parties who should pay for clean up, delay cleanups, lower the standard on groundwater protection, and restrict EPA's enforcement authority. The Chairman rejected this characterization of the bill, and Administrator Browner admitted that the differences remaining between the Administration's position and H.R. 1300 are "not small."

The Subcommittee also heard testimony from the U.S. Conference of Mayors, the National Automobile Dealers Association, the National Federation of Independent Business, the Superfund Settlements Project, the Chemical Manufacturers Association, Friends of the Earth, the National Governors' Association, the City of Rockford, Illinois, the National Association of Realtors, the National Association of Industrial and Office Properties and the National Association of County and City Health Officials. While these organizations differed in their degree of support for the legislation, most agreed that the measure represents forward progress on the topic of Superfund reforms, and many were able to offer specific suggestions with respect to the continuing evolution of the bill.

AGRICULTURAL TRADE SANCTIONS EXAMINED

The Senate Committee on Agriculture, Nutrition, and Forestry held a hearing Tuesday on the topic of agricultural sanctions, specifically on the Agriculture Trade Freedom Act (S. 566) by Senator Richard Lugar (IN) which would exempt commercial exports of agricultural products from future unilateral sanctions unless the President makes an affirmative determination that the application of sanctions on commercial exports is required to achieve a foreign policy or national security purpose. Lugar is also the sponsor of the much broader Sanctions Policy Reform Action of 1999 (S. 757), which would require advanced impact studies on

sanctions, review of a sanction to make certain it has the desired effect and, a sanction sunset after 2 years unless Congress and the President reauthorize it. In his opening statement, Chairman Lugar argued that unilateral sanctions on food - and on medicines - serve more to punish innocent victims in the sanctioned countries than the offending leadership and, at the same time, fail to alter the behavior of the sanctioned country. Further, he said that suppliers in competitor countries quickly fill the void when the U.S. has removed itself from a sanctioned market.

The Committee first heard from the Honorable Stuart Eizenstat, Undersecretary of State for Economic, Business and Agricultural Affairs, U.S. Department of State, and the Honorable August Shumacher, Undersecretary for Farm and Foreign Agricultural Services, U.S. Department of Agriculture. Both discussed the meaning of, and rationale behind, the President's 1998 directive that "food should not be used as a tool of foreign policy except under the most compelling circumstances" and the April 28, 1999 statement that the Administration will generally exempt commercial sales of agricultural commodities and products, medicine and medical equipment from further unilateral sanctions, when the discretion to do so exists. The Administration will also extend this policy to allow commercial sales of food, medicine, and medical equipment to currently embargoed countries where such sales are currently not permitted. Undersecretary Shumacher stated that the Administration's important step toward sanctions reform should help boost U.S. agricultural exports of bulk commodities such as wheat, corn, rice, and vegetable oil. They estimate that US producers may sell an additional 500,000 to 1 million tons in exports of both wheat and corn as a result of this change in policy, mainly to Iran.

Among the other witnesses was another panel comprised of: Dean Kleckner, President, American Farm Bureau Federation; Gary Turner, Farmer, on behalf of National Farmers Union; Jim Matlack, Director, Washington Office, American Friends Service Committee; Richard Bell, President and CEO, Riceland Foods; Mike Yost, President, American Soybean Association; and Jack Pettus, on behalf of Herb Karst, President, National Barley Growers. All supported the need for legislation, and the Farm Bureau Federation particularly stressed the need for US agriculture to recover from the sanction-driven reputation that US is not a reliable supplier of agricultural goods.

California grows 1.8 million tons of rice annually, almost all of which is produced between Chico and northern Sacramento. The state is the second largest exporter of rice among the states, after Arkansas, and produces one-fourth of nation's rice.

FEINSTEIN INTRODUCES CHILD SUPPORT PENALTY BILL

Senator Dianne Feinstein on May 13 introduced the Child Support Penalty Fairness Act. The Act would provide that States could not be penalized for failure to develop centralized disbursements units for collecting and distributing child support, if they are already paying a penalty for computer-related problems.

California is already paying a \$12 million penalty this year because it does not have a statewide child support computer tracking system. The State missed a separate deadline last fall for developing a child support State Disbursement Unit (SDU), a centralized system for collecting and distributing child support. In late April of this year, the US Department of Health and Human Services notified the State that the penalty for failure to operate an SDU is the loss of all child support administrative funding, in the case of California, amounting to over \$300 million annually. This penalty may mean that California will lose its entire welfare block grant, \$3.7 billion. So the total penalty for not having an SDU in place could total over \$4 billion per year.

FOSTER CARE TRANSITION BILL PROPOSED

A bill expected to be introduced on Thursday would seek to help children in foster care once they turn 18 years of age by allowing them to retain Medicaid public health insurance. The Foster Care Independence Act of 1999, sponsored by Human Resources Subcommittee Chairwoman Nancy Johnson (CT) and Ranking Member Ben Cardin (MD), would help 20,000 adolescents per year who face an uphill battle when they are

cut off from various services upon reaching maturity. House Majority Whip Tom Delay (TX), himself a foster father, testified Thursday in favor of the measure. The legislation was expected to provide states with the option of extending assistance to former foster children up to the age of 21 if they are working or enrolled in educational activities and have a plan to become self-sufficient. This legislation, providing resources for housing, education, health care and employment, is expected to be marked up in subcommittee as soon as next week and in full committee the following week. The proposal could benefit California disproportionately as the state has a large number of foster children and receives roughly one-fourth of federal foster care spending.