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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 contributions from Sun Microsystems and IBM Corp.

HOUSE UNANIMOUSLY APPROVES ANOTHER EXTENSION FOR TRANSPORTATION PROGRAMS

On February 11, 2004, the House, by a unanimous vote of 421 to 0, approved a temporary measure that would continue national highways and transit programs through June 30, 2004, giving lawmakers four months of additional time to complete work on a long-term surface transportation authorization bill.

The legislation, HR 3783, would become the second temporary transportation extension bill, succeeding HR 3088 signed by the President on September 30, 2003 and scheduled to expire at the end of this month. If the measure is enacted into law, temporary authorizations will have sustained federal surface transportation operations for nine months following the original sunset date for the Transportation Equity Act for the 21st Century (TEA-21).

Though both the House and Senate have submitted detailed reauthorization proposals, only the Senate has completed committee work on the bill's major components. A finished piece of legislation is not expected in the immediate future, though the House Transportation and Infrastructure Committee chaired by Don Young (AK) has stated his intention to take committee action on its proposal this month.

Disagreement concerning the overall highways and transit authorization levels is chiefly responsible for the delay in action. Transportation leaders remain at odds with the President's call for the enactment of his lower-priced transportation reauthorization package -- a \$256 billion proposal entitled Safe, Accountable, Flexible and Efficient Transportation Equity Act or SAFETEA. The House proposal authored by Rep. Young would authorize \$375 billion in highways and transit funds from 2004 through 2009, whereas the price tag for the Senate-passed transportation package is \$318 billion. (TEA-21's 6-year cost was \$218 billion.) The White House has suggested that the President may veto a bill with even the lower Senate amount. A consensus level among these three funding amounts will need to be reached between Congress and the Executive branch as well as between the House and the Senate before a final bill gains passage, unless the Congress is willing to override a veto.

The California Institute has posted on its website a table showing each state's purported future share of total funding from the TEA-21 reauthorization proposals, including the Administration's SAFETEA

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proposal, the House's TEA-LU bill, and the Senate's bill. It is important to note that the amounts are as represented by the proposers. The table is available at <http://www.calinst.org>.

SENATE APPROVES TEA-21 REAUTHORIZATION MEASURE

By a vote of 76-21 on Thursday, February 12, 2003, the Senate approved a bill to reauthorize the federal highway and transit programs enacted in 1998 with the passage of the Transportation Equity Act for the 21st Century (TEA-21). The bill, S.1072, would cost \$318 billion over the six year period from 2004 through 2009.

The White House is indicating that President Bush may veto a transportation bill that costs substantially more than the \$256 billion proposal he unveiled in May 2003. (The House bill, which has yet to leave committee, would spend \$375 billion.) On a vote of 78-20, the Senate defeated an amendment that would have reduced the spending total to the \$256 billion level requested by the President, and by an 86-11 margin it invoked cloture on a filibuster led by conservative Senators who opposed the high price tag.

On a 78-17 vote, the Senate rejected an amendment by Sen. Kay Bailey Hutchison (TX) which would have moved \$9 billion in unallocated spending to high-growth states such as California and Texas.

The bill would alter a provision of TEA-21 known as the Minimum Guarantee (MG), which now ensures no state receives less in highway funding than 90.5 percent of the amount it contributes in gas taxes and other contributions to the Highway Trust Fund. The Senate bill would raise that minimum amount to 95 percent, although growth ceilings would slow the rate of funding changes. As a result, California would not reach the 95 percent level until 2009, the end of the reauthorization period. Nevertheless, given that California's highway program receipts are currently at the 90.5 percent minimum, the state could expect see a substantial increase in funding if such a change were enacted.

For additional information regarding California's share of the MG and of highway formula programs generally, see Tim Ransdell and Shervin Bolorian, *Federal Formula Grants and California: Federal Highway Programs*, a February 2003 report in a series (a joint venture between the California Institute and the Public Policy Institute of California) that examines California's share of federal grant programs prepared in, available on PPIC's website at <http://www.ppic.org/main/publication.asp?i=467>.

The Senate bill also includes provisions to provide a focus on freight needs, an important subject for California, which transships the lion's share of the nation's imported cargo. However, the bill does not provide a separate funding stream for the Freight Transportation Gateways program, instead requiring states to set aside 2 percent of their National Highway System apportionment for freight activities.

The formula for the Congestion Mitigation and Air Quality (CMAQ) program would be altered to include a factor for the amount of a region's air containing fine particulate matter (dust and like particulates) that exceed 2.5 microns, a standard known as PM-2.5. The Environmental Protection Agency (EPA) recently began measuring fine particulates, where it had previously focused on "coarse" particulates in excess of 10 microns (PM-10). The change in the CMAQ standard will alter the geographic distribution of funding. The PM-10 standard applies primarily to areas with agricultural fields and in desert areas, whereas the PM-2.5 standard will also capture areas with industrial and residential combustion and vehicle exhaust, as well as airborne chemical reactions such as the sulfur dioxide interplay that leads to acid rain in the Northeastern United States. As a result of the PM factor change, as well as changes in other factor weighting, California's CMAQ funding share may decrease somewhat. The state received more than 21 percent of the nation's CMAQ apportionments under TEA-21.

The California Institute has posted on its website a table showing each state's purported future share of total funding from the TEA-21 reauthorization proposals, including the Administration's SAFETEA proposal, the House's TEA-LU bill, and the Senate's bill. It is important to note that the amounts are as represented by the proposers. The table is available at <http://www.calinst.org>.

SENATE JUDICIARY SUBCOMMITTEE OPENS DEBATE ON GUESTWORKER BILL

The Senate Judiciary Subcommittee on Immigration, Border Security and Citizenship opened the debate in that body on the question of a temporary guestworker program for foreign workers at a hearing on Thursday, February 12. The President has proposed establishing a new visa category for temporary foreign workers to legally work in the U.S. for employers who cannot find U.S. workers for the job. See, [Bulletin, Vol. 11, No. 1 \(1/9/04\)](#). Subcommittee Chairman Saxby Chambliss (GA) stated that this would be the first in several hearings to discuss and flesh out a guestworker program.

The Subcommittee first heard from several Senators who have introduced various guestworker bills, including Sen. Larry Craig (ID). He and Senator Edward Kennedy (MA) have a bill, S. 1645, that is similar to the House bill, H.R. 3142, introduced by Reps. Howard Berman (Valley Village) and Chris Cannon (UT). See, [Bulletin, Vol. 10, No. 28 \(10/2/03\)](#). The bill only addresses a guestworker program for agricultural workers. Senator Craig cited the broad bipartisan support the bill has in the Senate and between interested parties such as the American Farm Bureau and the United Farmworkers Union, and urged the Judiciary Committee to move on it this year.

The Administration witnesses before the Subcommittee were: Asa Hutchinson, Undersecretary of the Department of Homeland Security (DHS); Eduardo Aguirre, Dir., Citizenship and Immigration Services, DHS; and Steven Law, Deputy Secretary of Labor.

A second panel of witnesses included: Dr. Vernon Briggs, Professor of Industrial and Labor Relations, Cornell University; and Demetrios Papademetriou, Co-director, Migration Policy Institute.

The Administration witnesses outlined the objectives of the President's proposal. The basic policy goals are: 1) Protecting the Homeland by Controlling Our Borders; 2) Serving America's Economy by Matching a Willing Worker with a Willing Employer; 3) Promoting Compassion; 4) Providing Incentives for Return to the Home Country; and 5) Protecting the Rights of Legal Immigrants.

During questions and answers, there was significant discussion of the major issues that must be addressed to make any legislative proposal workable. Mr. Aguirre, for instance, stated that the legislation should have enough flexibility to allow an immigrant to work under a temporary guestworker visa while at the same time applying on a parallel track for permanent residency if he or she meets those requirements on a different basis. Mr. Law spoke of the need to streamline the labor certification process, but reaffirmed that employers must only be able to hire foreign workers if they have made every effort to find a U.S. worker and cannot. Although solutions to these and other issues were not found, the Administration witnesses pledged to work with the Committee to develop a fair and effective legislative proposal.

Dr. Briggs was the one witness that expressed strong opposition to the entire idea of considering a guestworker proposal. He cited numerous experts in the past who unanimously found that such a proposal was bad immigration policy, among them were Barbara Jordan, who headed the government-sponsored Commission on Immigration Reform, and Father Theodore Hesburgh, S.J., a member of numerous commissions that studied immigration. Dr. Briggs was adamant that historically all "temporary" guestworker programs end up being permanent, and instead of discouraging illegal immigration, in fact, encourage it. In response to a question, he testified that a non-counterfeitable national identity card containing biometric information would be the only way to stem illegal immigration. He stated that it was only a matter of time, because of the security concerns in the United States, that such a system would be necessary.

The testimony of all the witnesses can be accessed from the Committee's website at:

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

HOUSE JUDICIARY SUBCOMMITTEE EXAMINES SOFTWARE COUNTERFEITING

The House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property held a hearing on Thursday, February 12 to address H.R. 3632, the Anti-Counterfeiting Amendments of 2003. The bill would amend the criminal statutes to prohibit the trafficking in authentication components. Authentication components, such as Certificates of Authenticity, holograms, and the like, are used by software companies to identify their products as company-manufactured and not pirated copies. In recent years, the theft and sale of

authentication components for the purpose of counterfeiting software has increased, but there is no effective enforcement system, because it is not illegal to sell genuine authentication components.

The Subcommittee heard from several witnesses: Richard LaMagna, Sr. Mgr., Microsoft; Emery Simon, Counselor, Business Software Alliance; Brad Buckles, Ex. Vice Pres., Antipiracy, Recording Industry Association of America (RIAA); and, David Green, Vice Pres. and Counsel, Motion Picture Association of America (MPAA).

All of the witnesses spoke in support of the bill. Mr. LaMagna and Mr. Simon pointed out the \$11 billion annual cost to the software industry from pirated products and said that the theft and sale of authentication components has steadily increased, making piracy rings harder to stop. Mr. Buckles testified that although much sound recording piracy makes very little attempt to look like the authentic recording, the authenticity of the production and packaging of other, more sophisticated, sound recordings has been increasing in value. Additionally, content owners have begun to use more authentication components in an attempt to thwart piracy of sound recordings.

Mr. Green of the MPAA testified that while the MPAA supports H.R. 3632, it believes the bill should be broadened to include not only physical authentication components, but digital components as well. This raised issues with the other panelists, however. They all expressed concern that trying to broaden the bill to include digital enforcement provisions would adversely affect the bill's chances for enactment, because it might become embroiled in the digital rights management debate.

The testimony of the witnesses can be obtained through the Committee's website at: <http://www.house.gov/judiciary> .

PENTAGON ANNOUNCES 2005 BASE CLOSURE ROUND SELECTION CRITERIA; CALIFORNIA SUGGESTIONS NOT INCORPORATED

On Thursday, February 12, 2003, the Department of Defense announced its final list of criteria for selecting, in 2005, which DOD facilities should be slated for closure. The Pentagon elected to use the identical criteria that it had proposed in December, despite the recommended changes of hundreds of commenters, including California's Governor, Senators, and Members of Congress.

Noting that "California has done its fair share," Senator Dianne Feinstein expressed disappointment with the DOD criteria in a joint statement with Senator Barbara Boxer. Boxer noted that "DoD does not take into account the prior four rounds of base closures that disproportionately affected certain regions and they pay no attention to the surrounding intellectual infrastructure that is so necessary to our national security."

The eight criteria for closure analysis are as follows, with the first four (focused on military value) being given greater priority than the following four:

- 1. Current and future mission capabilities and the impact on operational readiness of DOD force, including the impact on joint warfighting, training, and readiness.
- 2. Availability and condition of land, facilities and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.
- 3. Ability to accommodate contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations and training.
- 4. Cost of operations and the manpower implications.

The four secondary, non-military criteria proposed included:

- 5. Extent and timing of potential costs and savings, including the number of years after closure that savings would exceed the costs.
- 6. Economic impact on existing communities in the vicinity of military installations.
- 7. Ability of the existing and potential receiving communities' infrastructure to support forces, missions, and personnel.

- 8. The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

The Californians unsuccessfully attempted to convince the Department to consider various other factors, including

- Value of intellectual capital and the synergy created between the military, academia, and the private sector;
- Need to maintain long term testing facilities and operational ranges, which accommodate both individual and joint forces;
- California's substantial contribution to the streamlining of our military's base structure in past rounds;
- Capacity to accommodate new missions;
- Material readiness, including the development, testing or acquisition of new weapon systems and associated resident intellectual capital;
- Adequate space for test facilities and test areas able to accommodate individual and joint systems including weapons and platforms with long operational ranges;
- Proximity of other facilities with associated air, land and sea space, storage, maintenance and repair capability, offering access to major surface transportation infrastructure and routes to support testing long-range systems; and conducting major joint force exercises and experiments;
- Homeland security needs;
- Ability to accommodate the development, testing, or acquisition of new weapon systems using associated resident intellectual capital.
- The cost to replace lost resident intellectual capital resulting from a base realignment impacting the Defense Department workforce and the local contracting infrastructure; and
- The cost of environmental restoration, waste management, and cleanup, including the costs associated with an accelerated schedule of cleanup for reuse when contrasted with longer term, scheduled costs of environmental cleanup on a military site which remains open and operating.

Congress has until March 15, 2004 to disapprove the criteria or they will become the final criteria.

Tables showing California's military bases numbers and personnel totals compared to the rest of the nation are available on the California Institute website, at <http://www.calinst.org> .

HOUSE MILCON APPROPRIATIONS PANEL DISCUSSES BRAC ROUND

On Thursday, February 12, 2004, the House Appropriations Subcommittee on Military Construction held a hearing to discuss base closures and the Pentagon's proposed criteria for selecting bases to be closed during the 2005 BRAC (Base Realignment and Closure) round.

At the hearing, Pentagon officials stated that the decision to close bases would be made on "certifiable data" and not based on political or emotional arguments. Rep. Sam Farr (Monterey) expressed concern about the adequacy of those data, noting that the true and unique value of some facilities may not be reflected in each facility commander's response to a blanket "data call" from top DOD officials. He expressed concern that DOD did not incorporate California or any other commenters' concerns in adopting closure criteria (see above article). He specifically noted the unheeded recommendation for considering the intellectual capacity of an area, and the synergy with local resources, before closing an integral facility, stating that the criteria are too vague to capture the true value of intellectual capital.

Farr also disputed Pentagon officials' claim that it is preferable to sell off excess military and DOD civilian assets than to transfer the facilities to local governments free of cost. He noted that Monterey, having weathered the closure of Fort Ord, can serve as a model closure example wherein property was transferred to the community. He urged considering not only the joint needs of services but also the joint needs of the federal government and local communities.

Tables showing California's military bases numbers and personnel totals compared to the rest of the nation are available on the California Institute website, at <http://www.calinst.org> .

HOMELAND SECURITY BUDGET PROPOSAL EXAMINED

The House Select Committee on Homeland Security, chaired by Rep. Chris Cox (Newport Beach) held a hearing on Thursday, February 12, 2004, on the Department of Homeland Security's (DHS) proposed FY 2005 budget. The Committee members, including California Reps. Loretta Sanchez (Anaheim), Duncan Hunter (Alpine), and Jane Harman (Venice), heard testimony from Department of Homeland Security Tom Ridge.

Secretary Ridge outlined organizational developments that the Department has experienced since its creation less than a year ago. He discussed the Administration's Budget requests aimed at strengthening border and port security, enhancing biodefense, improving aviation security, enhancing immigration security and enforcement, and increasing preparedness and response capability. Secretary Ridge also addressed the Administration's support for state and local first responders, and spoke about individual programs incorporated into the budget proposal and several homeland security related issues, including the development of the threat vulnerability assessment system, the Container Security Initiative, the Urban Area Security Initiative, and interoperable communications.

When asked by Rep. Sanchez to elaborate on the issue of the first responders' funding distribution once it has been allocated to states, Secretary Ridge said that there is currently no consensus. He acknowledged that this slows the flow of the money from the states to local governments once it has been allocated by the federal government. However, he added that his Department is working with the National Governors' Association to hammer out an agreement that will address this issue. Rep. Sanchez also asked Secretary Ridge to address the Administration's Immigration proposal. Currently, an estimated 8-10 million immigrants reside here illegally. The Secretary distinguished between a blanket grant of citizenship to undocumented aliens and the intent of the proposal to recognize the presence of undocumented immigrants in the U.S. and their contribution to the country's economy. He stated that the latter intent represents the backbone of the Administration's proposal, but said that the fact that illegal immigrants break the law when they enter the country also needs to be addressed.

Upon questioning from various members of the Committee about the Urban Area Security Initiative, Secretary Ridge testified that he does not believe that allocation of such funding should be based solely according to a set formula. Instead, he urged flexibility at both the federal and state level, and that states should be allowed flexibility to work with local jurisdictions to develop a distribution plan that reflects local priorities.

For more information about this hearing, please visit the House Select Committee on Homeland Security website at: <http://hsc.house.gov> .

For information regarding California and homeland security funding for first responders, see "*Federal Formula Grants and California: Homeland Security*," which outlines the federal programs that distribute grants to the nation's first responders, examines the mechanics of formulas that determine funding levels for California and other states, and discusses legislative proposals to change these formulas. It is available on the PPIC website at <http://www.ppic.org> .

SENATE ENERGY AND NATURAL RESOURCES MARKUP HELD

The Senate Energy and Natural Resources Committee held a markup on Wednesday, February 11, 2004, which included several California-related bills: H.R. 417, H.R. 708, and H.R. 1598.

H.R. 417 revokes a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, located in California. H.R. 708 requires the conveyance of certain National Forest System lands in Mendocino National Forest, also located in California, to provide for the use of the proceeds from such conveyance for National Forest purposes. H.R. 1598 amends the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the secretary of the Interior to participate in projects within the San Diego Creek Watershed.

The three above-mentioned bills were approved and reported by the Committee without major discussion. To obtain more information about the bills or the Committee's schedule, please visit: <http://energy.senate.gov>

TRANSPORTATION BRIEFINGS HIGHLIGHT CALIFORNIA'S NEEDS

On Wednesday, February 11, 2004, the Southern California Association of Governments (SCAG) held a briefing, which included a discussion of issues expected to surface during the upcoming reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). The briefing also addressed Southern California's transportation needs and priority projects.

Reps. Juanita Millender-McDonald (Carson), Gary Miller (Diamond Bar), who sit on the House Transportation and Infrastructure (T&I) Committee, and James L. Oberstar (Minnesota) (who is also a Ranking Member on the House T&I Committee), joined several SCAG members at the briefing.

Both Reps. Miller and Millender-McDonald thanked SCAG's regional representatives for putting together the "Consensus Program for TEA-21 Reauthorization", a bipartisan plan presented at the briefing, which according to Rep. Millender-McDonald has been embraced by U.S. Secretary of Transportation Norman Mineta. Rep. Millender-McDonald noted that the California Congressional Delegation also works along bipartisan lines when it comes to transportation issues, and said that "in California, we have no Rs and Ds, but rather we work together to get the most for the state." Congressman Miller briefed city leaders from Southern California about several aspects of the transportation policy that needed to be revamped including: streamlining the environmental review required for freeway expansion projects, dedicating truck lanes in order to facilitate a more efficient movement of goods, and targeting federal spending to transportation projects of national significance. Congressman Oberstar, on the other hand, spoke about the House transportation bill, which currently has a price tag of \$375 billion. He underscored California's importance to the national economic vitality, and argued for the addition of the 5-cent tax to offset the cost of the House version of the transportation bill.

Later that day, Rep. Millender-McDonald held another transportation briefing focusing on goods movement issues. Congresswoman Millender-McDonald co-chairs the Congressional Goods Movement Caucus and has introduced a Goods Movement Proposal, which is part of the House version of the transportation reauthorization bill. The briefing featured remarks by Department of Transportation Undersecretary for Policy Jeffrey Shane. Secretary Shane outlined the key elements of the Administration's reauthorization proposal, which sets a level of funding at \$256 billion. He emphasized a more efficient movement of goods as an essential ingredient to the economic well-being of the country. He also pointed out that the Administration's proposal includes a set-aside for intermodal connectors, makes TIFIA financing available for rail projects, and incorporates a private activity bond as one of the financing tools.

NEW STUDY PREDICTS JOB GROWTH FOR SOUTHERN CALIFORNIA IN 2004

Southern California's economy will pick up steam in 2004, creating jobs at a faster rate than the rest of the state and the nation, reports a new study released on February 9, 2004 by the Los Angeles County Economic Development Corporation (LAEDC). The report, titled "*2004-2005 Economic Forecast and Industry Outlook for California & the Los Angeles Five-County Area Including the National & International Setting*," also makes a prediction that the U.S. economy will expand as well, growing by 4 percent in 2004 and 3.6 percent in 2005, with consumer spending contributing healthily to such an economic upturn.

The report names the aerospace, technology, and tourism industries among those with improving economic prospects in 2004, while it identifies health services and motion picture/TV production among those that will continue to experience significant challenges. The report notes that the value of exports moving through the Los Angeles area will most likely increase to \$259 billion, up 10 percent, in 2004. On the other hand, health services is being held at a poor forecast rating for 2004 due to a variety of forces including: a

double digit rise in health care cost rates, an ongoing struggle on behalf of hospitals to comply with nursing staffing laws, and closure of smaller hospitals.

The forecast also predicts that in terms of percentage job growth for nonfarm jobs in 2004, the Riverside-San Bernardino area will experience a 2.4 percent (or 25,600 jobs) increase. Orange County is predicted to gain 1.6 percent (or 22,200), while San Diego County will see a 1.2% increase (or 14,600). Los Angeles County's nonfarm employment will move up by 0.8 percent (31,300), while Ventura County will see a 0.3 percent slippage (or 700). In addition, other measures of regional economic growth, such as personal income, and taxable sales, are also projected to advance at a healthy rate.

The report's predictions, which estimate that Southern California's economy will grow at 1.14 percent in 2004, place the five-county region's economic upward movement ahead of state and national economic indicators. The LAEDC report concludes that there are emerging industries in which the state and the region under consideration could be major players, and recommends that elected and business leaders should develop an encompassing vision that would energize overall population and various segments of the business community in light of upcoming changes.

To obtain a copy of this report, please visit the LAEDC website at: <http://www.laedc.org> .