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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.

GOVERNOR AND BIPARTISAN STATE LEGISLATIVE LEADERSHIP TO MEET WITH CALIFORNIA DELEGATION IN WASHINGTON

On Thursday, February 17, 2005, Governor Arnold Schwarzenegger and the top leaders of both parties in the State Legislature will visit Washington and meet with the bipartisan California Congressional Delegation.

Accompanying the Governor will be Assembly Speaker Fabian Nunez, State Senate President Pro Tem Don Perata, Senate Republican Leader Dick Ackerman, and Assembly Republican Leader Kevin McCarthy.

Among other topics, the officials are likely to focus on the impact of federal legislation and administrative policy on California and the nature and amount of federal expenditures that flow to the state.

HOUSE PASSES “REAL ID” IMMIGRATION BILL

The House, on Thursday, February 10, passed H.R. 418, the Real ID Act of 2005 after two days of debate. The bill contains four changes to immigration laws. It would require the states to adopt documentation requirements to restrict the issuance of drivers’ licenses to undocumented immigrants. These criteria would have to be met for a driver’s license to be used to board an airplane in the United States or enter federal facilities. If the driver also holds a U.S. visa, the law would require that the license’s expiration date match the visa’s expiration date. The bill also broadens restrictions on gaining asylum in the United States. Applicants would have to prove that a “central reason” for their persecution was race, religion, nationality, membership in a particular social group or political opinion. U.S. immigration judges would also be given more leeway to require applicants to provide corroborating evidence to back up their claims in some cases. The amendment also increases the cap on the number of asylum visas that can be issued annually.

Of particular importance to California is a provision in the bill that will accelerate the completion of the border security fence in the Smuggler’s Gulch area of the Southern California/Mexico border. The bill would allow the Secretary of Homeland Security to waive any law that was impeding the completion of the fence. The California Coastal Commission has held that the plan to complete the fence is not

CONTENTS:

- Governor and Bipartisan State Legislative Leadership to Meet With California Delegation In Washington 1
- House Passes “Real ID” Immigration Bill .. 1
- House Hearing Discusses Welfare Reform Successes And Prospects for Reauthorization 2
- USDA Emergency Order Helps California Nurseries as Spring Season Approaches 3
- House Transportation Bill Reintroduced with Support of White House 4
- Ranking T&I Democrat Addresses ITS Community, Predicts Another Bipartisan Transportation Effort in House 5
- PPIC Overviews California’s Workers’ Compensation Crisis 5
- Nominee Declines Consideration For BRAC Commission Appointment 6
- CSBA Presents Congressional Briefing on K-12 Funding, State Budget, and Certification Issues 6
- Bill Permitting Carpool Lane Use by Hybrids Introduced By Two California Lawmakers 7
- California Institute Analysis of the President’s FY 2006 Budget Available Online 7

consistent with the state's coastal zone management plan and would harm the land and animal wildlife. Rep. Sam Farr (Carmel) offered an amendment to strike the provision, arguing that it was overly broad and would "emasculate" all federal, state, and local laws, ranging from child labor and worker safety to the environment, and would not be restricted to just the Smuggler's Gulch border area, but could be extended to any area along the United States' border. Opponents of the amendment included Reps. Duncan Hunter (Alpine) and Duke Cunningham (Escondido), as well as other California members. They argued that the completion of the fence is of major importance to national security, as well as to control illegal immigration. The Farr amendment was defeated 179-243.

Before final passage by a vote of 261-161, the House accepted three amendments by voice vote. One clarifies the use of delivery bonds to ensure that aliens facing deportation are not released pending further deportation hearings. It is intended to prevent undocumented aliens from slipping through the cracks even after being ordered deported. The second amendment adopted by voice vote would require that the name and information of any person convicted of attempting to use false identification to board an airplane would be placed in a national aviation data base. Finally, a pilot program would be created within the Department of Homeland Security to identify and test ground surveillance technologies that could enhance illegal immigration enforcement controls. The amendment also calls for greater information sharing federal, state and tribal government agencies.

The House defeated by a vote of 185-236 an amendment by Rep. Jerry Nadler (NY) that would have stripped the asylum provisions from the bill.

The provisions in H.R. 418 track those of several provisions dropped from the intelligence reform bill (P.L. 108-458) before it was passed at the end of last year. In return for dropping the provisions Judiciary Committee Chairman James Sensenbrenner was promised early consideration of the bill this year. Because of concerns that the Senate will not take up the bill, the House may attach it to the Iraq/Afghanistan supplemental bill that will be considered in the near future.

HOUSE HEARING DISCUSSES WELFARE REFORM SUCCESSES AND PROSPECTS FOR REAUTHORIZATION

On February 10, 2005, the House Ways and Means Subcommittee on Human Resources held a hearing about the family and marriage promotion aspects of welfare reform and ways to build on past successes through reauthorization. Panel members received testimony from a top Administration official and members of the welfare-to-work community.

Rep. Wally Herger (Walnut), Chair of the Subcommittee on Human Resources urged members to push through Republican legislation (HR 240) and derided the delay in reauthorization as an impediment to poor families and a potential cause for lost cash and child care benefits. "The longer we delay, the more funding will be lost," warned Herger.

Assistant Secretary of the Department of Health and Human Services' (HHS) Administration for Children and Families, Wade Horn, stated that the welfare bill of 1996 known as the Personal Responsibility Work Opportunity and Reconciliation Act (PRWORA) had reduced welfare caseloads by 61 percent and cut child poverty rates by 14 percent through the lifetime of the bill. He went on to outline ways that the Republican bill would build on the successes of welfare reform and detailed principle aspects of the proposal concerning child support enforcement strategies, post employment support, marriage strengthening initiatives and responsible fatherhood programs. In his testimony, Mr. Horn expressed his support for HR 240, which maintains level funding for the Temporary Assistance for Needy Families (TANF) block grant (\$16.7 billion) and provides an extra \$1 billion in child care assistance over five years to states. When responding to a question concerning the disadvantages of using continuing resolutions to maintain federal funding for welfare programs, Mr. Horn testified that under HR 240, states were not only left with certainty about how to adjust their programs to suit long term program

rules, but that \$2 billion in unobligated balances carried over from prior years would be left frozen. He noted that these funds that would be unlocked through the Republican bill's added flexibility provisions and could be used to fund child care services.

When challenged by the Democratic Ranking member of the Subcommittee Jim McDermott (WA), about Congressional Budget Office (CBO) estimates indicating a slippage of \$10 billion in child care assistance over 5 years under the President's 2006 Budget, Mr. Horn suggested that the CBO had made potentially inaccurate assumptions about future child care budgets and that the office did not take into consideration future reductions in caseloads.

Rep. Lynn Woolsey (Petaluma), herself a former welfare recipient, testified that welfare reform's measure of success should be focused on poverty reduction rather than on the number of families dropped from welfare rolls. A senior member of the Education and Workforce Committee that shares jurisdiction over welfare and child care programs, Ms. Woolsey supported legislation that would: focus on helping welfare recipients gain the skills to earn a living, adjust benefits to account for cost of living differences across communities, and provide safe and affordable child care.

Federal law requires states to ensure that a certain percentage of cash enrollees are engaged in work activities. Chairman Herger raised the issue of work participation rates, expressing concern that work rates in states had fallen in three of the last four years. Dr. Horn echoed these sentiments asserting that work participation rates were currently inadequate, noting that 31 percent of adult TANF recipients are satisfying work requirements and that this would be addressed by the House bill's proposal to increase hours of work per week (from 30 to 40 hours) and state work participation rates (from 50 percent to 70 percent).

Since PRWORA's expiration, welfare programs have been maintained through enactment of a series of temporary continuing resolutions, the latest of which would expire at the end of March 2005. California receives more than 21 percent of TANF block grants and approximately 11 percent of Child Care and Development Fund (CCDF) expenditures.

For more information on this hearing visit the House Ways and Means website at:

<http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=382> .

USDA EMERGENCY ORDER HELPS CALIFORNIA NURSERIES AS SPRING SEASON APPROACHES

In a move that helps California nurseries, the U.S. Department of Agriculture issued an emergency order on December 21, 2004 (effective January 10) prohibiting other states from blocking the shipment of California plants because of concern over the spread of Sudden Oak Death. The order emanated from a backlash against California stock in the wake of discoveries of Sudden Oak Death at two Southern California commercial nurseries in March 2004. After the outbreaks, 12 states, including Kentucky and Florida, attempted to block all shipments of California plants, regardless of whether the plants were known to be carriers of the disease, in an effort to curb the spread of Sudden Oak Death. In July 2004, California nurseries filed suit against Kentucky in federal court to reverse the discriminatory practice; Kentucky quickly reversed its policy. However, the restrictions still existed in a number of other states.

The USDA order allows California nurseries in affected areas to ship nursery stock to other states provided the nursery has been inspected and certified by the USDA. Additionally, it adds a number of counties in Northern California, Oregon, and Washington to the "regulated areas" that require more extensive inspection and certification. To date, all of the states have dropped their blockades against California nursery stock, improving the outlook for the important spring shipping season. California's nurseries represent a \$2.35 billion annual industry.

HOUSE TRANSPORTATION BILL REINTRODUCED WITH SUPPORT OF WHITE HOUSE

With fresh backing from the White House, House transportation leaders on February 9, 2005, reintroduced the previously-reported Transportation Equity Act: Legacy for Users (TEALU) highways and transit authorization bill. For the 109th Congress, the bill is now numbered H.R. 3.

According to a statement by the bill's sponsor and House Transportation and Infrastructure (T&I) Chair Don Young (AK), TEALU's policy content is essentially identical to the six-year, \$284 billion measure that passed the House with bipartisan support last year. That bill was opposed by Bush Administration officials, who threatened to recommend a veto to kill any proposal that exceeded \$263 billion. Ultimately, disagreement over the cost of highway programs thwarted last year's reauthorization effort in conference committee negotiations. After approving a series of minor amendments, mostly technical in nature, House conferees under pressure from the White House and the House leadership rejected the Senate's formal offer to set price limits at \$318 billion, as proposed in the Senate's Safe Accountable Flexible and Efficient Transportation Equity Act (SAFETEA), and no final deal was struck. The President's 2006 Budget released earlier this week indicated that the White House had acceded to the House figure. "I strongly believe that we have a much better chance of moving this legislation quickly," said Rep. Young, "now that we are working with the same top line funding that the President has endorsed."

Because House leaders have chosen to postpone the House energy bill's consideration, action on TEALU could be accelerated considerably, so long as T&I members can maintain the bipartisan spirit that aided TEALU's completion in the House last year.

Senate Environment and Public Works Committee Chair James Inhofe (OK), who has yet to introduce companion legislation in the Senate, was concerned that the House bill's numbers were not satisfactory and planned to continue working with the Senate Finance Committee to find more budget authority.

The House plan would grow authorizations by 42 percent over prior levels contained in the Transportation Equity Act for the 21st Century (TEA-21) and increase annual highway and transit authorizations from \$34.4 billion in 2004 to \$41 billion in 2009, and ramp up public transit expenditures from \$7.3 billion in 2004 to \$10.3 billion in 2009.

Beyond the task of reaching a consensus on overall funding levels lies the thorny problem of providing a fair share of funds to donor states that send greater amounts of money to the Highway Trust Fund (HTF) in highway taxes than they receive in federal aid highway program spending. Currently, each state is entitled to a minimum 90.5 percent return on its highway taxes, though members from donor states, led by House Majority Leader Tom Delay (TX), support a higher minimum guarantee. In a controversial move that could generate friction with the White House, Rep. Young opted to retain the Equity Hammer provision in HR. 3, that would force lawmakers to revisit the minimum guarantee issue within two years of a final bill's passage.

Programs driven by the nation's prior surface transportation law known as TEA-21(PL 105-178) would have expired in 2003, were it not for the passage of a number of temporary extensions that maintained authorizations (at TEA-21 growth rates) while Congress continued work on a long term bill. The latest extension is due to expire by the end of this May.

In other news, the President's 2006 spending plan contained \$1.53 billion in Federal Transit Administration (FTA) New Starts earmarks under the proposed \$7.8 billion transit budget. Four California projects are slated to receive a combined total of \$182 million in New Starts funds including: \$80 million for the Metro Goldline East Side Extension, \$7.7 million for the San Diego Mission Valley East LRT Extension, \$12.21 million for the San Diego Oceanside Escondido Rail project, and \$81.86 million for the SFO-BART Extension project in San Francisco. New Starts projects are major capital investments to facilitate the establishment of new or extensions of existing fixed guideway routes and facilities costing over \$25 million in federal support.

For more information on the new TEALU bill, visit the T&I homepage at:
<http://www.house.gov/transportation/>.

RANKING T&I DEMOCRAT ADDRESSES ITS COMMUNITY, PREDICTS ANOTHER BIPARTISAN TRANSPORTATION EFFORT IN HOUSE

In a presentation to technology industry representatives on February 8, 2005, the ranking Democrat on the House Transportation and Infrastructure (T&I) Committee, Rep. James Oberstar (MN) discussed the successes and transformative potential of technology on surface transportation modes and expressed optimism at the possibility of a completed surface transportation bill in the House before May's end.

At the Intelligent Transportation Society of America (ITSA) consortium luncheon Congressman Oberstar, now in his 16th term, commented on the history of technological advancements in the transportation sector, noting that highways and transit development can enhance mobility, efficiency, safety, business sector partnerships, and human adaptability through government investment in ITS research and deployment.

Rep. Oberstar underscored the advancement of ITS as a principle of intermodal, people oriented and forward thinking transportation policies noting that growth in transportation use had dramatically outpaced population growth in America. According to Mr. Oberstar, the population grew four percent in the 1980s and 1990s, whereas highway use increased 14 percent and transit and aviation ridership jumped 19 percent and 21 percent respectively over the same time period. Most of this growth was in urban areas reflecting a need for more concentrated and smarter policies. He referred to expansion of air facilities and technology as a model for investment that should be applied to ground transportation.

He stated that the transportation reauthorization effort would be renewed this week with the reintroduction of the Transportation Equity Act: Legacy for Users (TEALU) bill with the prior bill's policy structure in tact. He expected that the House would complete work on a bipartisan bill before the expiration of the current temporary extension bill although he was not as optimistic about the Senate's ability to keep pace. The House bill which would cost \$284 billion in guaranteed highways and transit spending and \$299 billion in contract authority over five years, would contain \$3 billion in ITS investments, a fourfold increase over TEA-21.

Mr. Oberstar said that he was not pleased with White House pressure to reign in transportation costs, remarking that a \$375 billion proposal would adequately meet the nation's transportation needs and that such a figure was achievable.

The Intelligent Transportation Society of America is a non-profit organization consisting of members from government agencies, private industry and academia. It was established in 1991 to coordinate the development and deployment of ITS in the United States. ITS America also has alliances with ITS organizations in other countries, most notably in Europe and Asia.

For more information on the organization's activities visit the ITSA website at: <http://www.itsa.org>.

PPIC OVERVIEWS CALIFORNIA'S WORKERS' COMPENSATION CRISIS

The Public Policy Institute of California released a report entitled "The Workers' Compensation Crisis In California" that provides an excellent overview of the factors that contributed to the system's current problems. Over the past few years, workers' compensation premiums in California have tripled, far outpacing the rise in premiums in other areas of the country.

The author of the analysis, David Neumark, identifies a number of sources for this troubling development, including insurers' projections of increasing medical costs and increases in cases of permanently disabled workers. The study also examines recent legislative reforms enacted in California and cautions against overestimating their success in solving the crisis. In all, the report is an excellent

primer for anyone looking to better understand the problems with the workers' compensation system in California.

For the full report, visit the Public Policy Institute of California's website at <http://www.ppic.org/main/home.asp>.

NOMINEE DECLINES CONSIDERATION FOR BRAC COMMISSION APPOINTMENT

On February 1, 2005, former Representative Vic Fazio elected to withdraw his name from consideration for appointment to the nine-member Base Realignment and Closure Commission that will review and revise the list of bases chosen for closure by the Secretary of Defense. Fazio, who served 20 years in the House of Representatives, including several in party leadership, withdrew his name after receiving indications from the White House that his chances of being selected were not good. Fazio's firm, Clark and Weinstock, represents the State of California as a consultant for the upcoming round of base closures. House Minority Leader Nancy Pelosi (San Francisco), who is entitled to suggest one person for the Commission, had put forth Fazio's name along with that of Wade Miller from San Diego. Miller served as deputy assistant Navy Secretary during the Clinton Administration. Rep. Pelosi indicated that she plans to suggest another person in Fazio's place.

The Base Realignment and Closure Commission will be named on March 15 by President Bush. The Commission is entrusted with reviewing and revising the list of base closures and realignments submitted by the Secretary of Defense on May 16, and sending a final list to the President by September 8. In the last four rounds of base closures in 1988, 1991, 1993, and 1995, California suffered a disproportionate share of the cuts, bearing nearly 60% of net personnel reductions for the entire nation.

CSBA PRESENTS CONGRESSIONAL BRIEFING ON K-12 FUNDING, STATE BUDGET, AND CERTIFICATION ISSUES

On January 28, the California School Board Association (CSBA) briefed Congressional staffers and other interested parties concerning funding and No Child Left Behind (NCLB) for K-12 education in California. The briefing, co-sponsored by the California Institute for Federal Policy Research, focused largely on the controversial issue of state funding for K-12 schools. Rick Pratt, the CSBA's Assistant Executive Director for Governmental Relations, devoted more than half an hour explaining the complicated mechanisms, including Prop 98, through which California funds its schools. At issue are billions of dollars that the CSBA states have been unfairly and illegally taken from the school budget by Governor Schwarzenegger. This disagreement has spurred a public relations battle between the Governor's office and education organizations. During his briefing, Mr. Pratt underscored the poor performance of California schools, particularly in terms of per pupil expenditures, where California ranks 42 in the U.S., more than \$1,000 per pupil behind the national average.

Phillip Escamilla, a CSBA Legislative Advocate, presented the difficulties California faces in keeping up with the testing requirements mandated by President Bush's No Child Left Behind Initiative. Mr. Escamilla focused primarily on the federal rejection of California's alternative District Program Improvement Formula and the challenges of incorporating Special Education students in a school's yield and testing metrics. Finally, Debra Brown, a CSBA Legislative Advocate, discussed the Perkins Act, which addresses Vocational and Technical Education, and the National Forest Lands bill, H.R. 2389, and its impact on rural schools in California.

CSBA's advocates were in Washington as part of the National School Board Association Federal Relations Network Conference, January 30-31. For more information on CSBA and its current activities, visit the Association's website at <http://www.csba.org/>.

BILL PERMITTING CARPOOL LANE USE BY HYBRIDS INTRODUCED BY TWO CALIFORNIA LAWMAKERS

On February 1, 2005, Congressman Darrel Issa (Vista) and Congressman Brad Sherman (Sherman Oaks) introduced legislation that would give solo drivers of hybrid vehicles access to carpool or high-occupancy vehicle (HOV) lanes throughout the country. Carpool lanes were constructed using federal funds, and as such, are regulated by federal restrictions. Under current federal law that was written before the growth in the hybrid vehicle market, only vehicles with two or more passengers or individuals driving natural gas and electric vehicles are eligible to use the carpool lanes. The new bill, HR 444, would revise federal regulations to allow states to determine under what conditions, if at all, solo drivers of hybrids may use the HOV lanes. Currently, the bill has 19 co-signers, including 11 bipartisan members of the California delegation, and has been referred to House Committee on Transportation and Infrastructure. Senator Dianne Feinstein, in a separate press release, indicated that she would be offering similar legislation in the Senate.

At the press conference announcing the bill, Reps. Issa and Sherman framed the legislation as an environmental, oil conservation, and states' rights bill. By providing consumers with another potential incentive beyond the existing \$2,000 federal tax deduction for hybrid-buyers, the bill would further encourage the purchase of the environment-friendly vehicles. Hybrids' low oil consumption would help to decrease American dependence on foreign oil in an era where importing oil, particularly from the Middle East, has become an increasingly volatile issue. Finally, the bill would give more freedom to the states, whom the coauthors assert are in a better position than the federal government to allocate the scarce resource of carpool lanes.

California has already devised its own rules for hybrid use of carpool lanes. In anticipation of an easing of federal restrictions, in 2004 Governor Schwarzenegger signed into law a state bill that would have permitted 75,000 owners of hybrids with at least 45 miles-per-gallon fuel efficiency to use carpool lanes. The law would have taken effect this past January 1, but did not because of continued federal restrictions. For the past three years, Virginia has had a law on its books permitting hybrid use of HOV lanes and has been allowed by the federal government to implement its own set of rules.

Currently, there are 127,000 hybrid vehicles on the road throughout the nation. California is home to 29,000 of those cars, as well as 40 percent of all high-occupancy vehicle lanes in the U.S. In 2004, 80,000 hybrids were sold in the U.S.

CALIFORNIA INSTITUTE ANALYSIS OF THE PRESIDENT'S FY 2006 BUDGET AVAILABLE ONLINE

On Tuesday, the California Institute for Federal Policy Research completed its analysis of President Bush's fiscal year 2006 budget proposal. The Budget proposes outlays of \$2.57 trillion for fiscal year 2006, and projects a \$390 billion deficit in fiscal 2006 and a \$233 billion deficit in 2009. Discretionary funding would grow by 2.1 percent, less than the 2.5 percent predicted rate of inflation. The President's FY 2005 Budget had proposed a discretionary spending increase of 3.9 percent over 2004.

In more than 2500 pages, the budget documents outline the Administration's recommendations for discretionary and mandatory spending, as well as its revenue proposals. The Institute's document provides a California-oriented analysis of the proposal prepared by the staff of the California Institute for Federal Policy Research. It is available on the Institute's website at <http://www.calinst.org/pubs/prbdg06.htm> or in Adobe Acrobat (pdf) format at <http://www.calinst.org/pubs/prbdg06.pdf>.