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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.

CONTENTS:

HOUSE SUBCOMMITTEE REPORTS COPYRIGHT BILL

The House Judiciary Subcommittee on Courts, the Internet and Intellectual Property favorably reported S. 167, the Family Entertainment and Copyright Act of 2005. The bill exempts from copyright laws the makers of software that allows home DVD viewers to skip over what they consider to be objectionable material. The movie industry has opposed the bill, arguing that it sanctions altering copyrighted content. In an effort to placate the industry, manufactures of the software would have to give "clear and conspicuous notice" at the beginning of the movie that it has been changed from "the performance intended by the director or copyright holder of the motion picture."

The bill also contains other provisions supported by the entertainment industry. It criminalizes the use of camcorders to record movies in a theater and makes the first offense punishable by up to three years in jail, and up to six years for subsequent offenses. Also, distributing a film before its release date would be punishable by up to three years, and up to five years if done for "commercial advantage or private financial gain."

The Senate passed the bill by voice vote on February 1.

TRANSPORTATION PANEL APPROVES $289 BILLION BILL, NO MINIMUM GUARANTEE CHANGES ... YET

On March 2, 2005, the House Transportation and Infrastructure (T&I) Committee reported out a $284 billion highways, transit and highway safety bill by voice vote, taking concrete steps toward renewing surface transportation programs for the first time in this Congress. The bill (HR 3), sponsored by T&I Chair Don Young (AK), strongly resembles last year's bipartisan House transportation legislation; however, both Chairman Young and Ranking Democrat James Oberstar (MN) expressed disappointment at the funding level of the bill. Chairman Young also sidestepped the topic of securing more highway formula funds for donor states until the bill's floor introduction, expected to occur next week.

The reported House bill renamed the Transportation Equity Act: A Legacy for Users (TEALU) authorizes $225.5 billion in highway funds, $52.3 billion for transit costs, and $6.1 billion for safety programs over 6 years. It boosts overall transportation funds by 42 percent over prior levels under the 1998 Transportation Equity Act for the 21st Century (TEA-21) law (P.L. 105-178).

TEA-21 expired in 2003 and Congress has not completed work on a successor. Instead, federal transportation programs remain in operation due to the passage of temporary extension laws. The most recent extension runs out at the end of this May.

Opening statements delivered by senior members reiterated the imperative need for a finished transportation bill before the extension's expiration, "we will not remain an economic power, if we do not maintain and improve our transportation infrastructure," said Chair Young. Rep. Oberstar viewed the House funding level as inadequate, calling the $284 billion total "a tragedy and a shame". He remarked that the bill did not reflect the funding level needed for transportation programs to keep pace with demands, and was concerned that insufficient transportation funds would impact the nation's safety, mobility and global competitiveness challenges.

A manager's amendment making several changes to the bill and folding in a number of earmarks was introduced and approved by voice vote. Among the bill's new provisions are: added flexibility for states to use excess funds after a project's completion; eligibility criteria for states to qualify for alcohol-impaired driving program funds; a new study examining the effects and risks of glare; expanded eligibility for Clean Fuels Formula program activities to include new facilities construction and improvements; language exempting transit capital projects costing less than $25 million from Small Starts evaluations; a study evaluating the needs of and barriers to effective public transportation of people with cognitive impairments; amended criteria governing motor carrier registration regulations; and hours of service exemptions for commercial operators transporting agricultural products.

No language was added during the mark up addressing the 90.5 percent minimum rate of return currently awarded to each state in the form of minimum guarantee (MG) funds. Members from donor states -- those that send more tax dollars to the highway trust fund (HTF) than they receive back in federal highway spending -- had pushed for a hike in the minimum rate of return to 95 percent for each state. According to Rep. John Mica (FL), an effort to raise the minimum guarantee to 92.6 percent would be an acceptable compromise. "Given the dollars available, it's the best we can do," said Rep. Mica. Details of a proposed minimum guarantee plan were not available. However, a plan is expected to be drafted and submitted as an amendment when the bill reaches the House floor.

Although the mark up was characterized by congeniality and bipartisanship, some members voiced concerns about potential changes to the MG. Donee state member Rep. Jerrold Nadler (NY), voiced opposition to any shift in the distribution of MG funds and argued that the structure of the program punishes energy efficient states such as New York. Committee member Earl Blumenauer (OR) preferred an MG framework that would focus on assisting communities and metropolitan areas suffering from funding disparities rather than states. According to Rep. Blumenauer, out of 256 metropolitan areas, 2/3rds pay more in gas taxes than they receive back in transit and highway funds. The Los Angeles/Riverside metropolitan area was highlighted as among the most disenfranchised communities, with residents there sending $1 billion more to the HTF than they collect in expenditures, according to Rep. Blumenauer.

In other news, the House Ways and Means Committee chaired by Rep. Bill Thomas (Bakersfield) approved companion legislation (HR 996) that would extend the HTF's authorization through 2009. HR 996, approved by voice vote with little committee discussion, updates the purposes of HTF and makes technical adjustments that would make the TEALU measure commensurate with the $289 billion price tag.

It is rumored that the Senate will mark up its version of the highway bill as early as March 16th. A prospective Senate bill's overall cost levels are likely to match that of the House's; however, Senate Environment and Public Works Committee Chair James Inhofe (OK) has not ruled out the possibility of that figure rising, once the bill reaches the Senate floor.

For more information on TEALU (HR 3), visit the House Transportation and Infrastructure website at http://www.house.gov/transportation .

TEALU BUS AND HIGHWAY EARMARK DATA TO APPEAR ON INSTITUTE WEBSITE

The California Institute is reviewing the voluminous information regarding earmarked projects listed in H.R. 3, the new version of the House TEALU bill to reauthorize federal highway and transit programs. Project information includes 414 bus program earmarks and 3,315 road and highway earmarks, better known as High Priority Projects or HPPs.

Once the review is completed, information (including a list of all California projects and a comparison of state totals for projects) it will be posted on the California Institute transportation page, at http://www.calinst.org/transpo.htm .

The information and analysis is made available thanks to capabilities developed under the *Federal Formula Grants and California* project, a joint venture between the California Institute for Federal Policy Research and the Public Policy Institute of California (PPIC). For all products in the study series, visit the PPIC website at http://www.ppic.org/main/series.asp?i=22 .

The project includes two major transportation reports. A paper on California's relationship with federal highway programs is available at http://www.ppic.org/main/publication.asp?i=467 , and a September 2004 report on federal transit programs is available at http://www.ppic.org/main/publication.asp?i=550 .

HYBRID HOV LANE WAIVER INCLUDED IN HOUSE TRANSPORTATION BILL

On Wednesday, the House Transportation Committee included a federal waiver in its massive highway bill, HR 3, allowing California to implement an existing state law permitting solo drivers of hybrid vehicles to use high-occupancy vehicle lanes. High-occupancy or carpool lanes throughout the country are federally funded and maintained; as such, federal laws regulate the use of the lanes. Currently, only vehicles with two or more passengers or individuals driving natural gas and electric vehicles are eligible to use the carpool lanes. In an effort to promote the purchase of hybrid vehicles,, the California State Legislature passed and Governor Schwarzenegger signed a state law in 2004 that would have permitted 75,000 owners of hybrids with at least 45 miles-per-gallon fuel efficiency to use carpool lanes as solo drivers. The California law would have gone into effect on January 1, 2005, but it could not be implemented without a federal waiver. Thus, the federal waiver included in the House bill would pave the way for solo driver hybrid use in California's HOV lanes. The Senate has not begun working on its version of the highway bill yet, but could begin marking up the bill as soon as March 16.

Earlier in this Congress, Congressmen Darrel Issa (Vista) and Brad Sherman (Sherman Oaks) introduced separate legislation that would have revised federal law to allow all states to determine under what conditions solo drivers of hybrids may use HOV lanes. HR 444, which has 20 co-signers, including 11 bipartisan California Representatives, is currently in the House Committee on Transportation and Infrastructure. Senator Dianne Feinstein (CA) indicated that she intends to offer similar legislation in the Senate.

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.

For more information on the highway bill, HR 3, see the other article in this week's Bulletin.

PANEL ADDRESSES HOUSE TRANSPORTATION BILL AIR QUALITY PROTECTIONS

On March 2, 2005, the House Energy and Commerce Subcommittee on Energy and Air Quality heard from members of the transportation and environment community to discuss the Clean Air Act (CAA) conformity provisions of the House transportation bill (HR 3). Disagreement existed between panelists and committee members about how to strike the right balance between meeting transportation goals and protecting clean air. However panelists agreed that changes in transportation conformity requirements included in HR 3 were preferable to last year's Senate companion legislation (S. 1072) which is expected to be reintroduced soon.

Current law requires the federal government to make state and local authorities abide by certain National Ambient Air Quality Standards (NAAQS). Areas that do not meet minimal targets for several pollutants are under threat of having their federal highway budgets slashed. The EPA monitors short term transportation plans and assesses whether they are in conformity with CAA standards every 3 years. EPA is also required to make long term assessments from the date of analysis for conformity determinations, currently set at twenty years. HR 3 proposes to lengthen the update cycles from every 3 years to every 4 years, by adding an additional grace period of 12 months for making conformity requirements. It also gives states the option of reducing the length of the time horizon by 10 years.

Officials from the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) both testified in favor of lengthening cycles to 5 years without the grace period language, although they supported HR 3's proposals compared to no legislative action. Charles Nottingham, DOT's Associate Administrator for Policy, stressed the significant improvements in air quality over 30 years, even while productivity, populations and vehicle miles traveled have increased dramatically. He testified that a lack of synchronization between transportation objectives and air quality assessments had contributed to conformity lapses and subsequent restrictions in the use of funds. Six areas were identified as currently out of conformity, of which three are from California: San Bernardino County, Lake Tahoe, and Sacramento. Brian Holmes representing the American Road and Transportation Builders Association (ARTBA) supported lengthening time horizons as well as update cycles, in the interests of expediting delays in transportation construction and maintaining a steady flow of funds to air quality districts that had lapsed. Jeffrey Holmstead of the EPA's Office of Air and Radiation suggested that conformity deadlines had provided benefits. However, he said, they needed to be spaced out to accommodate new ozone and fine particulate matter (PM 2.5) standards coming into effect this year.

Speaking in opposition to the changes proposed in HR 3, Michael Replogle of Environmental Defense suggested that lengthening update cycles would harm the integrity of CAA and shortchange millions of Americans suffering from or at risk of heart and lung ailments. 'Reducing the frequency of conformity, reduces the likelihood that problems will be detected and addressed in a timely way," said Mr. Replogle. Anne Liebe, representing state and local air quality officials also underscored the health impacts of an effort she thought would weaken clean air protections in existing law. Ms. Liebe also strongly urged members of the committee to support funding increases in the Congestion Mitigation and Air Quality Improvement (CMAQ) program and recommended that air quality officials get more authority in the selection of CMAQ projects. CMAQ is the only core highway program that dedicates formula funds to reducing pollution emissions and road congestion. California currently receives roughly 22 percent of annual CMAQ appropriations, although this figure could be cut if Congress adopts a Senate proposal that would disregard pollution severity in the CMAQ formula allocation process.

Acknowledging California's status as the most heavily air polluted state, Rep. Lois Capps (Santa Barbara) of California commented that CAA policies must contribute to preserving not undermining air quality.

Whereas panelists presented different views of the proposed changes in the House bill, most testified that the bill was the most preferable option to last year's Senate bill (S. 1072) because of certain flexibility provisions included in the House language.

For more information on this hearing, visit the House Energy and Commerce Committee website at: http://energycommerce.house.gov/108/subcommittees/Energy_and_Air_Quality.htm .

TWO STUDIES EXAMINE PRESENT AND FUTURE OF SAN JOAQUIN VALLEY

Independent studies conducted by the Congressional Research Service (CRS) and the Public Policy Institute of California (PPIC) examine the present and future status of the San Joaquin Valley, one of California and the country's fastest growing areas. The studies demonstrate a renewed national focus on the Valley's extremely low federal funding and unique growth and demographic issues. In conjunction with the release of the studies, all six members of the House of Representatives from the congressional districts in the

San Joaquin Valley – Representatives Dennis Cardoza (Atwater), Jim Costa (Fresno), Devin Nunes (Tulare), Richard Pombo (Tracy), George Radanovich (Mariposa), and Bill Thomas (Bakersfield) – traveled to California to hold a press conference on February 17, 2005. The bipartisan gathering used the opportunity to announce the findings of the CRS report and to bring much needed attention to the region's needs.

The CRS report, requested by California Representatives, provides a regional snapshot of the Central Valley's receipt of federal expenditures and its unique demographics. In general, the San Joaquin Valley, which for the purposes of the study consists of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare counties, fares poorly by most metrics, including per capita federal spending, median family income, poverty rates, and water and air quality. The Valley lags significantly behind the US and California averages for the economic well-being of its residents; all of the eight counties have median family incomes below the US and California averages, and poverty rates that tower over California and US averages. Combined, the San Joaquin Valley receives $1,887 per capita less in federal expenditures than the US average and $1,141 less than the California per capita rate. Six of the eight counties in the Valley have median family incomes more than $10,000 below the US average of $50,046 and $13,000 below the California average of $53,025. Since 1980, the poverty rate for the entire region has increased by almost 50 percent, compared to an insignificant 0.3 percent increase for the US and a 2 percent increase for California as a whole over the same time period. Future population growth in the region may only exacerbate the region's economic problems. The CRS study predicts by 2020 the Valley's population may increase by 39 percent. That influx of residents will significantly affect the San Joaquin's existing water quality, air quality and transportation problems.

The PPIC study, entitled "Urban Development Futures in the San Joaquin Valley" and authored by Michael B. Teitz, Charles Dietzel and William Fulton, takes a different approach to analyzing the Valley, using complex computer models to forecast urban growth in the region through 2040. The investigators utilized four broad scenarios for urban growth in the San Joaquin Valley: accommodating urban development (essentially unfettered growth), prime farmland conservation (protecting 3.2 million acres of prime farmland from development), high-speed rail (constructing the proposed high-speed rail from Los Angeles to San Francisco through the Valley), and automobile-oriented managed growth (orienting the region around existing and potential highways). The authors reach a number of interesting conclusions. First, and perhaps most obviously considering the Valley's past growth, the authors find that "urban growth will be significant in the San Joaquin Valley." All but one of the scenarios envisions urbanization of at least one million acres by 2040, "in essence, a tripling of the urban land stock." Second, the computer models predict that, because of the abundance of private land, urban population density will decrease. Third, most of the projections show at least a 15 percent decrease in usable farmland - even the prime farmland conservation scenario predicted a nearly 9 percent decline in farmland. Finally, and most importantly, the researchers conclude that the shape of the urban development, along the lines of the four projections, will largely depend on the public policy decisions made concerning the region. According to the authors, the Valley still is in a position to shape its own future. However, unity amongst regional leaders and careful planning will be necessary in order to prevent serious problems.

Together, the Congressional press conference and the two studies demonstrate a renewed focus on a region that has not received its fair share of federal funds or public policy attention.

For the full PPIC study is available at http://www.ppic.org/main/publication.asp?i=586 .

CENSUS ESTIMATES FOREIGN-BORN POPULATION TOPS 34 MILLION

In recent data, the Census Bureau estimates that the foreign-born population in the United States reached 34.2 million in 2004, accounting for 12 percent of the total U.S. population. The number of foreign-born is 2.3 percent higher than it was in 2003. The data was released February 22, 2005.

Within the foreign-born population, 53 percent were born in Latin America, 23 percent in Asia, 14 percent in Europe and 8 percent in other regions of the world.

Second-generation Americans, natives with one or both parents born in a foreign country, numbered 30.4 million, or 11 percent of the total U.S. population.

The data found that foreign born persons who have not yet become citizens tend to be younger (median age 33.2 years) than the native born population (35.3 years), but that naturalized citizens tend to be older still (47.7 years). And whereas 87.8 percent of the native population is younger than 65, even more non-citizens (95 percent) are below that threshold.

Because the sample size is small, the data do not compare statistics among states. In 2000, California housed 26.2 percent of the nation's foreign born.

Data in the report on demographic and socioeconomic characteristics can be found on the Census Bureau's website at: http://www.census.gov/population .

2004 Trade Deficit Hits New High

The Department of Commerce recently released its trade report showing that the U.S. trade deficit for 2004 was $617.7 billion – 24 percent higher than the 2003 deficit, and by far the largest trade deficit in U.S. history. The deficit now accounts for 5.4 percent of gross domestic product, up from 4.5 percent in 2003.

The good news, however, was the December 2004 deficit dropped to $56.4 billion from the November figure of $59.3 billion. Some experts hope this signals a leveling off of the deficit, citing the dollar's fall against major foreign currencies, which makes U.S-made good more competitive abroad. However, the Commerce Department report noted that imports increased nearly twice as much as exports last year, the opposite of what is needed if the trade deficit is to decline.

California Has 1 Million Manufacturing Jobs "Up For Grabs," Report Finds

A new report from the Bay Area Economic Forum analyzing California's manufacturing industry identifies 1 million of the states 1.5 million manufacturing jobs as "up for grabs" in the future. Given the worker's compensation rates, electricity rates, corporate tax rates, and administrative burdens that all rank amongst the nation's most burdensome, California is at risk of losing a significant portion of an essential sector of the economy. According to the study, manufacturing supports 1.5 million and 4.5 million direct jobs in California and generates $150 billion of gross state product per year. However, since 2000, 312,000 of jobs have left the state. The study recognizes that not all of those loses were due to California's high expense of business operation; nonetheless, the study warns that if public and private steps are not taken to reduce the burden on businesses, California stands to lost considerably more.

For the full study, including data and recommendations, visit the Bay Area Economic Forum's website at http://www.bayeconfor.org/keyecon.html .

PPIC Releases New Education Report

The Public Policy Institute of California has released a report entitled "*Educational Resources and Outcomes in California, by Race and Ethnicity*." Author Deborah Reed finds that despite California's long tradition of policies aimed at providing equitable, quality education for all students, "not all racial and ethnic groups fare equally well in California's education system. Less than 20 percent of Hispanic, black, American Indian, and Pacific Islander students earn bachelor's degrees by ages 25 to 29, compared to 31 percent of white students, 40 percent of Filipino students, and over 60 percent of other Asian students. Despite substantial investments in public higher education, college completion in California is not notably higher than in the rest of the country for any of these racial and ethnic groups."

The report, an issue of *California Counts*, explores educational resources and outcomes across racial and ethnic groups in the state. The author examines family and school resources, student outcomes, and public policy initiatives affecting California's students from early childhood through university, and describes several factors that potentially contribute to racial and ethnic gaps in college completion. Hispanic, black, American Indian, and Pacific Islander children ages 0 to 5 are less likely than white and Asian children to be in families with income above poverty, to be in two-parent families, and to have a mother who has finished high school, according to the findings. Additionally, Hispanic children are also less likely to have a mother who speaks English and less likely to attend preschool. Ms. Reed also finds that in the public K–12 system, Hispanic and black students, and to a lesser extent American Indian and Pacific Islander students, are more likely than white and Asian students to be in low-performing schools. Hispanic and black students are more likely to be in overcrowded schools and in schools with lower shares of fully credentialed teachers.

The report describes a number of new education policy initiatives that seek to improve equity in California. In addition, it concludes that strategies that go beyond early childhood development and school reform will likely prove important for reducing racial and ethnic education gaps. Policies that support families such as Food Stamps, Medi-Cal, and housing subsidies provide basic needs, enabling children and families to focus on development and education. Adult education programs in English language, vocational skills, and academics can help improve earnings capacity and other resources for parents and families. Economic development in disadvantaged communities would also improve family resources. Economic development and affordable housing programs that successfully reduce economic stratification across neighborhoods would likely lessen the concentration of disadvantaged students in low-performing schools.

To obtain the full report, go to PPIC's website at: http://www.ppic.org .

California Health Care Foundation Releases Annual Snapshot of Health Care Spending

This week, the California Health Care Foundation Released its annual analysis of healthcare spending in the US, "Snapshot: Health Care Costs 101." The study is an invaluable compilation of national healthcare spending metrics covering over 40 years, drawn from a wide range of government sources. Additionally, the Foundation includes a five page California addendum, focused entirely on California's healthcare expenditures.

To view the full report, visit the California HealthCare Foundation's website at http://www.chcf.org/

California Would Be More Affected By Elimination of Social Security Contributions Income Cutoff

According to a California Institute review of income data, California would be affected more heavily than the average state if -- as part of a Social Security overhaul -- Congress were to eliminate the income cutoff for Social Security.

The requirement to pay into the Social Security system ends once a taxpayer has earned more than a cutoff threshold amount, an amount that increases with inflation every year. In 2003, the cutoff amount was $87,000. Reviewing personal and household income data from the Census Bureau's American Community Survey March Supplement for 2004, the Institute compared, by state, the number of households where one or more persons reported earning more than $87,000 in 2003.

Whereas California houses 12.2 percent of the U.S. population, and pays 13 percent of total federal taxes, the state housed 15.6 percent of households where one or more persons earned more than the cutoff in 2003, and 16 percent of the nation's households containing at least one six-figure earner. California accounted for 1.9 million of the nation's 12 million such households above the Social Security income contributions cutoff, and 1.4 million of the 9 million with at least one person earning more than $100,000 per year.

A state-by state table, entitled *Households With One or More Persons Earning Income Above the $87,000 Income Cutoff for Social Security Contributions in 2003, and Above $100,000* is posted on the California Institute website at http://www.calinst.org/ .