



# The Washington Report

April 2011

1130 Connecticut Ave., NW, Suite 300  
Washington, D.C. 20036  
202.331.8500 phone  
202.331.1598 fax  
[www.fergusongroup.us](http://www.fergusongroup.us)



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## THE WASHINGTON REPORT APRIL 2011

### **2011 Scholarship Winner to Harvard Kennedy School Announced**

The Ferguson Group, LLC (TFG) congratulates Douglas J. Hewett, Assistant City Manager for the City of Fayetteville, North Carolina, selected by the International City/County Management Association (ICMA) as the 2011 recipient of The Ferguson Group scholarship to the Harvard Kennedy School Senior Executives in State & Local Government Program. The Harvard Kennedy School program provides a unique opportunity to challenge conventional thinking, thought processes and the values that drive leadership decisions.

A graduate of North Carolina State University, Hewett began his tenure with Fayetteville in 2004 and became Assistant City Manager in 2007. Prior to joining Fayetteville, he served in Halifax County (1996-99) and the City of Wilmington (1999-2004), both in North Carolina. In 2010, he was named recipient of ICMA's Assistant Excellence in Leadership Award in Memory of Buford M. Watson, Jr., which honors a local government management professional who has made significant contributions toward excellence in leadership as an assistant to a chief local government administrator or department head.

An independent review panel comprised of ICMA members who have participated in the Harvard program in the past selected Hewett from among a candidate pool of 33 applicants. Applications for the 2012 program will be accepted by ICMA starting in the fall of 2011.

Demonstrating our commitment to public service, TFG has committed to funding the full cost of tuition for an ICMA member to attend the Harvard Kennedy School Program for state and local government leaders for the next three years.

Sincerely,

William Ferguson, Jr.

## CONGRESSIONAL SCHEDULE

Congress returned to Washington the week of March 28 and had three weeks to complete the FY 2011 appropriations process. A short-term Continuing Resolution (CR), including more than \$6 billion in cuts, was finalized just before midnight on April 8 and the federal agencies barely avoided a shutdown. The seventh CR kept the government running until April 15, with additional cuts to transportation and housing programs. Next, the White House, Republican leaders in the House of Representatives and Senate Democratic leaders negotiated the eighth and final FY 2011 Continuing Resolution for the remainder of the fiscal year, until September 30, 2011, cutting another \$38.5 billion from FY 2010 levels (H.R. 1473, P.L. 112-10). Bipartisan support was necessary to pass the measure. The House approved the bill 260-167 while the Senate voted 81-19. In a normal year, there are House and Senate bills, a conference report, explanatory statements, and tables, all of which provide guidance to the federal agencies about how much they should spend for individual programs. This year, under a long-term CR, there is only a bill.

In addition to specific funding cuts for some programs, there is a 0.2 percent across-the-board cut of funds for all agencies except for defense. The bill requires most federal agencies to submit a spending plan either within 30 or 60 days of enactment. That is when we will know the exact funding levels for most programs. TFG communicated to its clients with a Client Alert summarizing funding levels for federal grant programs that are most utilized by local governments.

Congress is currently in recess for two weeks, April 18-29, and will return to Washington on May 2. This is a good time to visit with members of Congress to express the importance of funding federal programs important to local communities.

*For more information, please contact Debra Bryant at [dbryant@tfgnet.com](mailto:dbryant@tfgnet.com).*

## BUDGET, APPROPRIATIONS & FISCAL POLICY

### **Budget Resolution Debate**

While lawmakers tried to finish the last piece of the FY 2011 spending compromise, the House of Representatives spent two days debating the FY 2012 budget blueprint and the contentious issues of long-term debt reduction. The House Budget Resolution sets the marker for upcoming fights with the White House and the Senate on deficit reduction, increasing the debt ceiling and the FY 2012 appropriations.

House Budget Chairman Paul Ryan (R-WI) framed his budget as the first comprehensive effort to deal with deep deficits from a sluggish economy, two wars, a financial meltdown, and the aging of the baby boom generation. Although the Republican budget faces a wall of Senate Democratic opposition, Chairman Ryan said the measure would shift the national debate from “talking about saving billions of dollars to going on to saving trillions of dollars.”

On April 15, the House passed the FY 2012 Budget Resolution along party lines, with only four Republicans opposing the measure along with all Democratic House members. The Ryan budget

would cut spending, compared with President Obama's plan, by \$6.2 trillion over 10 years, and shrink cumulative deficits by \$4.4 trillion. For the government's non-security discretionary programs, the Ryan budget cuts spending to FY 2008 levels and freezes funding for five years. It also would cut the current top tax rate from 35 percent to 25 percent for families and companies, and transform traditional Medicare and Medicaid benefits respectively into premium support payments and state block grants. For FY 2012, the Republican plan sets a \$1.02 trillion cap for discretionary spending and assumes a \$995 billion deficit for the year, while projecting the deficit would decline to \$385 billion (1.6 percent of GDP) by 2021. Compared to the President's budget request, the House passed bill would reduce non-security spending in FY 2012 by \$72 billion.

During the same week, President Obama announced his long-term deficit and debt reduction strategy the day before the House began debate. The President is using the congressional recess to travel and promote his recommendations. A new deficit-reduction task force will begin meeting May 5 when they return from the two-week Easter recess. Vice President Joe Biden will host the meeting at the Blair House. At press time, Republican congressional leaders have appointed House Majority Leader Eric Cantor (R-VA) and Senator Jon Kyl (R-AZ) to the task force and Democratic congressional leaders have appointed Representatives Jim Clyburn (D-SC) and Chris Van Hollen (D-MD) and Senators Daniel Inouye (D-HI) and Max Baucus (D-MT).

A bipartisan group of Senators, the "Gang of 6," includes Senators Mark Warner (D-VA), Saxby Chambliss (R-GA), Kent Conrad (D-ND), Dick Durbin (D-IL), Tom Coburn (R-OK), and Mike Crapo (R-ID). This group is drafting a Senate proposal based on the recommendations from the National Commission on Fiscal Responsibility and Reform's (also called the Simpson-Bowles Commission). Debate in the Senate on its FY 2012 Budget Resolution will not occur until early to mid-May.

Differences between the House and Senate versions will have to be resolved in a conference committee. The budget resolution is not law and is not signed by the President. However, it does establish discretionary spending targets for FY 2012.

If an agreement between the House and Senate cannot be reached, each would proceed with FY 2012 appropriations bills based on the relevant funding levels in the respective version of the budget resolution. Actual decisions on funding levels for individual programs are made by the House and Senate Appropriations Committees.

*For more information, please contact Debra Bryant at [dbryant@tfgnet.com](mailto:dbryant@tfgnet.com) or Bob Schmidt at [bschmidt@tfgnet.com](mailto:bschmidt@tfgnet.com).*

### **FY 2012 Appropriations**

While consideration of the FY 2012 Budget Resolution will determine the spending targets for each of the twelve appropriations subcommittees, Administration officials and public witnesses have presented testimony.

Three of the House subcommittees: Commerce-Justice-Science; Homeland Security; and Military Construction-Veterans Affairs, have announced May deadlines for the members of Congress to submit programmatic and language changes for FY 2012 appropriations. While



affirming that earmark requests will not be considered, the chairmen are giving members of Congress the opportunity to request increase/decrease program funding and expand or limit the jurisdiction of a specific program. Other subcommittees are expected to announce their deadlines in early May.

*For more information, please contact Debra Bryant at [dbryant@tfgnet.com](mailto:dbryant@tfgnet.com).*

### **Debt Ceiling Must Be Lifted**

According to Treasury Secretary Timothy Geithner, the debt ceiling could be breached as soon as May 16, although the government could take unconventional measures such as halting contributions to pension funds to delay the breach until July 8. This timetable sets the stage for negotiations of the FY 2012 Budget Resolution and the debt ceiling increase prior to the July 4<sup>th</sup> recess. Republican lawmakers say that if they vote to raise the limit, they need more spending cuts. The Obama Administration has resisted the idea of including spending caps or other reforms in the legislation to raise the debt ceiling, arguing that ensuring the government's solvency is too important to be held hostage to other issues. Both Democrat and Republican congressional leaders acknowledge the debt ceiling must be raised.

Under President George W. Bush, the national debt soared to \$4.36 trillion because of the cost of wars in Iraq and Afghanistan and new tax cuts. Under President Obama, an additional debt of \$3.9 trillion was added because of the economic stimulus package and decreased tax revenue during the recession.

*For more information, please contact Debra Bryant at [dbryant@tfgnet.com](mailto:dbryant@tfgnet.com).*

<b>ECONOMIC DEVELOPMENT</b>
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### **HUD Programs FY 2011 Funding**

The FY 2011 Continuing Resolution provided a total of \$41.2 billion for the Department of Housing and Urban Development (HUD). Highlights of the provided funding include:

- Community Development Block Grant (CDBG) - \$3.3 billion, a decrease of \$650 million from FY 2010;
- HOPE VI - \$100 million continuation for the program which was zeroed out in the House passed proposal. The original House proposal would have also rescinded all FY 2010 funding for the program;
- Section 8 Tenant-based rental assistance - \$18.4 billion;
- HUD-Veterans Affairs Supportive Housing (VASH) - \$50 million;
- Sustainable Communities Initiative - \$100 million;
- Homeless Assistance Grants - \$1.9 billion;
- Public Housing - \$2 billion;
- Native American Housing Programs - \$650 million; and
- Housing for the Elderly and Disabled – a total of \$550 million.

*For more information, please contact Kristi More at [kmore@tfgnet.com](mailto:kmore@tfgnet.com).*

## **Justice FY 2011 Funding**

The Department of Justice (DOJ) was funded at a total level of \$27.4 billion in the final FY 2011 Continuing Resolution. The figure represents a \$2.3 billion (8%) reduction from the FY 2011 budget request. In general, grant programs of importance to state and local law enforcement agencies received a 17% reduction in funding when compared to FY 2010 levels. Specifically, funding was provided to the following programs:

- Justice Information-Sharing Technology (JIST) - \$60.3 million;
- Law Enforcement Wireless Communications (LEWC) - \$100 million;
- State and Local Law Enforcement Assistance including Byrne and SCAAP funding - \$1.12 billion;
- Juvenile Justice Grants - \$276 million;
- COPS Programs, including hiring, bulletproof vests and DNA backlog grants - \$496 million;
- Justice Assistance Programs, including regional information sharing systems grants and Missing and Exploited Children's Programs - \$235 million;
- Domestic Violence and sexual assault grants - \$419 million; and
- The Weed and Seed fund was terminated in the bill and will not receive funding in FY 2011.

*For more information, please contact Kristi More at [kmore@tfgnet.com](mailto:kmore@tfgnet.com).*

## **Labor FY 2011 Funding**

The FY 2011 Continuing Resolution included a total of \$12.7 billion for the Department of Labor, a reduction of approximately \$800 million from FY 2010 funding levels. The bill included funding for the following programs:

- Job training grants for adults, youth and dislocated workers - \$2.8 billion, a continuation of the program which was eliminated in the original House proposal;
- Job Corps - \$1.7 billion;
- Community Service for Older Americans - \$450 million;
- Youthbuild - \$80 million;
- Occupational Safety and Health Administration (OSHA) - \$558.6 million; and
- Mine Safety and Health Administration (MSHA) - \$363.8 million.

*For more information, please contact Kristi More at [kmore@tfgnet.com](mailto:kmore@tfgnet.com).*

## **1099 Fix Enacted**

On April 14, President Obama signed into law the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (P.L. No. 112-9). This law repeals an unpopular provision in the health care law that would have required businesses and state and local governments to report any transaction of \$600 or more to the Internal Revenue Service on a 1099 form. This requirement was expected to raise approximately \$20 billion to help pay for health care reform. Now the \$20 billion will be funded by requiring low income people, if their

income increases during the year, to pay back a portion of any subsidies they receive to join insurance exchanges created under the health care law. While leadership agreed the provision needed to be repealed, finding an appropriate offset has been difficult. This also is the first repeal of any provision of the health care reform bill enacted in 2010.

*For more information, please contact Jennifer Imo at [jimo@tftnet.com](mailto:jimo@tftnet.com).*

### **Parks and Recreation**

As part of the final FY 2011 Continuing Resolution enacted by Congress, \$301 million was provided for the Land and Water Conservation Fund (LWCF). This is a 33% cut from the FY 2010 level. Of this, \$95 million was included for National Park Service Acquisitions, which includes the State Assistance Program, reportedly for \$40 million, the same amount as FY 2010. Additionally, the LWCF funds include \$53 million for Forest Legacy and \$33 million for Forest Service Acquisitions. President Obama requested the fully authorized amount for LWCF at \$900 million in his FY 2012 proposed budget, with \$200 million of that proposed for the State Assistance Program, some of which would be awarded by competitive grants.

Please encourage your members of Congress to support Representative Albio Sires (D-NJ) who introduced the Urban Revitalization and Livable Communities Act, H.R. 709. The bill would provide four different types of federal grants and technical assistance: rehabilitation grants to rebuild and expand new and existing recreation centers and facilities; innovation grants to address equipment and supply needs for urban parks and recreation facilities; at-risk youth recreation grants to provide funds for programs that have shown success in providing alternative activities to children at risk of engaging in criminal behavior; and recovery action program grants to promote development of local park and recreation recovery action programs by involving the community and youth to develop priorities and goals.

All grants would require local matching funds. The House bill has 44 cosponsors and currently has no Senate companion bill.

*For more information, please contact Leslie Mozingo at [lmozingo@tfgnet.com](mailto:lmozingo@tfgnet.com).*

<b>ENERGY, ENVIRONMENT AND SUSTAINABLE DEVELOPMENT</b>
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### **Clean Energy Summit - June 15-17**

On June 15-17, the TFG-managed Climate Communities coalition will host the 4<sup>th</sup> Annual Local Clean Energy Leadership Summit in Washington, DC. This event will convene the nation's top city and county leaders to showcase successful local clean energy and sustainability initiatives using Energy Efficiency and Conservation Block Grant (EECBG) funding, share best practices and highlight the need for additional federal resources and support at the local government level.

Participants will discover what the nation's leading cities and counties are doing to reduce energy use, save money and curb carbon pollution. They will meet the most important federal agency program managers and find out about grant funding opportunities to support local clean energy and sustainability initiatives. Attendees will learn how to partner with the private sector to accelerate and finance community environmental priorities and join the movement of local



government leaders who are fighting for more energy block grants and other critical clean energy and sustainability funding while creating jobs and reducing costs.

The summit is designed for local government officials including elected leaders, city managers, sustainability directors, public works directors, and energy managers. Federal government leaders from the Department of Energy, the Environmental Protection Agency, the Department of Transportation, the Department of Housing and Urban Development, the Economic Development Administration, and the National Oceanic and Atmospheric Administration will participate. Private sector experts in the areas of energy efficiency, renewable energy, green infrastructure, alternative fuels and vehicles, and land use/smart growth planning and adaptation also will attend.

Registration and program information are available at [www.localenergysummit.org](http://www.localenergysummit.org).

*For more information, please contact Andy Seth at [aseth@tfgnet.com](mailto:aseth@tfgnet.com).*

### **Local Sustainability Initiatives FY 2011 Funding**

Federal funding was approved in the FY 2011 Continuing Resolution to provide cities and counties with grants to improve energy efficiency, expand transportation options, modernize public fleets with alternative fuel vehicles, and curb greenhouse gas (GHG) emissions. However, several popular federal sustainability initiatives, including the Department of Energy's (DOE) Energy Efficiency and Conservation Block Grants (EECBG) and the Environmental Protection Agency's (EPA) Climate Showcase Communities initiative, were zeroed out this year.

President Obama's signature Sustainable Communities initiative, an interagency partnership between the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT) and EPA, continued to receive congressional support. The spending package includes \$70 million for HUD's Sustainable Communities Regional Planning Grants and \$30 million for HUD's Community Challenge Planning Grants to enable regions and communities to integrate transportation, housing, land use, energy, and economic development planning. EPA will continue to provide smart growth technical assistance to tribal, state, regional, and local governments in FY 2011. The bill also includes \$528 million for the DOT Transportation Investment Generating Economic Recovery (TIGER) grant program, which will provide federal funding for community infrastructure projects that promote livability, increase transportation choices, increase access to job opportunities, strengthen economic resiliency, and protect air and water quality.

EPA's Brownfields program will receive \$100 million in FY 2011 to help communities revitalize and redevelop contaminated properties. Competitive grant opportunities will be available for the assessment and cleanup of brownfields, brownfields jobs training and the establishment of brownfields revolving loan funds. HUD's Brownfields Economic Development Initiative did not receive funding.

The Economic Development Administration (EDA) also will continue consideration of competitive applications in FY 2011 for renewable energy, energy efficiency, recycling and green building projects. EDA's Global Climate Change Mitigation Incentive Fund finances economic development projects in economically distressed communities that create green jobs,

reduce fossil fuel use, enhance energy efficiency, curb greenhouse gas emissions, and protect natural systems. In addition, EDA's Planning and Public Works resources can be used to support green economic development in communities.

The DOE will continue to support partnerships that promote alternative and renewable fuels, fuel economy measures, idle reduction technologies, and other new vehicle technologies through its Clean Cities program. Federal funding will help nearly 100 Clean Cities coalitions across the country reduce petroleum consumption in their regions.

Congressional Republicans had sought to limit EPA's ability to regulate greenhouse gas (GHG) emissions through amendments to the funding package. Proposed policy riders would have gutted funding for EPA's Greenhouse Gas Registry, and prohibited any funds from being used by EPA to implement, administer or enforce any statutory or regulatory requirements pertaining to emissions of GHGs. All amendments to strip EPA's ability to regulate GHGs were dropped in the final hours of negotiations between congressional leaders and President Obama.

*For more information, please contact Andy Seth at [aseth@tfgnet.com](mailto:aseth@tfgnet.com).*

## HEALTH CARE

### **Health and Human Services FY 2011 Funding**

The FY 2011 Continuing Resolution provides funding for the following programs.

- Head Start - \$7.58 billion for Head Start, \$340 million more than FY 2010 which will maintain the number of children currently in Head Start.
- National Institutes of Health - \$30.7 billion for NIH, a \$260 million or 0.8 percent reduction below the FY 2010 level. The bill includes \$300 million in funding for the Global Fund.
- Child Care - \$2.23 billion for the Child Care and Development Block Grant, \$100 million more than the FY 2010 level and \$139 million more than the original House proposal.
- Family Planning - \$300 million for the Title X Family Planning programs, 94 percent of the FY 2010 level. The original House proposal would have eliminated all \$317 million.
- Prevention and Public Health - the bill rejects the elimination of the \$750 million Prevention and Public Health Fund. This mandatory funding was appropriated in the health care reform bill enacted in 2010.
- Teen Pregnancy Prevention - \$109 million, 96 percent of the FY 2010 level, for the Teen Pregnancy Prevention Program, which focuses on reducing the risks of pregnancy and sexually transmitted diseases through proven and successful models. The original House bill would have eliminated all \$114 million.
- Maternal Child Health - the bill assumes \$662 million for the Maternal Child Health block grant, the same as the FY 2010 level.
- State Health Access Grants - the bill eliminates funding for the State Health Access Grant program, funded at \$75 million in FY 2010. Begun in 2009, the program supported State demonstration programs to inform policymakers on how states could expand access to health care. With the passage of the health care reform law, this program is no longer necessary.

- Centers for Disease Control and Prevention - \$5.66 billion for the Centers for Disease Control and Prevention, a \$730 million cut from the FY 2010 level. The final level is \$681 million above the original House bill.
- Low Income Home Energy Assistance Program (LIHEAP) - \$4.71 billion for LIHEAP, \$390 million less than FY 2010. However, it maintains the base formula grant to states at last year's level of \$4.51 billion.
- Community Services Block Grant (CSBG) - \$680 million for CSBG, \$20 million less than FY 2010. The CSBG is a core source of funding for local community action agencies that provide a variety of services for low-income populations.
- Senior Nutrition - \$847 million for senior meals programs at the Administration on Aging. This is the same as last year's level.
- Health Resources and Services Administration (HRSA) - \$6.27 billion in discretionary funding for HRSA, which includes funding for such programs as Community Health Centers, health professions training, the Ryan White Care Act, and Title X Family Planning. This level is \$1.2 billion below the comparable FY 2010 level. Some HRSA programs will receive new mandatory funding in FY 2011 through the health care reform bill.
- AIDS Drug Assistance Program (ADAP) - \$885 million for ADAP. This is \$25 million more than was obligated in FY 2010, after a \$25 million transfer added supplemental funds to address waiting lists.

*For more information, please contact Debra Bryant at [dbryant@tfgnet.com](mailto:dbryant@tfgnet.com).*

### **Medicare and Medicaid Changes Proposed**

In addition to extending all of the 2001 and 2003 tax cuts, and including sharp cuts in discretionary spending, the FY 2012 Budget Resolution passed by the House of Representatives on April 15 proposed revamping both Medicare and Medicaid.

Medicare is the health insurance program for older Americans, run exclusively by the federal government providing coverage and benefits as long as you meet the age eligibility criteria. Funds are paid directly to the health care provider (e.g., doctor) by the federal government. Under the Ryan budget proposal, the health care reform law enacted in 2010 would be repealed and Medicare would gradually be changed into a program to subsidize the purchase of private insurance by seniors. Future Medicare beneficiaries who are now under age 55 would be required to pay a portion of their health insurance premium, an amount that would be determined by the person's wealth. This approach is called means testing. Starting in 2022, when workers become eligible for Medicare, they would select from a set of program coverage options, with the federal government subsidizing the premiums for each plan based on the individual's ability to pay and their exposure to health risks. The proposal would also eliminate the government's ability to tap into the Medicare Trust Fund to pay for the expansion of benefits and beneficiaries. House Republicans argue that this approach to Medicare would allow the federal government to better predict and, more importantly, control the cost of federal spending on health care.

Medicaid currently exists as a federally funded and regulated but state administered program for people living at or below the poverty line. States receive a federal reimbursement level for their expenditures, currently ranging from 50% to 74.7%, based on their poverty levels. The

percentage is referred to as the Federal Medical Assistance Percentage (FMAP). The program is called an entitlement program because anyone meeting basic federal eligibility criteria is “entitled” to receive the benefits. Nationally, about half of all enrollees are children, although about two-thirds of all Medicaid costs are for poor seniors. The Ryan budget proposal would largely turn Medicaid into a block grant program for the states, allowing them to regulate it, set eligibility criteria and define benefit levels. State funding would be based on population and indexed for inflation. By eliminating a host of mandatory eligibility requirements, the proposal would result in substantial program savings by not indexing financing based on the cost of care. The proposal estimates \$735 billion in savings over 10 years, compared with the President’s FY 2012 budget request. The result over the course of the decade would be greatly reduced federal support for Medicaid and removing the federal government from any financial risk. All risk for general population growth, Medicaid population growth, health epidemics, or other increases in the cost of health care would be borne by states or localities.

*For more information, please contact Debra Bryant at [dbryant@tfgnet.com](mailto:dbryant@tfgnet.com).*

### **Health Care Reform**

Unable to repeal health care reform enacted in 2010, House Republicans have succeeded in reducing funds for some parts of the package. The FY 2011 Continuing Resolution cuts \$2.2 billion allocated to create nonprofit and small group health insurance cooperatives. However, despite losing a portion of the funds, the Administration has indicated they are intensifying efforts to draft regulations for the loan and grant program, detailing the timeline and mechanics.

The FY 2011 Continuing Resolution also repealed a provision supported by Senator Ron Wyden (D-OR) designed to allow a subset of low-income earners to buy insurance plans in the newly created state exchanges.

Another \$3.5 billion was cut from the Children’s Health Insurance Program which affects only rewards for states that make an extra effort to enroll children. But Administration officials acknowledge that most states were unlikely to qualify for bonuses and that sufficient funding is available for those that are eligible.

While the FY 2011 Continuing Resolution did not include policy riders to defund Planned Parenthood and family planning services, the agreement did require that the Senate debate and take separate votes on repealing health care reform and ending federal funding for Planned Parenthood in an effort to put members of Congress on record.

Now that the FY 2011 appropriations bills have been enacted, the Department of Health and Human Services is likely to speed development of regulations to implement health care reform.

*For more information, please contact Debra Bryant at [dbryant@tfgnet.com](mailto:dbryant@tfgnet.com).*

**Flood Insurance Reform**

On April 6, the Insurance, Housing and Community Opportunity Subcommittee of the House Financial Services Committee marked up H.R. 1309, the Flood Insurance Reform Act of 2011. The bill was introduced on April 1 by Representative Judy Biggert (R-IL) who chairs the subcommittee. The bill currently has seven cosponsors: Representatives Shelley Moore Capito (R-WV); Robert Dold (R-IL); Scott Garrett (R-NJ); Ruben Hinojosa (D-TX); Nick J. Rahall (D-WV); Steve Stivers (R-OH); and Maxine Waters (D-CA).

Highlights of the bill include the following provisions.

- Extends the authorization of the flood insurance program, which currently expires on September 30, 2011 to September 30, 2016.
- Grants authority to the Administrator of the Federal Emergency Management Agency (FEMA) to, at the request of a local government, temporarily suspend the current mandatory flood insurance purchase requirements in certain areas for a period of not to exceed 12 months. For an area to be eligible for this provision, the area must be one that is designated or will be designated as a special flood hazard area pursuant to the issuance, revision or updating of flood insurance maps and that meets one of the three following requirements: the area has not been previously designated as a special flood hazard area; the area was intended to be protected by a flood protection system which has been decertified and which is being improved; and the community has appealed the designation of the area as a special flood hazard area or the decertification of a flood protection system. The suspension of the mandatory purchase requirement may be extended to up to 24 months.
- Establishes minimal annual deductibles for subsidized rate properties (\$2,000) and for properties paying actuarial rates (\$1,000).
- Provides that flood insurance premiums may be paid quarterly.
- Permits flood insurance premiums to increase by up to 20% per year rather than the current 10%.
- Provides that for areas newly designated as special flood hazard areas, during the first 12 months, flood insurance premiums shall be 50% of the chargeable risk premium rate. Full actuarial rates would be phased in by increasing premiums 20% per year.
- Provides that for any commercial property, any second or vacation home, any single family property constructed before the effective date of the initial flood insurance rate map for the area and which is purchased one year after the enactment of the bill, any home substantially damaged or improved one year after the enactment of the bill, or any repetitive loss property, the Administrator of FEMA shall increase flood insurance rates to applicable risk premium rate. Increases in premiums under this section may not be more than 20% in any one year.
- Addresses state and local funding for construction, reconstruction and improvement of flood protection systems. Existing law allows communities that have made substantial progress on the construction of a flood protection system to be charged premium rates not exceeding those that would exist if the flood protection system were completed. H.R. 1309



would extend that authorization to communities that are reconstructing or improving flood protection systems, without regard to the level of federal participation in the project.

- Establishes a Technical Mapping Advisory Council charged with developing and submitting to the Administrator of FEMA and Congress proposed new standards for 100-year flood insurance rate maps used under the flood insurance program. The bill further directs the Administrator to update flood insurance maps in accordance with the new standards and to complete that work within five years after the establishment of the new standards
- Provides that mandatory flood insurance purchase requirements shall be waived for a property owner who submits to the Administrator a survey indicating that the lowest level of the primary residence on the property is at least three feet above the 100-year flood plain. The waiver shall remain in place until the Administrator updated the flood insurance rate map for the area in accordance with the new standards required by the bill.
- Requires the Administrator of FEMA to establish a program to notify residents of special flood hazard areas annually that they reside in such areas and of the flood insurance purchase requirements.
- Requires that tenants be notified of the availability of flood insurance coverage if they live in a special flood hazard area.
- Amends the Real Estate Settlement Act of 1974 to require that each good faith estimate include the following information: that flood insurance coverage for residential real estate is generally available under the National Flood Insurance Program; contact information for the National Flood Insurance Program; and that the escrowing of flood insurance payments may be required for the loan.

Consideration of the bill by the full House of Representatives has not yet been scheduled.

*For more information, please contact Bob Schmidt at [bschmidt@tfgnet.com](mailto:bschmidt@tfgnet.com).*

### **Homeland Security FY 2011 Funding**

The following programs were funded in the FY 2011 Continuing Resolution to state and local First Responders.

- State Homeland Security Grant Program - \$725 million
- Operation Stonegarden - \$55 million
- Urban Area Security Initiative - \$725 million
- Metropolitan Medical Response System Program - \$35 million
- Emergency Management Performance Grant Program - \$250 million
- Assistance to Fire Fighters Grant Program - \$405 million
- SAFER Act Program (hiring grants) - \$405 million
- Port Security Grants - \$250 million
- Elimination of the Buffer Zone Protection Program

*For more information, please contact Kareem Murphy at [kmurphy@tfgnet.com](mailto:kmurphy@tfgnet.com).*

### **General Aviation Airport Coalition Launched**

Working with general aviation (GA) airport managers from across the country, TFG launched the General Aviation Airport Coalition (GAAC). GAAC consists of airport stakeholders interested in preserving and promoting our nation's GA airports. The purpose of GAAC is to educate local communities and the federal government on the significant impact that GA airports have on the economy; monitor issues that impact GA airports; lobby Congress and the Administration on issues of interest to GA airports; create the tools and materials to make GA airports an effective voice in their local communities, as well as with members of Congress and the Administration; provide a web-based forum for GA airport stakeholders to share best practices and other helpful information; establish a library of references to help in the management, operations and promotion of GA airports; increase the profile of GA airports within the Federal Aviation Administration (FAA); and overall unify the voice of GA airports.

To learn more about GAAC, please visit [www.gaairportcoalition.org](http://www.gaairportcoalition.org).

*For more information, please contact Jennifer Imo at [jimo@tftnet.com](mailto:jimo@tftnet.com).*

### **Marine Highway Report to Congress**

In early April, Transportation Secretary Ray LaHood sent a report to Congress on the state of marine highway development requested by Congress in the Energy Independence and Security Act of 2007 that first created a "short sea transportation" program as an extension of the surface transportation system. The Maritime Administration report is a useful reference document on the program, the potential public and commercial benefits of marine highways in the movement of freight within the United States and among the NAFTA nations. The report discusses certain ongoing projects and identifies impediments to the use of coastal and inland marine transportation. The report balks at making recommendations for new legislative and administrative action, as Congress invited, but does discuss various issues that stakeholders have suggested are in need of policy attention.

*For more information, please contact Paul Bea at [pbea@phbpa.com](mailto:pbea@phbpa.com).*

### **Harbor Maintenance Tax Bills**

Members of Congress are proposing changes to the Harbor Maintenance Tax (HMT) and Harbor Maintenance Trust Fund (HMTF). Both were created in the 1986 Water Resources Development Act (WRDA) and, after the Supreme Court found in 1998 the HMT was unconstitutional as applied to U.S. export cargo, the ad valorem charge now is collected, primarily, on import cargo to the U.S., as well as cargo loaded and unloaded in U.S. ports. Legislation has been reintroduced to exempt non-bulk cargo from HMT as applied to domestic shipments, as well as shipments from Canada to the U.S. on the Great Lakes. The purpose is to remove a perceived disincentive for marine highway development. Representative Patrick Tiberi (R-OH), Chairman of the Select Revenue Measures Subcommittee of House Ways & Means, introduced H.R. 1533 with Representatives Brian Higgins (D-NY) and Steve LaTourette (R-OH). The same bill was introduced by Representative Higgins in the last Congress and had over 40 cosponsors.

House and Senate legislation has been reintroduced with the purpose of prodding the full use of HMT receipts to the Treasury for the principal intended purpose: the maintenance of federal navigation channels. Representative Pete Boustany (R-LA) introduced H.R. 104 and Senator Carl Levin (D-MI) introduced S. 412. The bills have bipartisan cosponsorships and borrow from the procedural approach adopted in the 1990s to ensure that the Airport Improvement Program would realize the full amount collected in user fees to the Aviation Trust Fund. Today only 50 to 60 percent of HMT collections are actually put to use in dredging channels to their authorized depths. At a March hearing of the House Water Resources & Environment Subcommittee, bipartisan support was expressed for addressing the inadequate use of HMTF funding through remedial legislation.

An additional HMTF legislative proposal is expected from the Administration, which proposed in the FY 2012 budget to broaden the eligible uses of HMTF resources. Details have yet to be released but it is an idea that already has been met by opposition from the American Association of Port Authorities and the leadership of the House Transportation & Infrastructure Committee.

*For more information, please contact Paul Bea at [pbea@phbpa.com](mailto:pbea@phbpa.com).*

### **Transportation FY 2011 Funding**

The FY 2011 Continuing Resolution reduced by 19 percent funding available to the Department of Transportation. Most of the cuts came from a handful of major accounts such as New Starts (\$400 million) and high speed rail, which was reduced entirely. However, Congress did provide funding for many transportation grants of interest to local governments. For example, Congress provided \$528 million for a third round of the TIGER grant program, which provides funding for multi-million dollar highway, bridge, transit, and port projects.

*For more information, please contact Melissa Avstreich at [mavstreich@tfgnet.com](mailto:mavstreich@tfgnet.com).*

### **FHWA Emergency Relief Funding for Highways**

The Federal Highway Administration recently awarded \$320 million to 20 state Departments of Transportation to help rebuild roads and bridges damaged by a wide variety of natural disasters that occurred between 2006–2010. The funding will reimburse states for fixing or replacing highways, bridges and other roadway structures such as traffic signs, guardrails and lighting. Costs associated with detours, debris removal and other immediate measures necessary to restore traffic flow in impacted areas are also eligible.

For a full list of funding, see <http://www.fhwa.dot.gov/pressroom/dot11045.htm>.

*For more information, please contact Melissa Avstreich at [mavstreich@tfgnet.com](mailto:mavstreich@tfgnet.com).*

### **Water Infrastructure FY 2011 Funding**

While significantly cut, federal funding will still be available for local water and wastewater infrastructure projects in FY 2011. The Environmental Protection Agency (EPA) will pass \$1.5 billion and \$965 million to the states for the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF), respectively. States will continue making low-interest CWSRF loans available to local governments to fund water quality protection projects for wastewater treatment, nonpoint source pollution control and watershed management. Similarly, DWSRF dollars will be available to cities and counties to install, upgrade or replace drinking water infrastructure.

*For more information, please contact Andy Seth at [aseth@tfgnet.com](mailto:aseth@tfgnet.com).*

### **Army Corps' Mission**

A recent report by the National Research Council (NRC) suggests that the Army Corps of Engineers' mission is no longer sustainable. It notes that the agency's original mission was to harness water by building civil works projects such as dam, levees and navigation channels. However, over the years, the agency has had to turn its focus to rehabilitating their old projects and have added to their mission other water resources projects such as ecosystem restoration. The report notes that Congress does not fund the agency at the level it needs to keep up with maintenance and other unmet needs which are now estimated at \$59.6 billion. This huge backlog and its inefficient system of starting projects without finishing them, has been very costly to the Corps. The report found that in many cases the Corps was forced to focus on specific projects without considering regional comprehensive planning.

The NRC report comes at a time when Congress is looking to make major cuts to federal spending including the already reduced Corps budget. In addition to addressing the large unmet needs of the Corps, Democrats and Republicans have argued whether or not to consider a new round of Corps authorizations and pass a new Water Resources Development Act (WRDA), reigniting the debate over earmarks and adding new authorizations to an agency that is severely backlogged.

*For more information, please contact Christina Mattar at [cmattar@tfgnet.com](mailto:cmattar@tfgnet.com).*

### **Wild Lands Order Temporarily Halted in FY 2011 Appropriations Bill**

On December 22, 2010, the Secretary of the Interior issued Secretarial Order 3310. This controversial order asserts the Secretary's authority to designate lands owned by the Bureau of Land Management (BLM) which have "wilderness qualities" as 'Wild Lands.' Some Western Republican lawmakers argue that, under this Order, many activities may be restricted on BLM land, including livestock grazing, deployments of wind, solar or geothermal energy generation, energy transmission infrastructure investments, and the utilization of oil or natural gas resources. The Interior Department argues that they are merely fulfilling their duty under the Federal Land Policy and Management Act (FLPMA) which requires the Secretary to inventory

land and use this inventory in the development and revision of land use plans and identify roadless areas in order to maintain their wilderness qualities.

Western Republicans included language in the final FY 2011 Continuing Resolution that will temporarily halt the implementation of the Executive Order. While this is only a temporary halt, Western Republican lawmakers will work to permanently restrict the Executive Order from being implemented.

*For more information, please contact Christina Mattar at [cmattar@tfgnet.com](mailto:cmattar@tfgnet.com).*

### **Clean Water Act Guidance**

In a letter dated April 14, a group of 170 (147 Republicans and 23 Democrats) House members sent a letter to the Obama Administration criticizing the December 2010 Clean Water Protection Guidance. The signatories of the letter assert that the new December 2010 guidance goes beyond clarifying the scope of the Clean Water Act (CWA) and suggests that the Army Corps of Engineers and the EPA are trying to rewrite CWA regulations to broaden the scope of the agencies' regulatory jurisdiction over isolated wetlands without the transparency and public involvement of a rulemaking process.

The letter drew immediate fire from environmentalist and sportsmen groups who said that the letter was misleading and that the two agencies are currently implementing guidance put in place by the Bush Administration. The issue of the Clean Water Act jurisdiction will continue to be a policy issue over the next few years.

*For more information, please contact Christina Mattar at [cmattar@tfgnet.com](mailto:cmattar@tfgnet.com).*