



# The Washington Report

May - June 2011

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# TABLE OF CONTENTS

<b>Congressional Schedule.....</b>	<b>Page 1</b>
<b>Budget, Appropriations &amp; Fiscal Policy.....</b>	<b>Page 1</b>
Update on Bipartisan Debt Reduction Meetings	
Budget Resolution	
FY 2012 Appropriations	
<b>Economic Development.....</b>	<b>Page 3</b>
Defense Appropriations	
Military Construction - Veterans Affairs Appropriations	
Agriculture, Rural Development, Food and Drug Administration Appropriations	
OMB Asks Federal Agencies to Report on Efforts to Help Local Governments	
Trade Adjustment Assistance	
Private Property Rights Protection Act of 2011	
Parks and Recreation	
<b>Education.....</b>	<b>Page 8</b>
Race to the Top	
<b>Energy, Environment and Sustainable Development.....</b>	<b>Page 9</b>
House Energy Spending Bill Sets Different Priorities than the President	
Clean Energy Summit - June 15-17	
<b>Health Care.....</b>	<b>Page 10</b>
Medicare Takes Center Stage	
Medicaid Issues	
<b>Public Safety and Homeland Security.....</b>	<b>Page 11</b>
Homeland Security Appropriations	
D Block	
<b>Transportation.....</b>	<b>Page 13</b>
Surface Transportation Authorization Outline Released	
Congress extends Authorization for FAA Programs	
General Aviation Airport Coalition Weighs in on FAA Reauthorization	
<b>Water and Natural Resources.....</b>	<b>Page 15</b>
Energy and Water Development Appropriations	
New Commerce Secretary Nominated	
Bi-Partisan Bill to Restrict EPA Powers Introduced in House	
Financing 21st Century Infrastructure	
New Climate Adaptation Strategies for Freshwater Resources/Fish, Wildlife, and Plants	

## THE WASHINGTON REPORT

### MAY- JUNE 2011

#### CONGRESSIONAL SCHEDULE

After spending two weeks in their home districts, Congress returned for legislative business on May 2. Work on the FY 2012 spending bills began, starting with House of Representatives passage of the FY 2012 Department of Homeland Security Appropriations bill, and markups of the Agriculture and Military Construction and Veterans Administration spending bills. Unfortunately, the Senate, for the time being, does not seem poised to consider any of the FY 2012 spending bills. In the absence of a budget resolution with an agreed-upon cap on discretionary spending, appropriators are biding their time, waiting to see whether the bipartisan debt reduction negotiations being led by Vice President Joseph Biden can reach agreement on top-line discretionary spending for the year.

In May, the House Republicans continued their assault on the health care law, taking up measures to repeal mandatory funding for two different programs. The House also passed the National Defense Authorization bill for FY 2012. Both the House and Senate passed legislation to give a four-year extension to provisions of the 2011 anti-terrorism law known as the Patriot Act.

Looking ahead, at least one chamber will be in session every week until August.

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

#### BUDGET, APPROPRIATIONS & FISCAL POLICY

##### **Update on Bipartisan Debt Reduction Meetings**

The House of Representatives and Senate recessed during different weeks in May which slowed negotiations on the debt reduction plan. The bipartisan talks, led by Vice President Joe Biden, are seeking agreement on a debt reduction package to move in conjunction with legislation to increase the nation's \$14.3 trillion debt ceiling. Vice President Biden has publicly acknowledged that the two issues are essentially connected, given Republican leaders insistence that the debt limit won't be raised unless something is done about the growing debt and deficits. Treasury Secretary Timothy Geithner notified Congress that while the debt limit will be reached in mid-May, he will be able to juggle the government's finances and avoid breaching the debt limit until August 2, three weeks longer than previously estimated, because federal revenues have been higher than expected. The Treasury Department has already started using accounting maneuvers to preserve federal borrowing authority by suspending the issuance of State and Local

Government Series (SLGS) Treasury securities which support state and local government issuance of tax-exempt bonds for infrastructure improvements and other activities.

Returning to Washington after the Memorial Day recess, the House rejected a bill to raise the debt ceiling setting the stage for negotiation. During the week of May 30, President Obama met with all House Republicans on one day and House Democrats on another. Leadership discussions are continuing.

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

## **Budget Resolution**

The passage of a FY 2012 Budget Resolution by the House on April 15 cleared the way for the House Appropriations Committee to begin work on FY 2012 appropriations bills.

On May 11, the House Appropriations Committee Chairman Hal Rogers (R-KY) released his allocation of funds to each of the twelve appropriations subcommittees consistent with the FY 2012 discretionary spending cap included in the Budget Resolution. These allocations, known as the 302(b) allocations, represent spending limits which may not be exceeded by each subcommittee. The following table lists the allocations for each appropriations subcommittee and compares them with current funding levels and the President's FY 2012 budget request. (The figures are dollars in millions.)

<b>House Appropriations</b>	<b>FY 2011 Enacted</b>	<b>FY 2012 President's Request</b>	<b>FY 2012 House 302b</b>	<b>302b vs FY 2011</b>	<b>302b vs President</b>
Agriculture, Rural Development, FDA	19,922	22,291	17,250	-2,672	-5,041
Commerce, Justice, Science	53,327	57,675	50,237	-3,090	-7,438
Defense	513,025	538,938	530,025	17,000	-8,913
Energy and Water	31,682	36,540	30,639	-1,043	-5,901
Financial Services	21,950	25,700	19,895	-2,055	-5,805
Homeland Security	41,661	43,577	40,592	-1,069	-2,985
Interior, Environment	29,559	31,291	27,473	-2,086	-3,818
Labor, HHS, Education	157,436	180,801	139,218	-18,218	-41,583
Legislative Branch	4,541	4,855	4,314	-227	-541
Military Construction, Veterans Affairs	73,150	73,791	72,535	-615	-1,256
State, Foreign Operations	48,162	50,796	39,569	-8,593	-11,227
Transportation, Housing and Urban Development	55,367	74,712	47,655	-7,712	-27,057
<b>Total</b>	<b>1,049,782</b>	<b>1,140,967</b>	<b>1,019,402</b>	<b>-30,380</b>	<b>-121,565</b>

The Senate rejected the House Budget Resolution by a vote of 40-57 and also unanimously rejected legislation mirroring the President's budget recommendations. The Senate Appropriations Committee has not yet set spending targets. The Senate Appropriations Committee has not yet set spending targets.

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### **FY 2012 Appropriations**

The House Appropriations Committee will continue to move forward on the 12 annual appropriations bills that fund the discretionary programs of the federal government. Prior to Memorial Day recess, the Committee approved the FY 2012 Appropriations bill for Homeland Security and Military Construction – Veterans Affairs. The Homeland Security bill was approved by the full House on June 2. Debate on Military Construction-Veterans Affairs began June 2, but final action was delayed until the week of June 13.

The Appropriations Committee approved the Agriculture bill on May 31. The Defense Subcommittee marked up their bill on June 1 and Energy and Water Development Subcommittee marked up their bill on June 2. The House Financial Services spending bill will be marked up in June. The remaining bills are scheduled to be marked up in July.

The Senate Appropriations Committee has not yet scheduled any markups of FY 2102 appropriations bills.

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<b>ECONOMIC DEVELOPMENT</b>
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### **Defense Appropriations**

On June 1, the House of Representatives' Appropriations Defense Subcommittee marked up its FY 2012 appropriations bill. The legislation includes funding for critical national security needs and provides the necessary resources to continue the nation's military efforts abroad. In addition, the bill provides essential funding for health and quality of life programs for the men and women of the Armed Services and their families. In total, the bill provides \$530 billion in non-emergency funding, an increase of \$17 billion over last year's level and a decrease of \$9 billion from the President's request. In addition, the bill contains \$119 billion in emergency spending for defense activities related to the Global War on Terror, \$39 billion less than last year due to the drawdown of U.S. forces overseas.

Prior to the Memorial Day recess, the House approved the annual National Defense Authorization bill for FY 2012 providing guidance to the Appropriations Committee.

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## **Military Construction - Veterans Affairs Appropriations**

On May 13, the House Military Construction - Veterans Affairs Appropriations Subcommittee marked up the FY 2012 appropriations bill funding military construction activities and the Department of Veterans Affairs. The full Appropriations Committee approved the bill on May 24, clearing it for consideration by the House. Debate began June 2, but further consideration was delayed until the week of June 13.

The bill appropriates a total of \$72.5 billion in discretionary funding, which is \$615 million below the FY 2011 level and \$1.2 billion below the President's FY 2012 budget request. The reductions in the bill are the result of the expected decline in funding requirements to the 2005 Base Realignment and Closure (BRAC) process, as well as significant reductions from construction cost savings.

The highlights of the bill as approved by the House Appropriations Committee are listed below.

*Military Construction* – The bill provides \$14 billion for military construction projects, a decrease of \$2.6 billion below the FY 2011 level. Much of the reduction comes from savings related to the BRAC process, which will be completed in September 2011, as well as rescissions from previous years' funding that are the result of lower than estimated construction project costs. Within the total, the bill fully funds the President's request for Military Family Housing Construction at \$376 million, which provides for a total of 48 new family housing construction projects, 80 replacement projects and improvements to 216 family housing units. In addition, the legislation contains \$1.1 billion for construction and alterations for new or existing military medical facilities, including the first phase of funding for the replacement hospital in Landstuhl, Germany, which treats many troops wounded abroad, and \$483 million for 15 Department of Defense Education facilities located in both the U.S. and overseas.

*Veterans Affairs (VA)* – The legislation includes a total of \$127.8 billion in both discretionary and mandatory funding for the Department of Veterans Affairs, an increase of \$8.7 billion over the FY 2011 level. Discretionary funding for the Department equals \$58 billion. Within the total provided, the bill provides full funding for VA compensation and benefits, education benefits, vocational rehabilitation, and housing loan programs. The legislation also includes provisions to increase spending oversight at the VA, including a requirement that the agency report on construction savings and one restricting the agency from taking certain spending actions without notification to Congress.

*Advance Appropriations for Veterans Medical Programs* - The bill contains \$52 billion in advance funding for medical services, medical support and compliance, and medical facilities. This advance funding will ensure that veterans have full access to their medical care needs regardless of where the government stands in the annual appropriations process.

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

## **Agriculture, Rural Development, Food and Drug Administration Appropriations**

On May 24, the House Agriculture, Rural Development, Food and Drug Administration Appropriations Subcommittee marked up the FY 2012 appropriations bill funding the Department of Agriculture, including agriculture support programs, conservation programs, rural development activities, food assistance programs, and the Food and Drug Administration. The full Appropriations Committee approved the bill on May 31.

Overall, the bill provides a total of \$125.5 billion in both discretionary and mandatory funding, a reduction of more than \$7 billion below the President's request. Discretionary funding is reduced by \$2.7 billion from the FY 2011 level and is over \$5 billion below the President's request. Mandatory funding in the bill increases by nearly \$3 billion over the current year to a total of \$108 billion, and equals more than 86% of the total funding in the bill.

The highlights of the bill as approved by the subcommittee are listed below.

*Conservation Programs* – The bill provides \$770 million for Conservation Operations, through which the Natural Resources Conservation Service (NRCS) helps farmers, ranchers and private forest landowners conserve, protect and enhance their land. This is a decrease of \$99 million below FY 2011. Funding is also provided for two key initiatives that will show how conservation programs support clean air and water, abundant wildlife and healthy landscapes, and help NRCS deliver conservation programs in the most cost-effective and farmer-friendly manner. The bill also provides \$15 million for dam rehabilitation to help small communities ensure their small watershed projects meet current safety standards.

*Rural Development* – The bill provides a total of \$2.1 billion for rural development programs, a decrease of \$338 million from FY 2011.

Within this funding, \$40 million is provided to support \$846 million in loan authority for “502” direct loans, a program the President proposed to cut by 85%, and \$24 billion in loan authority for guaranteed single family loans. In addition, \$890 million is provided for rural rental assistance to provide affordable housing for low-income families and the elderly.

To support rural economies, the bill includes \$64 million, \$20 million below FY 2011, for the Business and Industry program to support \$626 million in loans for rural businesses, and \$500 million, \$27 million below the current year is provided for rural water and wastewater programs. The bill also provides \$15 million for the Distance Learning and Telemedicine Program. In addition, the legislation provides for \$7.3 billion in loan authority for electric and telephone loans to help rural communities.

*Food and Nutrition Programs* – Mandatory food and nutrition programs within the Department of Agriculture, including the Special Nutrition Assistance Program (formerly Food Stamps) and child nutrition programs, are funded at nearly \$90 billion, \$2 billion less than the President's request. The subcommittee indicates that this funding will allow all individuals and families who meet the programs' criteria for aid to receive all the benefits available to them, and includes \$3 billion in reserve funds in case of unanticipated increases in participation or food price increases.

Child nutrition programs will receive \$18.8 billion, which is \$1.5 billion over the FY 2011 level and \$40 million below the President's request. This funding will help provide low-income students with free or reduced price breakfasts and lunches at schools in every community in the nation. In addition, the Women, Infants and Children (WIC) nutrition program is funded at \$5.9 billion. While this is a reduction of \$832 million from FY 2011, the bill allows the Secretary of Agriculture to utilize FY 2011 carryover funds, \$125 million in contingency funds, and other funding options currently authorized in the law to allow participants to continue to receive the benefits for which they qualify.

*Agricultural Research* – The bill provides over \$2.2 billion for agriculture research programs, including the Agriculture Research Service and the National Institute for Food and Agriculture. This is a reduction of over \$354 million from the FY 2011 level.

*Animal and Plant Health* –The legislation includes \$790 million, \$73 million below the current spending level, for the Animal and Plant Health Inspection Service (APHIS). This funding will continue support for 29 programs to enhance the control or eradication of plant and animal pest and diseases. The bill also allows the agency access to emergency funding should an unexpected agricultural threat emerge over the course of the year.

*Food Safety and Inspection Service* – The bill includes \$973 million for food safety and inspection programs, a decrease of \$35 million below the FY 2011 level. This funding level will continue critical meat, poultry and egg product inspection and testing activities, and supports an expansion of a poultry inspection pilot project that will lead to improving food safety.

*Food and Drug Administration (FDA)* – The FDA would receive a total of almost \$2.2 billion in discretionary funding in the bill, a cut of \$285 million or 11.5% below FY 2011. Total funding for the FDA, including user fees, is \$3.7 billion.

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### **OMB Asks Federal Agencies to Report on Efforts to Help Local Governments**

On April 29, the Office of Management and Budget (OMB) issued a guidance memorandum to assist federal agencies in fulfilling a presidential directive to reduce the administrative burdens of state, local and tribal governments. The guidance is in response to a presidential memorandum issued on February 28, designed to encourage administrative flexibility to achieve better results for state, local and tribal governments. In that memo, the President told executive branch departments and agencies to work with state and local governments to reduce unnecessary regulatory and administrative burdens. Within 180 days of the date of the memo, agencies are required to take action to identify regulatory and administrative requirements that could be streamlined, reduced or eliminated. To help agencies with this task, OMB issued its guidance memorandum directing agencies to establish action plans that follow several objectives. Among them, plans should establish better processes for cross-agency and cross-government collaboration.



The memo also advised them to clearly define program outcomes, focus on high-impact areas, increase transparency, facilitate the use of robust and authoritative data, eliminate duplicative and unnecessary reporting, and identify other barriers to cost-effectiveness.

The memo stated that agencies should continue to consult with OMB as they work with state, local and tribal governments to analyze options for increased flexibility and report on their actions by August 29.

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### **Trade Adjustment Assistance**

In an effort to urge Congress to reauthorize trade adjustment assistance for workers, the Obama Administration pledged to withhold passage of free-trade agreements with Colombia, Panama and South Korea unless Congress acts. The move signals an attempt by the White House to bolster President Obama's trade priorities and urge skeptical Democrats to support them. Republicans in Congress let the Trade Adjustment Assistance (TAA) program expire earlier this year as a way to pressure the Administration into moving on all three trade agreements at once.

National Economic Council Director Gene Sperling called extending the TAA program, which was expanded with \$1.6 billion in funding from the 2009 stimulus bill, an economic and moral obligation. U.S. Trade Representative Ron Kirk and others have been pushing for an extension of TAA for months, but this is the first time they have explicitly tied it to passage of the trade agreements. They are seeking a reauthorization at the expanded 2009 levels. The program supports more than 435,000 workers, as well as communities and firms whose jobs have been affected by trade.

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### **Private Property Rights Protection Act of 2011**

On April 7, Representative James Sensenbrenner (R-WI) introduced the Private Property Rights Protection Act of 2011, [H.R. 1433](#). The bill would prevent states and municipalities from using eminent domain for economic development purposes on any project for which the agencies are receiving federal funding and any violations of these terms could render a state or political subdivision ineligible for any federal economic development funds for two fiscal years. Additionally, the bill prohibits the federal government from using eminent domain for economic development. On April 12, the House Judiciary Committee, Subcommittee on the Constitution held a hearing on the bill which can be viewed at [H.R. 1433 Hearing](#).

*For more information, please contact Sarah Stockdale at [sstockdale@tfgnet.com](mailto:sstockdale@tfgnet.com).*

### **Parks and Recreation**

The Senate and House Interior Appropriations Subcommittees are close to completing work on the FY 2012 Interior and Environment Appropriations bill, legislation that provides annual funding for the Land and Water Conservation Fund's (LWCF) State Assistance program. This program funds outdoor recreation projects at the state and local level. Unfortunately, during

tough economic times, the LWCF State Assistance has been a target for elimination. Currently LWCF State Assistance funds are distributed to every state in the nation on a formula basis so that individual needs of rural and urban areas are recognized. States then award grants to local projects based on the needs identified by the states. The President's budget proposes changing the distribution method by using the majority of the State Assistance funding to implement a national competitive grant program, thereby giving the Department of Interior sole discretion for the selection of projects. The agency has indicated it will fund only a few, large scale projects. At a time when states are facing \$18.5 billion in unmet outdoor recreational need, a DOI administered grant program would reduce the number of projects constructed at the local level. Therefore, cities and counties must contact their Members of Congress to express the importance of LWCF State Assistance, specifically highlighting local projects that have been or could be funded by the program. Ask your Members of Congress to talk to the Chairman and Ranking Member of the Interior Appropriations Subcommittee with a request to provide 40% of total LWCF Appropriations in FY 2012 to the State Assistance program and to include language directing the Interior Department to use the existing distribution formula.

Representative Albio Sires (D-NJ) has introduced the Urban Revitalization and Livable Communities Act, H.R. 709, which would authorize \$445 million annually for the construction and rehabilitation of urban park infrastructure and would also provide funding for at-risk youth programming. Representative Sires is currently seeking co-sponsors, please click here [Thomas](#) to see if your U.S. Representative is already a cosponsor, and please contact your representative and ask them to sign on as a co-sponsor or thank them for being a co-sponsor.

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## EDUCATION

### **Race to the Top**

The Department of Education announced that nine finalist states that did not win grants in the first two rounds of Race to the Top will be eligible to compete for \$200 million in additional funds this year. Arizona, California, Colorado, Illinois, Kentucky, Louisiana, Pennsylvania, New Jersey, and South Carolina can begin applying for grants ranging from \$10 million to \$50 million early this fall. The department chose to make the \$200 million available in a competition among Race to the Top finalists in order to support states that have demonstrated a commitment around reform plans that address the Obama Administration's four core reforms: raising academic standards, building cradle to career data systems, investing in great teachers and leaders, and turning around persistently low-performing schools.

The \$200 million funding round has drawn controversy because four of the states have new governors who were not in office when the states submitted their original Race to the Top proposals. Those four states include California, Colorado, Pennsylvania, and South Carolina. Pennsylvania officials have indicated they will not apply if the state is bound to submit part of its original proposal, which was created by the Democratic administration of former Governor Ed Rendell. South Carolina has also decided to bow out of the competition.

Congress provided the Department of Education with \$700 million for the Race to the Top initiative through FY 2011 appropriations funding. It also included an authorization to fund an

early learning competition and \$500 million of these funds will support the new Early Learning Challenge. The Race to the Top-Early Learning Challenge will be administered jointly by the Department of Education and the Department of Health and Human Services. Public comments can be made at <http://www.ed.gov/blog/2011/05/rtt-early-learning-challenge/>. Guidance, eligibility, range of awards and number of grants will be announced in the coming weeks. The application will be released later this summer with grants awarded to states no later than December 31, 2011.

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## **ENERGY, ENVIRONMENT AND SUSTAINABLE DEVELOPMENT**

### **House Energy Spending Bill Sets Different Priorities than the President**

The House of Representatives' Energy and Water Appropriations Subcommittee set forth its priorities for federal energy programs with the bill taking a different direction than that of the President. In his State-of-the Union address, the President called for increased spending on renewable energy. The House bill approved by the subcommittee cuts \$850 million from current spending levels and is \$5.9 billion below the level requested by the President. The most drastic cuts come at the expense of renewable energy research and development programs like the Office of Energy Efficiency and Renewable Energy which would see \$1.9 billion less than the President's request. The appropriators also included funding for nuclear waste storage in Nevada, a provision the current Senate Majority Leader Harry Reid (D-NV) will not agree with at all. Of course, the bill will see further changes, and funding levels and priorities for all programs, energy and otherwise, must be negotiated between the House, Senate and the White House in order to be enacted.

*For more information, please contact Mark Limbaugh at [mlimbaugh@tfgnet.com](mailto:mlimbaugh@tfgnet.com).*

### **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).

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## HEALTH CARE

### **Medicare Takes Center Stage**

The House of Representatives' Budget Committee Chairman Paul Ryan's (R-WI) Medicare overhaul plan has become a point of political contention. Its core concept, having senior citizens select their Medicare coverage from a menu of competing plans and giving them a set payment to help defray premium costs was included in the FY 2012 Budget Resolution which passed the House, but was rejected in the Senate. The idea has been denounced by Republican presidential candidates. Also, opposition to the plan was a contributing factor in Democrat Kathy Hochul's victory in the special election for New York's 26<sup>th</sup> Congressional District, a traditional Republican stronghold.

Some leading voices in health policy assert that the Ryan plan can be reworked to give seniors more help to cover the cost of premiums, keep traditional Medicare as an option perhaps win Democratic support. The next time Congress considers revamping the program in a less politically charged environment, perhaps in 2013, premium support could be the leading option touted by health policy professionals in urging lawmakers to act. It is unclear if the group of congressional leaders working with Vice President Joe Biden will recommend any substantial changes to Medicare during this election season.

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### **Medicaid Issues**

Medicaid supports a host of services provided at the local level, mostly by counties but frequently by local governments and school districts. While Medicaid is a federal program, it is administered at the state level and states create their own Medicaid programs in accordance with federal requirements around eligibility and core services. Most states, with approval from the Centers for Medicare and Medicaid Services (CMS), provide care for optional populations, medical services, and medical support services. For example, Medicaid programs can provide school-based speech-language pathologists and audiologists, ambulance services, school-based nursing programs for Title I schools, health care for low income individuals living with AIDS, transportation for medical appointments, and case management resources such as social workers and health advocates.

The House Budget Committee Resolution crafted by Chairman Paul Ryan (R-WI) would force the federal government to restrict the number and scope of services that states could provide and authorize a basic block grant for just core medical services to the poorest of the poor. Many local government-based support systems are based on certain levels of Medicaid funding. Medicaid supporters contend that cuts to these programs will deepen the nation's healthcare crisis in that those who do not have access to healthcare will remain sick or continue to use the emergency room for routine medical services, at a cost is born by the local tax payers.

The Ryan Budget Plan was defeated in the Senate in May and the House Ways and Means Committee and the Senate Finance Committee are not likely to support this proposal. Broward County, Florida Commissioner Ilene Lieberman, chair of the National Association of Counties' (NACo) Large Urban County Caucus led a press conference with Senator Jay Rockefeller (D-WV) and others to oppose the Ryan Budget Plan Medicaid cuts prior to the Senate vote.

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<b>PUBLIC SAFETY and HOMELAND SECURITY</b>
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### **Homeland Security Appropriations**

On June 2, the House of Representatives approved its FY 2012 Homeland Security Appropriations bill. Overall, the bill provides \$40.6 billion in funding for the various programs and agencies within the Department of Homeland Security. This is a decrease of \$1.1 billion, or 2.6%, below the FY 2011 level, and \$3 billion, or 7%, below the President's budget request.

The highlights of the bill as approved by the House Appropriations Committee are listed below.

*Earmarks* – This bill contains no earmarks, as defined by clause 9(e) of Rule XXI of the Rules of the House of Representatives.

*Federal Emergency Management Agency (FEMA) State and Local Programs* – The bill includes a total of \$5.3 million for FEMA, \$1.9 billion below the FY 2011 level. For State and Local Programs, the bill provides \$1 billion which is approximately \$1.2 billion below the FY 2011 level. Of the total, \$107 million is provided for training of state, local and tribal emergency response providers. In addition, the bill includes \$670 million for firefighter assistance grants, \$140 million below the current year level. For disaster relief under the Stafford Act, the bill provides \$2.65 billion. Several amendments were adopted during floor consideration. The cap on the number of UASI designations was removed. Awardees will continue to be able to use SAFER Grants to rehire laid off workers or to prevent layoffs. Another amendment shifted funds from management to the firefighter assistance grants program (providing for the aforementioned total).

*U.S. Customs and Border Protection* – The bill contains \$11.8 billion for Customs and Border Protection, an increase of \$443 million over the current year level. This funding provides for a total of 21,370 border patrol agents and 21,186 Customs and Border Protection officers, additional training and canine units at ports of entry, \$149 million for Inspection and Detection Technology, and \$500 million for Air and Marine operations and procurement. The bill increases funding for Customs and Border Protection's targeting systems by \$15 million



to enhance the identification of known and suspected terrorists and criminals, and contains a total of \$500 million for border security fencing, infrastructure and technology.

*Immigration and Customs Enforcement* – The bill provides \$5.8 billion for Immigration and Customs Enforcement, which is \$35 million above the FY 2011 level. This includes \$1.7 billion for domestic investigation programs, \$147 million for international enforcement programs, \$81 million for the Office of Intelligence, \$32.5 million for the Visa Security Program, and an additional \$64 million for continued expansion of the Secure Communities program. In addition, the legislation includes \$2.7 billion, an increase of \$27 million above the President’s budget request, for Immigration and Customs Enforcement detention bed spaces, raising the total number of beds to 34,000.

*Transportation Security Administration (TSA)* – The bill includes \$7.8 billion for the TSA, an increase of \$125 million over FY 2011, and \$293 million below the President’s request. These funds will be used to sustain the current cap level of 46,000 full time screening personnel, and for explosive detection systems, security enforcement, cargo inspections, Federal Air Marshals, and other TSA activities. The bill also includes an additional \$10 million to address air cargo threats. However, the bill does not provide \$76 million requested by the President for 275 additional advanced inspection technology (AIT) scanners nor the 535 staff requested to operate them.

*Coast Guard* – The bill contains \$10 billion for the U.S. Coast Guard, which is \$196 million below the current year. Within the total, the legislation fully sustains military pay and allowances, and provides targeted increases above the budget request for communications, tactical training, and acquisition of critical operations assets such as small boats and replacement helicopters.

*Secret Service* – The bill includes \$1.7 billion for the U.S. Secret Service, an increase of \$155 million over FY 2011. This includes \$113 million for protective activities related to the 2012 Presidential Election, and \$43 million for information technology improvements including cyber security and threat assessment capabilities.

*Guantanamo Bay Detention Facility and Detainees* – The legislation includes a provision prohibiting funds to transfer, release or assist in the transfer or release of Guantanamo detainees to or within the United States or its territories. The provision also prohibits immigration benefits to Khalid Sheikh Mohammed or any other detainee.

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## **D Block**

On May 19, Senate Commerce, Science and Transportation Committee Chairman Jay Rockefeller (D-WV) held a press conference to rally support for legislation that would allocate a coveted block of spectrum in the 700 megahertz band known as the “D Block” for the building of a nationwide emergency communications network, his highest legislative priority ahead of the 10th anniversary of the September 11, 2001 terrorist attacks.

Senator Rockefeller plans to markup his bill, S. 28, with an eye toward final passage before the end of the summer. The Public Safety Spectrum and Wireless Innovation Act would not only allocate the D Block for the building of a public safety broadband network but also authorize the Federal Communications Commission (FCC) to hold voluntary incentive auctions of spectrum, in which television broadcasters who license spectrum through the FCC could release some of it back to the government in exchange for a share of the auction proceeds. Under the bill, some of the money raised through incentive auctions, estimated at \$11 billion, would go to help defray the costs of building the network, estimated at between \$12 billion and \$16 billion. Even if Senator Rockefeller's legislation is approved by the Senate, it faces another hurdle once it reaches the House.

On September 11, police officers, firefighters and emergency medical workers were unable to communicate with one another because they were not using the same radio equipment on the same spectrum bands. One of the recommendations of the 9/11 Commission is to build the nation's first truly interoperable public safety broadband network.

Critics of the D Block reallocation approach, including House Energy and Commerce Communications Subcommittee Chairman Representative Greg Walden (R-OR), are concerned about how cash-strapped states and localities will be able to fund the construction and operation of a nationwide public-safety broadband network if the FCC reallocates, rather than re-auctions, the D block. The subcommittee conducted a hearing on May 25.

With the 10th anniversary of the September 11 terrorist attacks approaching, President Obama earlier this year made a \$10.7 billion commitment to build a nationwide interoperable public safety broadband network. Under his proposal, the funding would come from money raised from incentive spectrum auctions: \$7 billion to deploy the network; \$3.2 billion to offset the budgeted funds the U.S. Treasury would otherwise not receive from an auction of the D block, as proposed by the FCC; and \$500 million from a new Wireless Innovation Fund for research and development to ensure that the network meets public safety requirements. The President had previously indicated support for an auction of the D Block, which is required by law.

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<b>TRANSPORTATION</b>
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**Surface Transportation Authorization Outline Released**

Four leaders of the Senate Environment & Public Works Committee - Chairman Barbara Boxer (D-CA), Ranking Member James Inhofe (R-OK), Subcommittee Chairman Max Baucus (D-MT), and Subcommittee Ranking Member David Vitter (R-LA) - released a joint statement outlining progress on a new surface transportation authorization bill. The bill, likely to be entitled "Moving Ahead for Progress in the 21st Century" (MAP-21), has not been released and very few details were announced. Committee leadership had hoped to markup a bill prior to Memorial Day but now appear to be targeting the release of a draft and perhaps a markup session prior to August.

The statement outlines the following key priorities:

- Current program funding levels will be maintained (\$56.6 billion per year or \$339 billion over six years compared to the President's proposal at \$556 billion);
- No congressional earmarks will be included in the legislation;
- Programs will be consolidated;
- Legislation will focus on freight movement;
- The bill will also strengthen the Transportation Infrastructure Finance and Innovation Act (TIFIA) program which provides federal credit assistance by moving annual funding available from \$122 million to \$1 billion annually; and
- Expediting project delivery without sacrificing environmental considerations or due process.

In a follow-up press conference Senator Boxer noted her commitment to transportation enhancements which have come under significant fire from some Members of the House and Senate. No indication was given on how revenues will be increased to cover the cost of the bill. It is also likely the term of the authorization bill will be shorter than the standard six year term. The TIFIA program could be viewed as a substitute for the infrastructure bank concepts proposed by the Administration and legislators. The House version of the surface transportation authorization bill is expected in June.

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### **Congress extends Authorization for FAA Programs**

VISION 2007, the federal statute governing Federal Aviation Administration (FAA) programs, expired in September 2007. Congress has passed a series of extensions keeping programs administered by the FAA funded. The most recent extension contracted authority through June 30. The extension gives congressional committees more time to negotiate a final agreement on the multi-year reauthorization bill, H.R. 658. Staff negotiators have reached an agreement on all of the noncontroversial provisions, but negotiations continue on several major issues.

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### **General Aviation Airport Coalition Weighs in on FAA Reauthorization**

The TFG-managed General Aviation Airport Coalition (GAAC) is lobbying Congress to ensure that the FAA Reauthorization bill is as beneficial to general aviation (GA) airports as possible. Specifically, GAAC supports a four-year reauthorization bill that provides at least \$8.1 billion for the Airport Improvement Program AIP and maintains the 95/5 cost share as proposed by the Senate in S. 223. Additionally, GAAC supports a section in the House-passed bill that provides protections to GA airports who have previously entered into a "Through-The-Fence" agreement. Finally, GAAC supports efforts to ensure that GA interests are considered and representatives are involved in the development of the Next Generation Air Transportation System (NextGen). Please visit [www.gaairportcoalition.org](http://www.gaairportcoalition.org) for more information on GAAC and its advocacy efforts.

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## WATER AND NATURAL RESOURCES

### **Energy and Water Development Appropriations**

The House of Representatives' Energy and Water Development bill approved by the Appropriations Subcommittee provides \$30.6 billion for the programs of the U.S. Army Corps of Engineers, the Department of the Interior's Bureau of Reclamation, the Department of Energy and several independent agencies. This total is about \$1 billion below FY 2011 and almost \$6 billion below the President's budget request.

The bill provides a total of \$4.8 billion, \$89 million below FY 2011, but \$195 million above the President's request for the Corps of Engineers. Compared to the budget request, the bill provides an additional \$86 million for construction projects, an additional \$58 million for the Mississippi River and Tributaries Program and an additional \$52 million for operation and maintenance of existing projects. The press release issued by the Appropriations Committee indicates that the Corps will have discretion of which projects are to receive these additional funds.

For the Bureau of Reclamation, the bill includes \$971 million, \$91 million below FY 2011 and \$47 million below the President's budget request. For the Water and Related Resources account, the bill provides \$822 million, \$89 million below the current year but \$17 million above the budget request. The Central Valley Project Restoration Fund is funded at \$53 million, the same as the President's request while the California Bay-Delta Restoration Program would be funded at \$35.9 million, \$3.7 million below the request. The bill does not include funds requested by the President for Indian Water Rights Settlements or the San Joaquin River Restoration Fund.

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### **New Commerce Secretary Nominated**

President Obama has nominated environmentalist and former utility executive John Bryson to lead the Commerce Department. The former chairman and CEO of California-based Edison International, Bryson also co-founded the Natural Resources Defense Council in 1970 and more recently served on the United Nation's advisory group on energy and climate change.

If confirmed by the Senate, Bryson would oversee the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service, currently at the center of the Administration's climate change and global warming research. Bryson would replace Commerce Secretary Gary Locke, whom the President nominated to serve as Ambassador to China.

Bryson retired from Edison in 2008 and has served on a number of corporate boards, including the Walt Disney Company and Boeing Company. He is co-chairman of the Pacific Council on International Policy. The group's current work includes a task force on climate adaptation. He was president of the California Public Utilities Commission from 1979 to 1982. Prior to that, he served as chairman of the California Water Resources Control Board.

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## **Bi-Partisan Bill to Restrict EPA Powers Introduced in House**

House Transportation and Infrastructure Chairman John Mica (R-FL) and Ranking Member Nick Rahall (D-WV) have introduced legislation to restrict Environmental Protection Agency's (EPA) powers under the Clean Water Act, especially when intervening with state oversight programs. The bill, [H.R. 2018](#), follows a series of hearings on EPA's oversight of Appalachian mountaintop removal mining, during which lawmakers criticized the agency's permit revocation for Arch Coal Company's Spruce No. 1 mine in Representative Rahall's home state of West Virginia. Among the legislation's provisions is a clause to limit EPA's ability to veto the dredge and fill permits issued by the Army Corps of Engineers. States would have to approve such a move.

The Mica-Rahall bill goes beyond Appalachian mining. It restricts EPA's ability to issue revised or new water quality standards without the state's permission. In Representative Mica's home state of Florida, EPA promulgated new standards over state objections.

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## **Financing 21st Century Infrastructure**

The Senate Finance Committee held a hearing on May 17 entitled "Financing 21st Century Infrastructure" including fact intensive testimony on municipal debt from a bond market expert and a new overview from the Congressional Budget Office. Video and copies of testimony can be found on the Committee's website: <http://finance.senate.gov/hearings>.

Although this hearing was focused primarily on transportation, there are bills proposed to create a national infrastructure bank that would also include water and energy infrastructure. For example, Senators John Kerry (D-MA) and Kay Bailey Hutchison (R-TX) have introduced S. 652 to create the American Infrastructure Financing Authority, an independent government-owned corporation that would provide direct loans and loan guarantees to projects over \$100 million (\$25 million in rural areas). Both Senators serve on key committees for promoting this proposal, the Senate Finance Committee and the Appropriations Committee, including both the Subcommittee on Energy and Water Development and the Subcommittee on Transportation - Housing and Urban Development.

In general, expect ongoing congressional discussions regarding ways to maximize leveraging of federal dollars. At the same time the nation is burdened with soaring deficits, studies like the one released last week by the Urban Land Institute are reporting that the U.S. is \$2 trillion behind on national infrastructure investments in roads, bridges, water lines, sewage systems and dams that are reaching the end of their planned life cycles.

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## **New Climate Adaptation Strategies for Freshwater Resources/Fish, Wildlife, and Plants**

The Obama Administration recently announced two climate adaptation initiatives and that they are seeking public comments on the plans. The first Administration plan could impact the management of freshwater resources in the U.S. to deal with the effects of climate change. The "Draft National Action Plan for Managing Freshwater Resources in a Changing Climate" offers



recommendations on how federal agencies can support state and local governments by sharing data and following certain best practices. The plan announces a new national goal: *Government agencies and citizens collaboratively manage freshwater resources in response to a changing climate in order to assure adequate water supplies, to protect human life, health and property, and to protect water quality and aquatic ecosystems.* The report includes the following recommendations for federal agencies to follow:

- Improve the quality of water resources and climate change information available to decision makers;
- Expand use of water efficiency practices and technologies;
- Develop a list of the most effective conservation practices for state and local officials;
- Draw up a pilot climate vulnerability index for major categories of water facilities; and
- Develop a "one stop" website that supplies up-to-date data on water resources and climate change.

The plan is available for a 45-day public comment period.

The second announcement seeks public comments on the National Fish, Wildlife and Plants Climate Adaptation Strategy by July 1, 2011. According to the press release, the strategy will provide a “unified approach reflecting shared principles and science-based practices for reducing the negative impacts of climate change on fish, wildlife, plants, habitats, and our natural resource heritage.” The plan is said to serve as a valuable tool for federal and state agencies, wildlife managers, tribes, and private landowners as they continue to manage their lands and natural resources in a changing environment.

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