APPROPRIATIONS: FY10 SUPPLEMENTAL APProps GOES TO PRESIDENT WITHOUT STATE AID

The House agreed to the Senate version of the FY10 Supplemental Appropriations (H.R. 4899) on July 27, 2010 by a vote of 308–114. The bill was stripped of over $22 billion in funding for education and other non-defense spending, over concerns about adding to the deficit. On July 22, the Senate failed to invoke cloture by a vote of 46 to 51 on the House version of the bill. It then passed the stripped down version of H.R. 4899 by voice vote. (It had passed an identical version of the bill on May 27, 2010 by a vote of 67-28.)

As passed and sent to the President, the bill provides a total of $58.86 billion for Fiscal Year 2010. This amount includes $32.8 billion for the Department of Defense for operations, personnel costs, and equipment reconstitution related to overseas contingency operations, primarily in Afghanistan; $5.1 billion for the Federal Emergency Management Agency (FEMA) to pay for the costs of past disasters; $2.8 billion to support relief efforts in Haiti; and $68 million for the Gulf of Mexico oil spill response.

Included in the FEMA funding is money to pay for the costs of past California wildfires, as well as funding for future disasters.

The funding dropped from the final bill included about $22 billion in aid to states to preserve jobs for teachers, police, and firefighters, and $5.667 billion for the Pell Grant Program.

More information on the bill, and its earlier versions can be found at: http://www.appropriations.house.gov.

APPROPRIATIONS: HOUSE PASSES BORDER SECURITY & PATENT OFFICE SUPPLEMENTALS

On Wednesday, July 28, 2010, the House by voice vote under suspension of the rules passed two appropriations bills providing supplemental funding for Border Security (HR 5875) and for the Patent and
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Trademark Office (HR 5874). The funding for both had been stripped from the larger supplemental appropriations bill passed on July 27th (see related article in this Bulletin).

The Border Security bill provides $701 million aimed at helping address the threat of increased violence along the Southwest Border by strengthening border security and enforcement efforts. The funding includes:

Border Patrol Agents: $208.4 million for 1,200 additional Border Patrol agents deployed between the ports of entry along the Southwest Border.

CBP Officers: $136 million to maintain current Customs and Border Protection (CBP) officer staffing levels and add 500 additional officers at ports of entry along the Southwest Border.

Operation Stonegarden: $50 million for Operation Stonegarden grants to support local law enforcement activities on the border.

Immigration Enforcement Activities: $30 million for Immigration and Customs Enforcement (ICE) activities directed at reducing the threat of narcotics smuggling and associated violence.

H.R. 5874, the 2010 Supplemental Appropriations Bill for the U.S. Patent and Trademark Office, (USPTO) provides up to $129 million to help prevent additional backlogs in the processing of patent applications. USPTO currently takes an average of over 34 months to complete the examination of a patent application and has maintained a backlog of unexamined applications for several years. There are approximately 1.2 million patent applications now in the system, with over 750,000 awaiting an initial review by a USPTO patent examiner. The Administration requested the additional funding because patent fee revenue is expected to be higher than an earlier estimate. The activities of USPTO are entirely supported by fee revenue, subject to the appropriation of these funds by Congress. Thus, the appropriations is necessary to release the funding. The Committee documents state that the appropriation “reflects the Administration’s and Congress’ commitment to make all fee revenue collected by USPTO available for patent and trademark activities.”

Further information on both bills can be found at:

APPROPRIATIONS: SENATE SUBCOMMITTEE REPORTS FY11
APPROPRIATIONS FOR LABOR, HHS, EDUCATION

On July 27, 2010, the Labor, Health and Human Services, Education, and Related Agencies Subcommittee of the Senate Appropriations Committee marked up legislation making fiscal 2011 appropriations for programs under its jurisdiction.

The Subcommittee’s bill provides $169.6 billion in discretionary funding for a range of programs focused on job creation and training American workers, targeting fraud and abuse, and incentivizing States and local communities to reform their health, workforce and education systems.

Highlights include a new $300 million Early Learning Challenge Fund that will provide competitive grants to states to raise the quality of early childhood programs; $240 million for five new Workplace Innovation Funds that will improve the delivery of education and training to workers; and an increase of $1 billion for childcare services.
The bill:
- provides an increase of nearly $163.6 million over the fiscal year 2010 level for state grants for job training and employment services, for a total of $3.8 billion.
- provides a $25 million increase for the Green Jobs Innovation Fund, for a total of $65 million. This fund provides workers with job training in green and renewable energy industries as well as sustainable agriculture, transportation and green construction.
- provides $8.2 billion for Head Start, an increase of $990.3 million over the fiscal year 2010 appropriation. This amount will allow Head Start programs to provide comprehensive early childhood development services to 978,000 low-income children, and maintain increases in families served because of Recovery Act funding in fiscal years 2009 and 2010.
- includes $857.6 million, an increase of $38.2 million, for local programs that provide congregate and home-delivered meals to seniors.
- includes $14.9 billion for Title I grants to local education agencies for improving education for low-income students. This amount is $450 million higher than the budget request and the fiscal year 2010 funding level.
- includes nearly $19.5 billion for student financial assistance, maintaining the maximum discretionary Pell Grant Program award level at $4,860. Combined with mandatory funding provided in the Health Care and Education Reconciliation Act of 2010, the maximum award is maintained at $5,550 for the 2011-2012 school year.
- includes an additional $170 million over the fiscal year 2010 level to expand health training programs.
- includes $90 million, an increase of $51 million, for primary care training activities; nearly $48 million, an increase of $15.1 million, for oral health care training; and a total of $57.9 million, an increase of $20 million, for public health workforce training.
- includes $300 million for a new Early Learning Challenge Fund that will provide competitive grants to states to raise the bar for early childhood programs.
- includes $675 million for Race to the Top.
- includes $250 million for Investing in Innovation to replicate programs that have high levels of effectiveness as established under rigorous research and to develop and test promising new ideas.
- provides $11.9 billion under section 611 of IDEA Part B grants to States for educating students with disabilities.
- provides $32 billion, an increase of $1 billion, to fund biomedical research at the NIH. The 3.5 percent increase is equal to the rate of biomedical inflation.

For more information, visit: http://appropriations.senate.gov/.

**Education: Senate Committee Approves COMPETES Act**

On July 22, 2010, the Senate Commerce, Science and Transportation Committee approved S. 3605, a bill that would provide a three-year reauthorization for federal science research and education programs and would reauthorize programs under the America Competes Act (PL 110-69), a 2007 law aimed at spurring U.S. economic competitiveness through federal support for various science research and education programs. The Committee approved the bill by voice vote. The panel adopted 20 amendments to the bill, including a substitute amendment that reduced funding levels by about 10 percent for the National Institute of Standards and Technology and the National Science Foundation.

The bill would create several new programs, including a Commerce Department program that would provide loan guarantees to small and midsize manufacturing businesses that either use or make innovative technologies.
The Committee adopted an amendment that replaced language in the bill that would have required the Office of Science and Technology Policy to develop a national innovation and competitiveness strategy. Warner’s language would direct the Commerce Department to complete a study on the U.S. economy and innovation infrastructure. It also would require the Department to assess international innovative competitiveness. Within one year of completion of the study, it would require the Department to come up with a 10-year national innovation and competitiveness strategy for strengthening the innovative and competitive capacity of the federal government, state and local governments, institutions of higher education and the private sector. The committee also adopted an amendment that would allow the Federal Communications Commission to undertake research and development work to improve the competitiveness of the United States. In May, the House passed a bill (HR 5116) that would authorize $85.6 billion over five years for the programs.

Specifically, the Senate bill would:

- authorize funding increases for the National Science Foundation (NSF) and the National Institute of Standards and Technology for fiscal years 2011, 2012, and 2013.
- support programs to assist American manufacturers, such as the Hollings Manufacturing Extension Partnership and the Technology Innovation Program, and create a loan guarantee program to support innovation in manufacturing
- strengthen Educational Opportunities in Science, Technology, Engineering, Mathematics
- coordinate STEM education across the Federal government, with the goal of reinforcing programs that demonstrate effectiveness.
- supports research and internship opportunities for high school and undergraduate students, and increases the number of graduate fellowships supported by the NSF.
- reinforce the role of NASA and the National Oceanic and Atmospheric Administration (NOAA) to inspire and educate the future science and technology workforce and encourage the agencies to transfer their technological advances into the private and public sectors
- requires the development of a national innovation and competitiveness strategy for strengthening the innovative and competitive capacity of the Federal Government, State and local governments, institutions of higher education, and the private sector
- supports the development of regional innovation strategies, including regional innovation clusters and research parks.

For more information, visit: http://commerce.senate.gov

Housing: House Financial Services Marks Up Housing Preservation Bills

The House Financial Services Committee held a mark up on two bills aimed at preserving affordable housing for low- and moderate-income families on July 27, 2010. Provisions in H.R. 4868, the Housing Preservation & Tenant Protection Act of 2010, include:

- new Project-Based Section 8 contracts to replace expiring contracts;
- grants and loans for rehabilitating assisted properties and to support the purchase of properties with maturing HUD assisted mortgages by qualified preservation buyers;
- specific requirements for payment of project-based subsidies and provides for options in the event of late payments from HUD; and
- grants for tenant outreach and training initiatives.

A Manager’s amendment, offered by Committee Chair Barney Frank (MA) stripped a provision giving HUD a right of first refusal on property being removed from the affordable housing inventory, but retains it for tenant groups. The Manager’s amendment also bans any preemption of tenant laws, and narrows preemption of other laws. The amendment was agreed to by voice vote. Another amendment, offered by Rep. Joe Baca (San Bernardino), would require that tenants be informed of a landlord’s housing
violations and of their rights, including the ability to pay rent into an escrow fund until necessary repairs are made. The amendment was agreed to by voice vote. H.R. 4868 was approved by a vote of 42-27.

H.R. 5814, authored by Housing Subcommittee Chair Maxine Waters (Los Angeles), is comprised of several other housing proposals, including the Together We Care Act. The bill is aimed at revitalizing distressed housing, reforming public housing demolition and disposition rules to require one for one replacement and tenant protections, providing public housing agencies with additional resources and flexibility to preserve public housing units, and creating a pilot program to train public housing residents to provide home-based health services. The legislation was approved by a vote of 42-27.

Rep. Waters stated: “More than 500,000 households in public housing now include elderly or disabled residents, and this number will rise as the nation’s senior population doubles in the next twenty years. According to AARP, 92 percent of people between the ages of 65 and 74 want to continue living in their homes as they age, and certainly many elderly public housing residents would prefer to stay in their homes if they can get the health care they services they need. This bill is a win-win as it would provide important health care resources as well as provide jobs for public housing residents.”

For more information, go to: http://www.financialservices.house.gov.

HEALTH: SUBCOMMITTEE ADDRESSES HEALTH INFORMATION TECHNOLOGY

The House Energy and Commerce Subcommittee on Health held a hearing on Tuesday, July 27, 2010 entitled “Implementation of the Health Information Technology for Economic and Clinical Health (HITECH) Act.” Witnesses were: David Blumenthal, M.D., National Coordinator, Health Information Technology, U.S. Department of Health and Human Services; Anthony Trenkle, Director, Office of E-Health Standards and Services, Centers for Medicare and Medicaid Services; Christine Bechtel, Vice President, National Partnership for Women & Families; Roland A. Goertz, M.D., M. B.A., President-Elect, American Academy of Family Physicians, Heart of Texas Community Health Center; and Glen E. Tullman, CEO, Allscripts. The American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5) included the Health Information Technology for Economic and Clinical Health (HITECH Act). The HITECH Act promotes adoption of health information technology (health IT) among hospitals, doctors, and healthcare providers. Health IT makes use of electronic health records and other technologies to facilitate the ordering of tests or medications, aid in clinical decision making, and allow for secure data sharing among providers, insurers, patients and others.

The HITECH Act takes several steps to promote the increased adoption and use of health IT. First, it codifies the Office of the National Coordinator for Health Information Technology (ONCHIT) within the Department of Health and Human Services (HHS) and charges that office with developing and implementing a nationwide plan to guide the adoption of health IT. Second, the legislation authorizes $2 billion to fund programs designed to stimulate the spread of health IT, including grants to help set up regional health information exchanges, train a growing health IT workforce, and identify and develop best practices for the adoption of an electronic health record (EHR). Third, the HITECH Act establishes a program that will provide incentive payments through Medicare and Medicaid to eligible professionals and hospitals who demonstrate “meaningful use” of a certified EHR system that will allow providers and others to securely exchange electronic health information. It requires the government to take a leadership role in developing the standards that will allow for the nationwide electronic exchange and use of health information to improve quality and coordination of care working closely with stakeholders and interested parties particularly through the HIT Policy and Standards Committees. Finally, it strengthens Federal privacy and security law to protect identifiable health information from misuse as the health care sector increases use of Health IT.

Witnesses discussed the Centers for Medicare and Medicaid Services recently announced final rule establishing the minimum requirements that eligible Medicare and Medicaid providers must meet through
their use of a certified EHR technology in order to qualify for the incentive payments available under the HITECH Act. In companion final regulations, ONCHIT identified the standards and certification criteria for the certification of EHR technology, so eligible professionals and hospitals may be assured that the systems they adopt are capable of performing the required functions.

Under Medicare, eligible professionals can receive up to $44,000 over the next five years towards the meaningful use of a certified electronic health record. Under Medicaid, eligible professionals with at least thirty percent Medicaid patient volume (twenty percent for pediatricians) can receive up to $63,750 over the next six years towards the meaningful use of a certified electronic health record. Acute care hospitals and children’s hospitals will be eligible for a $2 million base payment amount with additional amounts based on the size of the hospital. Critical access hospitals are eligible for accelerated depreciation of their costs of purchasing health IT, beyond their typical cost-based reimbursement plus 1 percent. In 2015, there will be a Medicare payment reduction for eligible professionals and hospitals who are not meaningful users of health IT with exemptions permitted by the Secretary of HHS on a case by case basis for hardship.

For more information on the hearing that the testimony of the witnesses, go to: http://energycommerce.house.gov.

**INFORMATION TECHNOLOGY: SENATE COMMERCE COMMITTEE EXPLORES ONLINE PRIVACY ISSUES**

On July 27, 2010, the Senate Commerce, Science, and Transportation Committee held a hearing to explore consumer online privacy issues. Witnesses included: The Honorable Jon D. Leibowitz, Chairman, Federal Trade Commission; The Honorable Julius Genachowski, Chairman, Federal Communications Commission; Dr. Guy "Bud" Tribble, Vice President, Software Technology, Apple, Inc.; Mr. Bret Taylor, Chief Technology Officer, Facebook, Dr. Alma Whitten, Privacy Engineering Lead, Google, Inc.; and Ms. Dorothy Atwood. Senior Vice President, Public Policy and Chief Privacy Officer, AT&T, Inc.

Issues discussed at the hearing included:

- the extent to which consumers are aware that their online experiences are being tracked and used to create profiles that are shared with third parties;
- steps that federal agencies are taking to ensure consumer privacy protections;
- steps that companies are taking to inform consumers of the information collected and their rights regarding the collection and use of that information, and to ensure consumer’s adequate privacy.

The testimony of the witnesses can be found at: http://commerce.senate.gov.

**RESOURCES: HOUSE T&I COMMITTEE REPORTS WATER RESOURCES DEVELOPMENT ACT**

On July 29, 2010, the House Transportation and Infrastructure Committee marked up H.R. 5892, the “Water Resources Development Act of 2010.” The bill was reported out by voice vote.

The legislation authorizes approximately $6 billion for navigation, flood damage reduction, and environmental restoration projects, as well as studies carried out by the Army Corps of Engineers.

According to Committee Chairman James Oberstar (MN), the committee withdrew all Republican earmarks for projects at the request of the House Republican leadership. The Committee has produced a searchable database of other earmark requests, which can be accessed at: http://transportation.house.gov/News/PRArticle.aspx?NewsID=1290. For more information on the bill, visit: http://transportation.house.gov.
INFORMATION TECHNOLOGY: SUBCOMMITTEE HEARING HELD ON ONLINE PRIVACY, SOCIAL NETWORKING AND CRIME VICTIMIZATION


Witnesses and the committee discussed the safety of online communities; raised concerns about social engineering, fraud schemes, data mining, phishing scams and the cyber underground; strategic partnerships between agencies; and methods for protecting information and communities accessing the social networks.

Mr. Sullivan highlighted some of the ways that Facebook protects its users, pointing to the real name culture; safety controls; hidden security systems; and methods the company uses for addressing special needs of certain communities (like teens). He also urged the committee to:

- Move forward with creation of a national database of convicted sex offenders that includes online identifiers and is accessible to industry and the online safety community.
- Invest in youth and parent Internet education programs.
- Give internet companies broader access to caches of known images of sexual exploitation of children.
- Allocate more resources to train law enforcement officers on social technologies, and provide them better technology to do their job.
- Encourage cooperation between law enforcement entities in different jurisdictions, so that interstate cases move more quickly, and international cases are prosecuted.

For more information, visit: http://judiciary.house.gov/

RESOURCES: HEARING HELD ON LOW-ImpACT AND AFFORDABLE HYDROPOWER GENERATION IN THE WEST

On July 29, 2010 the Water and Power Subcommittee (Chairwoman Grace Napolitano, (Norwalk)) of the House Natural Resources Committee held an oversight hearing titled “Investment in Small Hydropower: Prospects of Expanding Low-Impact and Affordable Hydropower Generation in the West.” Witnesses included: The Honorable Michael L. Connor, Commissioner, Bureau of Reclamation; Jon Lambeck, Manager of Power Resources, Metropolitan Water District of Southern California; Gia D. Schneider, Chairman and CEO, Natel Energy, Inc., Alameda, California; and others.

The hearing focused on opportunities to harness small, affordable, low-impact hydropower generation in the West and centered particularly on the Federal government’s role in facilitating small hydropower production, and the existing impediments to hydropower growth, whether from existing statutes, regulations or otherwise.

According to witnesses, there is no standard definition of hydropower across federal agencies. FERC defines small hydropower as total installed capacity of no more than 5 megawatts. The Department of Energy defines small hydropower as between 100 kilowatts and 30 megawatts. Witnesses indicated that there is an increasing level of interest in small hydro, citing that more than half of the States have enacted renewable portfolio standards that require electricity suppliers to generate a set percentage of electricity by renewable resources; that the American Recovery and Reinvestment Act (ARRA) provided tax and other incentives for the development of renewable resources; and that Federal agencies are placing a higher priority on encouraging, supporting and facilitating small hydropower development.

“There is tremendous opportunity to expand hydropower generation capacity that is both economically and environmentally feasible. Only about 2,400 of the 80,000 existing dams in the United
States produce hydropower," said Chairwoman Napolitano.

A 2006 Idaho National Laboratory feasibility study identified nearly 5,400 sites out of 100,000 as having potential for small hydropower development. The U.S. Department of Energy estimates that small hydropower development could increase total generation by nearly 50 percent. As an example of the small hydropower opportunity, the Bureau of Reclamation has over 8,000 miles of canals, which have the potential to be fitted with small hydropower generators, according to Committee documents.

Napolitano highlighted her bi-partisan legislation, H.R. 4349, the Hoover Dam Power Allocation Act of 2010, that would allocate power generated from Hoover Dam for the next 50 years and would create a new pool of power for federally recognized Native American nations and other eligible public power entities in California, Arizona and Nevada

Mr. Lambeck stated that the Federal government can play a very important role in assisting the development of small hydropower generators. He urged the committee to: remove the size limitations for conduit hydropower licensing exemptions; treat all hydropower generation as renewable; eliminate regulations and reporting requirements that do not provide added value; provide grants and other incentives for hydropower generator development that can be used by not-for-profit agencies that do not pay taxes; work with state and regional entities to eliminate redundant or unnecessary regulations related to the development of new hydropower generators; and undertake or support studies to develop and improve the design and applicability of turbines for small hydropower generators.

Ms. Schneider indicated that the federal support will be most effective at bringing more low-impact, affordable hydropower online by focusing on supporting deployment of newer, lower cost technologies, and outlined several kinds of federal support that would help to reduce costs and transition innovative waterpower technologies more quickly into the market:

For more information, visit: http://resourcescommittee.house.gov.

SOCIAL SERVICES: HEARING HELD ON STATE USE OF TITLE IV-E CHILD WELFARE WAIVERS

On July 29, 2010, the Income Security and Family Support Subcommittee of the House Ways and Means Committee held a hearing to evaluate the use of Title IV-E child welfare waivers by State child welfare agencies

In 1994, Congress authorized the Department of Health and Human Services (HHS) to grant waivers (Title IV-E waivers) of Federal requirements under the child welfare services and foster care and adoption assistance programs to enable up to 10 States to demonstrate alternative ways to achieve Federal child welfare policy goals. The waiver authority permitted HHS to approve up to 10 demonstration projects per year between FY1998 and FY2002. The waiver authority required States to meet certain Federal requirements related to case review management, data collection and reporting. It also required demonstrations to be deemed cost-neutral to the Federal government and include an evaluation component. The initial waiver authority was extended several times in a series of bills passed by Congress, but it expired in March 2006. Twenty-three States implemented child welfare waiver demonstration projects. The two most common waivers related to helping children find permanency through guardianship/kinship placements and permitting States to have greater flexibility in spending Federal funds on foster care services. Although the waiver authority was structured for demonstrations to last five years, the statue permits HHS to extend any waiver if the Secretary determines that the demonstration should be allowed to continue. As a result, a few States continue to conduct demonstration projects through the waiver authority.

Witnesses urged the Committee to expand flexible funding programs that helps states and counties reform their child welfare systems and keep more children out of foster care.

For more information, visit: http://waysandmeans.house.gov.
EDUCATION: CALIFORNIA ADVANCES IN RACE TO THE TOP CONTEST

The Administration announced on July 27, 2010 that California, along with 17 other states and the District of Columbia, remain in the running for a share of the $3.4 billion in the federal “Race to the Top” competition for school reform. The program is aimed at getting states to reform schools through incentives rather than mandates.

The contest, funded by the 2009 economic stimulus act (ARRA), has fueled momentum among states for making student achievement a significant factor in teacher evaluations and pay, easing limits on public charter schools and embracing national standards. The finalists in addition to California are: Arizona, Colorado, the District of Columbia, Florida, Georgia, Hawaii, Illinois, Kentucky, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island and South Carolina. Seventeen other states were eliminated; winners will be announced in September.