Appropriations: House Passes CR Funding Government Through FY 2011

After standing on the brink of a shutdown last week, the House passed H.R. 1473, the final continuing resolution, on April 14, 2011 by a vote of 260-167. The bill funds the government through the end of the fiscal year 2011, which ends on September 30, 2011.

The Senate followed suit later on April 14th passing the bill by a vote of 81-19.

The bill includes a total of $1.049 trillion in funding, almost $40 billion less than FY 2010 funding. This includes the $12 billion in reductions approved in the earlier CRs, as well as nearly $28 billion in additional new spending cuts. All non-defense funding, in addition to specific reductions, is cut 0.2% across the board. H.R. 1473 also includes funding for the Department of Defense for the remainder of FY11.

Below are some of the major funding levels and reductions contained in the measure:

Agriculture: The CR funds Agriculture programs at $20 billion, which is $3 billion below the fiscal year 2010 enacted level and $3.2 billion below the President’s 2011 budget request. The Animal and Plant Health Inspection Service funding is $41 million less than FY10, and the Agricultural Marketing Service program is cut by $4 million.

Commerce, Justice, Science: The Commerce, Justice, Science section of the CR contains a total of $53.4 billion – a $10.9 billion, or 17%, reduction from fiscal year 2010 levels, and a reduction of $7.1 billion, or 12%, from the President’s fiscal year 2011 request. State and Local Law Enforcement Assistance programs will be funded at $1,120,085,000 – $415 million less than FY10 funding ($358 million below the FY11 request). In addition, the COPS Program will be reduced by $296 million to $495,925,000, and Juvenile Justice Programs will be cut $148 million, down to $275,975,000.
**Energy and Water:** The Energy and Water section is funded at $31.8 billion in the CR. This is a 10% reduction – or $3.6 billion – from the President’s fiscal year 2011 request, and a 5% reduction – or $1.7 billion – from fiscal year 2010 levels. The Corps of Engineers’ Construction account is reduced by $414 million. Energy Efficiency and Renewable Energy programs will be cut by $438 million. The Department of Energy’s Office of Science will see a $35 million reduction compared to FY10 funding – and $252 million below the FY11 request.

**Homeland Security:** A total of $41.8 billion in discretionary funding is provided for the Department of Homeland Security (DHS) for fiscal year 2011. This is $784 million, or 2%, below FY 2010, and $1.9 billion, or 4%, below the President’s fiscal year 2011 request. The funding includes enough to fund 21,370 Border Patrol agents and 33,400 ICE detention beds. The bill reduces Customs and Border Patrol’s Border Security Fencing, Infrastructure, and Technology (BSFIT) account to the President’s request, reduces FEMA first responder grants by $786 million, and eliminates $264 million in funding that was previously targeted to earmarks. FEMA’s National Predisaster Mitigation Fund is reduced by $50 million.

**Interior and Environment:** The CR includes $29.6 billion in discretionary funding in the Interior and Environment section of the bill, which is 8.1%, or $2.62 billion, below the fiscal year 2010 enacted level and 8.5%, or $2.8 billion, below the President’s request. The EPA is reduced by $1.6 billion, a 16% decrease from last year’s level. The cuts to the EPA alone represent 61% of the bill’s reduction compared to last year’s level. The Clean and Drinking Water State Revolving Funds are cut by $997 million compared to FY10. The Presidio Trust will be cut by $8 million.

**Labor, HHS, Education:** The Labor, HHS, Education and Related Agencies section of the CR contains a total of $157.7 billion, roughly a $5.5 billion, or 3.36%, reduction from fiscal year 2010 levels. The bill is also nearly $13 billion, or 7.6 percent, below the President’s fiscal year 2011 request. Community Block Grant Programs are reduced by $43 million ($33 million below the FY11 request). Community Health Care Centers are cut by $600 million compared to FY10 and $890 million less than the FY11 request.

**Transportation, Housing and Urban Development:** The Transportation, Housing, Urban Development and Related Agencies section of the CR contains a total of $55.5 billion, a $12.3 billion, or 18%, reduction from fiscal year 2010 levels, and a reduction of $13.2 billion, or 20%, from the President’s fiscal year 2011 request. For the Department of Transportation, the bill eliminates new funding for High Speed Rail and rescinds $400 million in previous year funds, for a total reduction of $2.9 billion from fiscal year 2010 levels. The bill also reduces funding for transit by a total of $991 million and includes a total of $528 million in new funding for the “TIGER” grant program. While the majority of programs funded by the Highway Trust Fund remain at fiscal year 2010 levels, the bill contains total contract authority rescissions of $3.2 billion, of which $630 million is comprised of old earmarks.

For the Department of Housing and Urban Development, the Community Development Fund program was reduced $942 million, for a fiscal year 2011 funding level of $3.5 billion. The Section 8 program is funded at a level of $18.4 billion with $16.7 billion for voucher renewals.

After passage of H.R. 1473, as agreed to in the final negotiated budget deal, the House also voted on two separate resolutions. H.Con.Res.35, to strip funding for the implementation of the 2010 health care law, was passed 240-185. H. Con. Res. 36, to defund Planned Parenthood, also passed 241-185. Prior to voting on H.R. 1473, the Senate failed to adopt either of the resolutions, both of which required 60 votes for passage. The vote of H. Con. Res. 35 was 47-53; on H. Con. Res. 36, the vote was 42-58.

The House is also expected to vote on the GOP’s FY 2010 Budget on Friday, April 15th. For information on that legislation, go to: http://www.calinst.org/bul2/b1811.shtml#TOC1_2, or to: http://budget.house.gov/fy2010budget. The Institute will report on that action in its next Bulletin.

**INFORMATION TECHNOLOGY: HOUSE PASSES RESOLUTION NULLIFYING NET NEUTRALITY RULES**

On April 8, 2011, by a vote of 240 - 179, the House passed H. J. Res. 37, disapproving the rule promulgated by the Federal Communications Commission with respect to regulating the Internet and broadband industry practices. The resolution nullifies the network neutrality rules that the FCC adopted Dec. 21, 2010. (See In re Broadband Industry Practices, WC Docket No. 07-52, Report and Order, FCC 10-201 (rel. Dec. 23, 2010)). The resolution is also intended to prevent the FCC from reimposing the same or substantially similar rules.

The FCC’s net neutrality rules allow it: 1) to regulate how fixed and mobile broadband carriers disclose their network management practices, performance characteristics, and terms of service; 2) to regulate how fixed and mobile broadband carriers provide access to content, applications, services, and devices; 3) to determine whether the way fixed broadband providers carry network traffic is unreasonably discriminatory; 4) to regulate how fixed and mobile broadband carriers charge for carriage of traffic; and 5) to determine whether fixed and mobile providers' network management techniques are reasonable. The rules are aimed at preventing an Internet broadband carrier, such as Comcast, from discriminating among content, application, or service providers by slowing or holding the traffic of some of them but not others. They also prohibit content, application, or service providers from paying broadband providers for priority use or increased capacity.

The resolution was considered on the floor under a closed Rule allowing for no amendments. During the Rules Committee consideration of the bill, however, the Committee rejected allowing an amendment that would have provided for an exemption stating that internet service providers would be barred from blocking or interfering with consumers' ability to access lawful websites.

More information can be found at: http://energycommerce.house.gov or http://thomas.loc.gov.

**INTELLECTUAL PROPERTY: HOUSE JUDICIARY REPORTS PATENT LAW OVERHAUL**

On April 14, 2011, by a vote of 32-3, the House Judiciary Committee approved the America Invents Act (H.R. 1249), which makes sweeping changes in U.S. patent law. The Senate passed S. 23, similar legislation, on March 8, 2011, by a vote of 95-5.

Major provisions in the bill include:
- First Inventor to File: Replaces the first-to-file standard with a first-inventor-to-file standard for awarding patents.
- Post-Grant Review: Establishes a new administrative construct called post-grant opposition that allows disputes involving patent quality and scope to be settled after a patent is granted
- Business Method Patents: Authorizes a special ex parte reexamination of business-method patents. This process allows business method patents to be re-examined using the best prior art as an alternative to litigation and is aimed at helping to invalidate poor-quality patents.
- Third-Party Submission of Prior Art: Prevents bad patents from being awarded by permitting third parties to submit information regarding a patent application that may be relevant for the patent examiner to review.

- PTO Fee-Setting Authority & Revenue Retention: Authorizes the PTO Director to establish patent and trademark fees to recover the costs of services rendered to inventors and trademark filers. Allows the PTO to retain revenue generated by these fees in order to hire new examiners and address the patent backlog.

- Best Mode: Retains the best mode requirement for purposes of submitting an application, but prevents a defendant from claiming that a plaintiff failed to comply with the best mode requirement when filing for a patent.

A copy of the bill as amended by the Committee can be found at: http://judiciary.house.gov/hearings/mark_04142011.html.

**HEALTH: HOUSE AND SENATE EXAMINE MEDICAL DEVICE APPROVAL PROCESS**

On Thursday, April 14, the House Oversight and Government Reform Subcommittee on Health Care, District of Columbia, Census and the National Archives held a hearing titled "Pathway to FDA Medical Device Approval: Is There a Better Way?" Witnesses included: Congressman Erik Paulsen (MN); Dr. David Gollaher, President and CEO, California Healthcare Institute; Dr. Jeffrey Shuren, Direct or, U.S. Food and Drug Administration (FDA); Jack Lasersohn, The Vertical Group; and Dr. Robert Hauser, M.D., President, Cardiovascular Services Division at Abbott Northwestern Hospital.

The FDA is responsible for overseeing medical devices sold in the United States. In recent years, GAO has identified a wide variety of concerns related to FDA's ability to fulfill its mission of protecting the public health and added FDA's oversight of medical products to its list of high-risk areas. GAO's preliminary analysis shows that, from 2005 through 2009, firms initiated 3,510 voluntary medical device recalls, an average of just over 700 per year. GAO's preliminary findings indicate that FDA lacks clear guidance for overseeing recalls which has led to inconsistencies in FDA's assessments of whether individual recalls were implemented effectively.

Mr. Gollaher, CEO of the California Health Institute (CHI), said his testimony was based on a recent report CHI produced with The Boston Consulting Group (BCG) entitled Competitiveness and Regulation: The FDA and the Future of America's Biomedical Industry (http://www.chi.org/). Mr. Gollaher testified that there are more than 8,000 medical device firms in the United States employing over 400,000 people. California is home to some 1,200 of these medical device firms, Gollaher said, far more than any other state in the nation. In addition, he testified that the 107,000 medical device jobs in California represent roughly one-quarter of our country's total medical technology workforce.

When asked to rate the influence of federal policies on their industry's ability to advance biomedical research, innovation and investment in California, over 80 percent of respondents to the CHI/PricewaterhouseCoopers/BayBio 2011 CEO survey described the FDA as "extremely important." They rated the FDA as more critical than coverage and reimbursement policy, intellectual property, and tax and finance issues. Further, when asked whether the current FDA regulatory approval process has slowed the growth of their companies, 74 percent reported that it had. At the same time, 69 percent of the respondents disagreed with the proposition that the U.S. FDA regulatory approval process is the best in the world.

The FDA is taking strategic steps to strengthen our pre-market evaluation and post-market surveillance of medical devices, while simultaneously promoting opportunities for medical device innovation, Dr. Shuren testified. He said there are areas where FDA is not meeting the goals agreed to with the industry, as a result of several factors, including increasing workload, turnover of key staff, growing device complexity, and poor-quality submissions. However, Shuren said the FDA recently announced the Medical Device Innovation Initiative to encourage innovation, streamline regulatory and scientific device
evaluation, and expedite the delivery of novel, important, safe and effective innovative medical devices to patients, including:

- Establishing a priority review program for pioneering technologies;
- Establishing a voluntary, third-party certification program for U.S. medical device test centers;
- Creating a publicly available core curriculum for medical device development and testing;
- Better leveraging of device experience and data collected outside the United States; and
- Engaging in formal monitoring of medical literature and scientific funding to identify and predict important advances in technology.

On Wednesday, April 13, 2011, the Senate Special Aging Committee also held a hearing on the Food and Drug Administration and the overhaul of the existing medical device approval process. Chairman Kohl (WI) said the purpose of the hearing was to "examine the FDA's management and oversight of the thousands of medical devices countless American's rely on every day." Innovative technology has provided valuable, life saving medical devices that have prolonged life and reduced suffering, Kohl said. However, he stressed the fact that the FDA must constantly strive to maintain a delicate balance between safety and innovation. He said the medical devise industry has understandable concerns that changes in the medical device approval process contemplated by FDA could stall the rapid progress of new technologies to hospitals and the marketplace. Senator Udall (CO) said, "Our goal has to be to explore the steps necessary to ensure that innovative and evolving technologies represented by medical devices are as life-saving and life-improving as possible."


**INFORMATION TECHNOLOGY: HOUSE SUBCOMMITTEE EXPLORES VOLUNTARY BROADBAND AUCTIONS**

The House Energy and Commerce Subcommittee on Communications and Technology held a hearing on April 12, 2011 on “Using Spectrum to Advance Public Safety, Promote Broadband, Create Jobs, and Reduce the Deficit.” Witnesses included: Mary Dillon, President, and CEO, U.S. Cellular; Julius Knapp, Chief, Office of Engineering and Technology, Federal Communications Commission; and Peter Pitsch, Executive Director, Communications Policy and Associate Gen. Counsel, Intel Corp.

In 1993, Congress began to allow government auctions of spectrum to facilitate its allocation for commercial wireless services. According to Chair Greg Walden, there is growing agreement that between an additional 100 MHZ and 300 MHZ in next 5 to 10 years will be needed to meet the economic demand for wireless broadband, and the FCC’s National Broadband Plan calls for an additional 500 MHZ of spectrum.

The hearing explored various options for making more spectrum available, including using “incentive auctions,” in which current FCC licensees can volunteer to relinquish some or all of their spectrum in exchange for a portion of the auction proceeds.

In his testimony, Mr. Pitsch of Intel supported allowing voluntary incentive auctions. Reasoning that the FCC could free up much-needed additional spectrum for mobile broadband use by inducing incumbent licensees to relinquish their spectrum for a share of the ultimate auction proceeds. He urged the Subcommittee and Congress to pass legislation this year to give the FCC broad authority to conduct voluntary incentive auctions.

Testimony of all the witnesses can be found at: http://energycommerce.house.gov.

**IMMIGRATION: HOUSE SUBCOMMITTEE EXAMINES H-2A AGRICULTURE WORKERS PROGRAM**

On April 13, 2011, the House Judiciary Subcommittee on Immigration Policy and Enforcement held a hearing on "The H-2A Visa Program: Meeting the Growing Needs of American Agriculture?" Witnesses
were: Jane Oates, Assistant Secretary for Employment and Training, US Department of Labor; Leon R. Sequeira, Of Counsel, Seyfarth Shaw LLP; Lee Wicker, Deputy Director, North Carolina Growers Association; and Bruce Goldstein, President, Farmworker Justice.

Issues discussed at the hearing included:
- whether there is an impending crisis in agriculture because of an insufficient number of workers;
- whether the H-2A program and the 2010 Final Rule promulgated by the Department of Labor helps or hinders the employment and retention of documented farm laborers, and
- how to strike the right balance between allowing agricultural employers to hire in a timely manner a sufficient number of farm laborers and the need to protect the rights of those foreign workers and ensure that U.S. workers are not being harmed.

The testimony of all the witnesses can be found at: http://judiciary.house.gov.

Water: House Subcommittee Holds Field Hearing On California Water

On April 11, 2011, the House Natural Resources Subcommittee on Water and Power (Chairman Tom McClintock (Roseville)) held an oversight field hearing titled "Creating Jobs by Overcoming Man-Made Drought: Time for Congress to Listen and Act." The hearing was held in Fresno, California, at the Fresno City Council Chambers. At the hearing, Members heard first-hand from local individuals and groups who have been directly impacted by water diversions from San Joaquin Valley.

Witnesses included: Dayatra Latin, Community Food Bank, Fresno; Phil Larsen, Chairman, Fresno County Board, Kerman; Mark Watte, Councilman, City of Tulare; Kole Upton, Chairman, Madera-Chowchilla Water and Power Authority; Larry Collins, President, San Francisco Crab Boat Owners Association; Mary Piepho, Supervisor, Contra Costa County Discovery Bay, representing the CA Sacramento-San Joaquin Delta Counties Coalition (DCC); Tom Birmingham, Westlands Water District, Fresno; Jim Beck, Kern County Water District, Bakersfield; and Mike Connor, Commissioner, U.S. Department of the Interior’s Bureau of Reclamation.

In addition to Chairman McClintock (Roseville), Reps. Jim Costa (Fresno), Jeff Denham (Mariposa), John Garamendi (Walnut Grove), Grace Napolitano (Norwalk), and Devin Nunes (Tulare) were in attendance.

In his opening statement, Chairman McClintock said, "The deliberate diversions by the federal government of over 200 billion gallons of water away from the breadbasket of America cost tens of thousands of farm workers their jobs, inflicted up to 40 percent unemployment rates in the region, fallowed more than 150,000 acres of the most fertile farmland in our nation, and forced up the price of groceries across the country."

Rep. Napolitano, Ranking Member of the Subcommittee, noted: “Proponents of increased water flows from the Delta to agricultural users have cited pumping restrictions as the cause of Central Valley water curtailments. However, this year no water has been withheld on account of the Delta smelt or Chinook salmon. As of last week, the Central Valley Water Project had a water allotment of 75% . . . for agricultural users south of the Delta. . . We need to continue with the techniques that have worked in the past: more conservation, storage, education, desalination, recycling, and infrastructure.”

California's water storage and transportation system includes 1,200 miles of canals and nearly 50 reservoirs that provide water to 23 million people and irrigate four million acres of land throughout the state. In May 2007, a Federal District Court Judge ruled that increased amounts of water had to be re-allocated towards protecting the Delta smelt, a fish on the Endangered Species List. Because of this ruling, more than 150 billion gallons of water were diverted away from farmers in the Central Valley and into the San Francisco Bay. Most of the witnesses argued that drought and the water diversions have been devastating for
agriculture in the region and the cause of much of the unemployment problems. Unemployment in the region has gone as high as 42 percent in the last few years.

Mr. Collins, however, countered their arguments, citing a 2009 Pacific Institute report: “... the drought has had very little overall impact on agricultural employment, compared to the much larger impacts of the recession. In fact, in the last three years, while State Water Project allocations have decreased statewide, California’s agricultural job sector has grown. Further, according to Professor Jeffrey Michael, director of the Business Forecasting Center at the University of the Pacific in Stockton, rising unemployment in the Central Valley is largely the result of the bad economy, not a lack of water.”

Ms. Piepho testified: “The DCC strongly supports a scientifically-based approach to solving water issues for the state, and restoring the Delta ecosystem. We encourage Congress to support the recent state legislative actions contained in the Delta Reform Act and the existing body of state law. Additionally, we hope that Congress will fund as a priority scientific expertise in helping to address these problems. In particular, Congress should rely on the considerable expertise of the federal and state biologists who have studied the Delta and its fish populations to determine actions to protect and restore the Delta ecosystem, rather than imposing conditions through legislation that would further contribute to the decline of the Delta smelt and other at-risk species.”

For the testimony of all the witnesses, go to: http://naturalresources.house.gov/.

**Small Business: House Committee Marks-Up SBIR/STTR Reauthorization**

On Wednesday, April 13, 2011, the Technology and Innovation Subcommittee of the House Science, Space and Technology Committee unanimously approved H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011. The bill reauthorizes both the Small Business Innovation Research (SBIR) program and the Small Business Technology Transfer (STTR) program for three years. The Senate is currently debating S. 493, its version of an eight year SBIR/STTR reauthorization bill that was introduced on the Senate floor on April 6, 2011.

Under the current SBIR program, 11 federal agencies that provide more than $100 billion annually in extramural grants, including the National Institutes of Health (NIH), the National Science Foundation (NSF), the Department of Energy, and the U.S. Department of Agriculture, must devote a minimum of 2.5 percent of their budgets to research funding for small businesses. Consistent with the recommendations of witnesses at a recent hearing on the programs, a major change to this bill is that it will enhance evaluation of the programs through greater data collection and sharing of best practices.

Subcommittee Chairman Ben Quayle (AZ) discussed a few proposed changes contained in H.R. 1425. First, the legislation increases the award amounts in both the SBIR and STTR programs for Phase I and Phase II to $150,000 and $1 million, respectively. The legislation also provides for the award size to be annually indexed to inflation moving forward.

Secondly, according to the Chairman, the current legislation enables majority venture capital backed firms to compete for a limited percentage of SBIR awards. The Chairman proposes the Subcommittee set a ceiling on the amount of funds that each agency may award to companies with substantial venture capital backing to protect small businesses without substantial venture capital involvement.

Third, the program continues to emphasize the commercialization pilot programs and providing increased use of funds for technology assistance. "The SBIR and STTR programs must continue to evolve to help companies overcome the "Valley of Death" between basic research and commercialization," Chairman Quayle said.

The Subcommittee approved by voice vote an amendment offered by Representative Lujan (NM) that states federal agencies should encourage applications from small businesses in geographic areas underrepresented in the SBIR and STTR programs as well as small business owned by veterans, minorities, and located in geographic areas with an unemployment rate that exceeds the national unemployment rate.
This amendment was structured in a way that it did not add any costs to the bill. Other amendments approved by the Subcommittee include guidelines for the National Science Foundation peer review procedures and provisions to support technology manufactured in the United States.

For more information: http://science.house.gov/.

**Energy: Hearing Held on Ethanol and Biofuels**

On Wednesday, April 13, the Senate Environment and Public Works Committee (Chairwoman Barbara Boxer) held an oversight hearing on domestic renewable fuels, focusing on ethanol and advance biofuels. Witnesses included: Tom Vilsack, Secretary, U.S. Department of Agriculture; Regina McCarthy, Assistant Administrator, U.S. Environmental Protection Agency; Henry Kelly, Acting Assistant Secretary, U.S. Department of Energy; Michael McAdams, Advanced Biofuels Association; Jan Koninckx, DuPont; Kris Kiser, Outdoor Power Equipment Institute; Scott Faber, Grocery Manufacturers Association; and Brooke Coleman, Advanced Ethanol Council.

Ranking Member James Inhofe (OK) stated in his opening statement that he was working on a bill that responds to the "increasing call for more consumer choice to purchase ethanol-free gasoline." Simply put, his bill would allow a State to opt out of the corn ethanol mandate of the renewable fuel standard. To opt out, a State must enact a bill stating its choice. The opt-out would be recognized by the Administrator of the EPA, who would then reduce the amount of the national corn ethanol mandate by the percentage amount approved by the State in question. "Despite the drawbacks of today's corn-based ethanol mandates, I do support a role for ethanol and other biofuels," Inhofe said.

Secretary Vilsack testified on behalf of the Administration, further explaining President Obama's goals of reducing oil imports by one-third from 2008 levels by 2025. Secretary Vilsack said increasing biofuel production and use are an important part of achieving the President's goal. Part of the Administration's plan to accelerate the development of the next-generation biofuels includes targeted investment in biofuels distribution infrastructure, support for research, development and early-stage deployment of promising next-generation biofuels technologies, and implementation of the Renewable Fuels Standard and other key components of the regulatory framework, Vilsack said.

According to the U.S. Department of Energy, the transportation sector accounts for approximately two-thirds of the United States' oil consumption and contributes to one-third of the Nation's greenhouse gas emissions. After housing, transportation is the second biggest monthly expense for most American families, according to the U.S. Bureau of Labor Statistics. Mr. McCarthy testified that the U.S. Department of Energy is working with the Environmental Protection Agency to increase the amount of ethanol that can be sold in gasoline blends, to ensure that fuel dispensers and cars can use higher ethanol blends, and to engage in a multi-faceted research strategy that has the potential to commercialize a variety of bio-based fuels derived from several different technological pathways.

For more information, go to: http://epw.senate.gov/.

**Education: Appropriations Addresses Duplication in Education Programs**

On Wednesday, April 13, 2011, the House Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing titled "Duplication in Education Programs." Witnesses included: George Scott, Director, Education, Workforce and Income Security Issue, Government Accountability Office (GAO).

On March 30, 2011, the GAO released a report titled, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*. This report addresses fragmentation, overlap, and potential duplication in federal programs and outlines opportunities to reduce potential duplication across a wide range of federal programs, including teacher quality programs. In the report, the GAO identified a number of education programs with similar goals, beneficiaries, and allowable activities that are administered by multiple federal agencies which prompted the subcommittee’s hearing.
The GAO identified 82 distinct programs designed to help improve teacher quality administered across 10 federal agencies, many of which share similar goals, the report shows. Mr. Scott testified that the fragmentation and overlap of teacher quality programs can frustrate agency efforts to administer programs in a comprehensive manner, limit the ability to determine which programs are most cost effective, and ultimately increase program costs. However, Mr. Scott testified that there is no government-wide strategy to minimize fragmentation, overlap, or potential duplication among these programs.

In past work, GAO and the Department of Education's Inspector General have concluded that improved planning and coordination could help Education better leverage expertise and limited resources; however, given the large number of teacher quality programs and the extent of overlap, it is unlikely that improved coordination alone can fully mitigate the effects of the fragmented and overlapping federal effort. Sustained congressional oversight can also play a key role in addressing these issues, Mr. Scott testified.


**ENVIRONMENT: HEARING EXPLORES ROADBLOCKS TO GREEN JOB CREATION**

The House Science, Space and Technology Subcommittee on Investigations and Oversight held a hearing on April 13, 2011 titled "Green Jobs and Red Tape: Assessing Federal Efforts to Encourage Employment." The hearing examined international efforts to create green jobs, as well as historical efforts domestically, including the American Recovery and Reinvestment Act. Witnesses included: Dr. Kenneth Green, The American Enterprise Institute; David Montgomery, NERA Economic Consulting; William Kovacs, U.S. Chamber of Commerce; David Kreutzer, The Heritage Foundation; and Josh Bivens, Economic Policy Institute.

This February the Administration released its "Winning the Future" initiative, as well as the "Strategy for American Innovation," and the "Startup American" campaigns. The goals of these proposals are to "bring greater income, higher quality jobs, and improved health and quality of life to all citizens." In light of these initiatives, the Subcommittee explored the effectiveness of loan guarantees, subsidies, tax incentives, regulations, mandates, research, and other federal efforts to create green jobs. The term "green jobs" generally refers to employment in the alternative energy and energy efficiency industries. One of the primary goals of the recent growth in federal incentives and funding for alternative energy sources and energy efficiency industries has been the creation of green jobs.

The American Recovery and Reinvestment Act (ARRA) contained over $60 billion in tax credits and grants to fund various federal, state, local, and private sector efforts related to alternative energy and energy efficiency including $21.6 billion in tax credits for renewable energy and $45.2 billion for direct appropriations. ARRA tax credits expanded pre-existing incentives for renewable energy and created several new ones, resulting in more projects becoming financially feasible. According to the Council of State Governments, the vast majority of the jobs created by ARRA are believed to be in weatherization projects of residential homes.

The following issues were discussed at the hearing: green job incentives and subsidies, renewable projects, the long term outlook of newly created jobs, domestic vs. overseas green job investment, accurate tracking of green jobs, the impact of foreign green industries on the United States, and basic research and development.

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

**HEALTH: HOUSE AND SENATE EXAMINE MEDICAL DEVICE APPROVAL PROCESS**

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TRANSPORTATION: BIOMETRIC IDs FOR PILOTS AND TRANSPORTATION WORKERS

On April 14, 2011, the House Transportation and Infrastructure Committee held a hearing titled "Biometric IDs for Pilots and Transportation Workers: Diary of Failures." The hearing focused on efforts made by the Federal Aviation Administration (FAA) and the Transportation Security Administration (TSA) to provide biometric credentials to airline pilots and other transportation workers, as well as the National Institute of Standards and Technology (NIST) standard for these credentials. Witnesses included: John Pistole, Administrator, Transportation Security Administration; John Schwartz, Program Manager, Transportation Security Administration; Peggy Gilligan, Associate Administrator for Aviation Safety, Federal Aviation Administration; and Cita Furlani, Director, National Institute of Standards and Technology.

Since 9/11, Congress has advocated for a more risk-based and cost-effective approach through the issuance of biometric credentials for those individuals that have already been vetted by the Federal government. Biometric credentials are used to verify the identity of employees with access to secure areas of the Nation's critical infrastructure.

Individuals entering secure area are required to either hold a "biometric transportation security card" called a Transportation Work Identification Credential or be accompanied by someone with such a card. The cards contain a fingerprint, but not a retina scan. The Safe Port Act of 2006 established a deadline of April 2009 to issue final rules for the deployment of Transportation Work Identification Credential (TWIC) readers. However, TSA is still conducting the pilot program and has informed Congress they do not expect to issue final rules for the readers until late 2012.

The Intelligence Reform and Terrorism Prevention Act directed the Administrator of the FAA to begin issuing improved pilot licenses that:

- are resistant to tampering, alteration and counterfeiting;
- include a photograph of the individual to whom the license is issued; and
- are capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier that the Administrator considers necessary.

Ms. Gilligan testified that FAA issued a note in November 2010 that proposed to require all pilots, including student pilots, possess the new certificates with a digital photo, widely acknowledged as a biometric identifier. Gilligan said the FAA is currently working to finalize this rulemaking and proposes to phase-in the requirement over a five-year period. However, FAA expects that most airline pilots and flight instructors will have the new certificate within two years and that most other active pilots will have the new certificates within three years. "FAA recognizes the advantages of developing security enhancing uses for airmen biometrics and we pledge to make use of the technology as soon as it is reasonably feasible to do so," Gillian pledged to the committee.

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

TECHNOLOGY: OVERSIGHT HEARING HELD ON NANOTECHNOLOGY INITIATIVES

On April 14, 2011, the House Committee on Science, Space, and Technology Subcommittee on Research and Science Education held an oversight hearing on the National Nanotechnology Initiative and Priorities for the Future.

Witnesses were: Dr. Clayton Teague, Director, National Nanotechnology Coordination Office (NNCO); Dr. Jeffrey Welser, Director, Nanoelectronics Research Initiative, Semiconductor Research Corporation and Semiconductor Industry Alliance; Dr. Seth Rudnick, Chairman, Board of Directors, Liquidia Technologies; Dr. James Tour, Professor of Chemistry, Computer Science and Mechanical Engineering and Materials Science, Rice University; and Mr. William Moffitt, President and Chief Executive Officer, Nanosphere, Inc.

Nanotechnology is the understanding and control of matter at dimensions between approximately 1 and 100 nanometers, where unique phenomena enable novel applications. It is an enabling technology and, as such, its commercialization does not depend specifically on the creation of new products and new
markets. Gains can come from incorporating nanotechnology into existing products, resulting in new and improved versions of these products. Examples could include faster computers, lighter materials for aircraft, less invasive ways to treat cancer, and more efficient ways to store and transport electricity.

The National Nanotechnology Initiative (NNI) is a multi-agency research and development (R&D) program. The goals of the NNI, which was initiated in 2001, are to maintain a world-class research and development program; to facilitate technology transfer; to develop educational resources, a skilled workforce, and the infrastructure and tools to support the advancement of nanotechnology; and to support responsible development of nanotechnology. Currently, 15 Federal agencies have ongoing programs in nanotechnology R&D. Additionally, 10 other agencies, such as the Food and Drug Administration, the U.S. Patent and Trademark Office, and the Department of Transportation, participate in the coordination and planning work associated with the NNI.

Evaluation and recommendations regarding nanotechnology focus on three broad areas:
- appraising how well NNI leadership has performed with respect to the roles it has been tasked to carry out;
- what the Federal nanotechnology investment has delivered and recommendations to enhance the outcomes, especially economic outcomes, in the future; and
- assessing NNI’s performance in helping to orchestrate the identification and management of potential risks associated with nanotechnology.

The testimony of the witnesses can be found at: http://science.house.gov.