Appropriations: House Continues to Debate FY2013 THUD Appropriations Bill

On Wednesday, June 27, 2012, the House began debate on H.R. 5972, the 2013 fiscal year appropriations bill for the Departments of Transportation, and Housing and Urban Development, and related agencies. It is expected that the House will continue to work through numerous amendments through Thursday and possibly into Friday and Saturday, as well. The House and Senate are both scheduled to begin their week-long Fourth of July break this weekend.

Many amendments were considered on Wednesday; most were unsuccessful. Two were efforts to limit the proposed $396 million increase to the Community Development Block Grant (CDBG) program. The first, by Rep. Jason Chaffetz (UT) was defeated 156-267 and would have maintained CDBG funding at 2012 levels. The second amendment, by Rep. Tom McClintock (Roseville) would have eliminated CDBG altogether and was defeated 80-342.

Also defeated 178-242 was an amendment by Rep. Jeff Flake (AZ). That amendment would have removed the $200 million increase to the HOME Investment Partnerships Program, keeping its funding at today's levels.

The California Institute will prepare a more detailed report on the bill from a California perspective, which will be available on its website in the near future. For a previous article on the bill as it was reported by the Committee, go to: http://www.calinst.org/bul2/b1919.shtml. To obtain the full Committee Report, go to: http://appropriations.house.gov/news/documentsingle.aspx?DocumentID=300033.

Appropriations: Committee Approves the Fiscal Year 2013 Interior-Environment Funding Bill

On Thursday, June 28, 2012, the House Appropriations Committee approved the fiscal year 2013 Interior and Environment Appropriations bill by a vote of 26-19. The legislation includes funding for the Department of the Interior, the Environmental Protection Agency (EPA), the Forest Service, and various independent and related agencies.
In total, the bill includes $28 billion in funding – a cut of $1.2 billion below last year's level and $1.7 billion below the President's budget request. The legislation also includes legislative provisions that will address the reach of federal agencies, such as the EPA.

"This bill addresses threats to our natural resources and wildlife, bolsters public safety, and nurtures economic growth and domestic energy production. And, this bill wisely places a limit on big-government excess – cutting funding for programs and agencies that stifle economic growth rather than encourage it – including reducing the EPA's budget by 17%," House Appropriations Chairman Hal Rogers said.

Twelve amendments to the FY 2013 Interior/Environment Appropriations bill were approved by the full committee, including those by:

Rep. Jeff Flake (AZ) - The amendment adds a provision directing the Forest Service to expedite requests for post-wildfire rehabilitation and restoration activities in areas recovering from large scale fires. The amendment was adopted on a voice vote.

Rep. Denny Rehberg (MT) - The amendment prohibits funding for the EPA to implement or administer a lead paint regulation until it approves a commercially available lead paint test kit. The amendment was adopted on a vote of 27-20.

Rep. Steve Austria (OH) - The amendment prohibits funding for the EPA to finalize a new greenhouse gas emissions standard for cars after model year 2017. The amendment was adopted on a vote of 26-18.

Rep. Steven LaTourette (OH) - The amendment prohibits funding for the EPA to implement a proposed rule to relate to the labeling of pesticides. The amendment was adopted on a voice vote.

Rep. Jeff Flake (AZ) - The amendment adds report language criticizing the EPA for delaying state "regional haze" implementation plans, and directing the agency to report on the progress of its actions on these plans. The amendment was adopted on a voice vote.

Rep. Cynthia Lummis (WY) - The amendment adds report language directing the EPA to update its guidance and solicit comments on updates for state "regional haze" plans. The amendment was adopted on a voice vote.

Rep. Steven LaTourette (OH) - The amendment prohibits funding for the EPA to administer or implement a rule – the "National Emission Standards for Hazardous Air Pollutants for Asbestos" – as it applies to residential buildings with four or fewer units. The amendment was adopted on a voice vote.

Rep. Cynthia Lummis (WY) - The amendment prohibits funding for the EPA to impose greenhouse gas "New Source Emissions Standards" on fossil-fueled electric utility plants. The amendment was adopted on a vote of 27-18.


APPROPRIATIONS: INSTITUTE REPORT ON FY 13 HOUSE AGRICULTURE APPROPRIATIONS AVAILABLE ON WEBSITE

On June 19, 2012, the House Appropriations Committee passed H.R. 5973 (H.Rpt. 112-542), the Fiscal Year 2013 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies
Appropriations, by voice vote. The legislation funds the various programs within the Department of Agriculture and related agencies and includes $19.4 billion in discretionary funding – $365 million below the FY 2012 level and $1.7 billion below the request. Overall, the bill represents an almost two percent reduction in discretionary spending from fiscal year 2012.

The California Institute has prepared a California-oriented analysis of the appropriations which is available on our website at: http://www.calinst.org/pubs/ag13house.shtml or in PDF at: http://www.calinst.org/pubs/ag13house.pdf.

TRANSPORTATION: CONFEREES REACH COMPROMISE ON TRANSPORTATION REAUTHORIZATION

After two months of negotiations, the forty-seven conferees to the transportation reauthorization bill, H.R. 4348, reached an agreement late Wednesday, June 27, 2012.

The 599-page earmark-free bill was released, along with a statement, by the House Rules Committee first thing Thursday morning. Taking into account the House's three-day legislative review rule, it is expected that the bill may not be up for a vote in the House until Saturday (unless an exemption for earlier voting is granted by the House leadership).

The previous federal highway and transportation funding bill expired more than four years ago. Since then, extensions have been the go-to step for lawmakers to ensure continued funding for projects on the ground. Nine such extensions have been granted in the last few years. Now, all federal road and transportation project funding and authority are set to expire on Saturday, June 30th at 11:59 PM. Without passage of the compromise bill or an extension, federally-funded projects may stop across the U.S., and collection of fuel taxes may no longer be authorized. According to Sen. Barbara Boxer, Chair of the Senate Environment and Public Works Committee, this combination could adversely affect 3 million jobs.

The conference committee's statement also said: "The Senate and the House both sought to consolidate the number of programs in the federal-aid highway program to focus priorities and resources on key national goals. The conference report consolidates the number of highway programs by two-thirds. The elimination of dozens of programs makes more resources available to states and metropolitan areas to invest in their most critical needs to improve the condition and performance of their transportation system."

In addition, "The conference report combined provisions from the House and Senate bills focusing on the shared priority of accelerating project delivery. It maintains the vast majority of project acceleration provisions from S. 1813 and provisions from the House bill in addition to new provisions that will maintain substantive environment and public health protections while streamlining the creation and use of documents and environmental reviews, enhancing efficiency and accountability in the project delivery process."

The conference report does not include language expediting the construction of the Keystone XL pipeline, nor does it include language to prevent government regulation of toxic ash, a product of power plants that burn coal. It does, however, disallow funds to be used for projects related to pedestrian or bicycle safety, as well as restrict environmental regulations for road and highway projects. In general, the bill would also provide more spending flexibility to states, enact safety laws, and work to encourage private investment in transportation projects by expanding a federal loan guarantee program.

In a related note, the student loan interest rate deal, also reached Wednesday, may be included in a package with the transportation bill in order to speed passage of both measures.

For more information, go to: http://transportation.house.gov/ or http://epw.senate.gov. For a draft copy of the Conference Report, go to: http://www.rules.house.gov/Media/file/PDF_112_2/PDF/HR4348crJES.pdf
**EDUCATION: HOUSE AND SENATE REACH TENTATIVE DEAL ON STUDENT LOAN INTEREST RATES**

On Wednesday, June 27, 2012, House and Senate leadership reached a tentative deal to keep undergraduate subsidized federal student loan interest rates from increasing from 3.4 percent to 6.8 percent on Sunday, July 1. The one year extension is expected to be approved by both bodies this week, and may be packaged with the transportation reauthorization compromise bill.

Leaders from both chambers had been discussing the deal behind the scenes for weeks leading up to Sunday's deadline. Both sides supported the idea, but differences in how to pay for the deal slowed negotiations. The cost of keeping interest rates at 3.4 percent for the one-year extension is estimated to be $6 billion.

To pay for the extension, the agreement does the following:
- Restricts undergraduates' eligibility for subsidized loans to a total of six years, saving $1.2 billion.
- Changes the way companies make calculations to determine set-asides for pensions, resulting in lower and less variable yearly contributions, and thus reducing their tax deductions. This would save $5 billion.
- Makes the amount companies pay for federal insurance of their pensions subject to inflation, saving $500 million.

For undergraduate borrowers who take out subsidized loans in the next year, the interest rate will be 3.4 percent. However, due to changes made previous to this deal, those borrowers will be responsible for paying interest immediately after graduation. In the past, interest did not accrue to student bills until six months after graduation. Interest accrual directly after graduation will affect all borrowers who originate loans now through the summer of 2014. This change is expected to cost American undergrads $2 billion.

Meanwhile, for those seeking an advanced degree, subsidized federal loans will no longer exist (a decision also made before this deal, in response to a funding gap for loans for low income students). Federal loans for master- and Ph.D.-level education will accrue interest from the moment funds are released to the borrower. This is expected to cost borrowers $18 billion over the next decade.

**SCIENCE: HOUSE SUBCOMMITTEE HOLDS HEARING ON THE ROLE OF RESEARCH UNIVERSITIES**

The House Science, Space, and Technology Subcommittee on Research and Science Education held a hearing on Wednesday June 27, 2012 on The Role of Research Universities in Securing America's Future Prosperity: Challenges and Expectations.

Witnesses included: Mr. Charles O. Holliday, Jr., Chair, Committee on Research Universities, National Academies; Dr. John M. Mason, Jr., Associate Provost and Vice President for Research, Auburn University; Dr. Jeffrey R. Seemann, Vice President for Research, Texas A&M University and Chief Research Officer, The Texas A&M University System; Dr. Leslie P. Tolbert, Senior Vice President for Research, The University of Arizona; and, Dr. James N. Siedow, Vice Provost for Research, Duke University.

Subcommittee Chair Mo Brooks (AL) opened the hearing saying it would focus on the "challenges faced by the Nation's research universities as well as the findings and recommendations from the June 14 report issued by the National Academies, Research Universities and the Future of America."

Mr. Holliday testified about the report, officially titled Research Universities and the Future of America: Ten Breakthrough Actions Vial to Our Nation's Prosperity and Security. He outlined the "especially important" challenges identified in the report:
- Federal funding for university research has been unstable and, in real terms, declining at a time when other countries have increased funding for research and development (R&D).
State funding for higher education, already eroding in real terms for more than two decades, has been cut further during the recent recession.

Business and industry have largely dismantled the large corporate research laboratories that drove American industrial leadership in the 20th century (for example, Bell Labs), but have not yet fully partnered with research universities to fill the gap.

Research universities must improve management, productivity, and cost efficiency in both administration and academics.

Young faculty have insufficient opportunities to launch academic careers and research programs.

There has been an underinvestment in campus infrastructure, particularly in cyberinfrastructure, that could lead to long-term increases in productivity, cost effectiveness, and innovation in research, education, and administration.

Research sponsors often do not pay the full cost of research they procure, which means that universities have to cross-subsidize sponsored research from other sources, such as tuition or clinical revenues.

A burdensome accumulation of federal and state regulatory and reporting requirements increases costs and sometimes challenges academic freedom and integrity.

Doctoral and postdoctoral preparation could be enhanced by shortening time-to-degree, raising completion rates, and enhancing programs' effectiveness in providing training for highly productive careers.

Demographic change in the U.S. population necessitates strategies for increasing the educational success of female and underrepresented minority students.

Institutions abroad are increasingly competing for international students, researchers, and scholars, as other nations increase their investment in their own institutions.

Mr. Holliday further outlined the report's ten recommendations for improvement, which would address three main goals: (I) strengthen the partnership among universities, federal and state governments, philanthropy, and business in order to revitalize university research and speed its translation into innovative products and services; (ii) improve the productivity of administrative operations, research, and education within universities; and (iii) ensure that America's pipeline of future talent in science, engineering, and other research areas remains creative and vital, leveraging the abilities of all of its citizens and attracting the best students and scholars from around the world.

Dr. Mason testified about the connection between research and quality education, saying, "when research is reduced, instruction and learning at all levels are diminished, especially in those disciplines where much of our innovation originates - those in science, technology, mathematics and engineering." Further "as research declines, bright kids do not select these tougher academic disciplines" resulting in the "U.S. industry and government" having "fewer skilled employees for the advanced positions that move our economy." Dr. Mason also offered comments on the report's recommendations, including cautionary testimony that research and academic programs, when cut, are rarely reinstated.

Dr. Siedow offered his critique of the recommendations of the report after expressing his organization's strong support for the three overarching goals of those recommendations. One involved the recommendation regarding setting and implementing a nationwide commitment to government-funded research and development at 3 percent of gross domestic product. Dr. Siedow said the call for immediate implementation was "unrealistic" in the short term, but commended "the principle of achieving an agreed upon level of national support for R&D."

Dr. Tolbert and Seemann also offered unique perspectives on the report through the lenses of their respective institutions as well as critiques of the report's recommendations.

For more information, see:
TRANSPORTATION: HOUSE COMMITTEE EXAMINES DELAYS IN TSA'S TWIC PROGRAM

The House Transportation and Infrastructure Committee met on Thursday, June 28, 2012, for a hearing titled *A Review of the Delays and Problems Associated with TSA's Transportation Worker Identification Credential (TWIC)*. The TWIC program has experienced delays since implementation began in 2007. Originally designed to meet a mandate of the Maritime Transportation Security Act (MTSA) of 2002, the program has since issued biometric I.D. cards to 2.1 million workers who require unescorted access to secure areas of certain maritime facilities and vessels. To date, DHS estimates that the program has cost maritime workers upwards of $250 million – at $132.50 per TWIC – and could cost $3.2 billion over 10 years in combined government and private expenses.

The hearing focused on various problems with the TWIC program, including lack of equipment at many facilities to read the biometric information on I.D.s, as well as other programmatic weaknesses identified by the U.S. Government Accountability Office (GAO). Also discussed was the fact that workers are required to appear in person on multiple occasions to complete the TWIC process, and that mariners newly applying for a separate Merchant Mariner Credential are also currently required to enroll for a TWIC, even if they do not require access to secure areas.

Witnesses included: Rear Admiral Joseph Servidio, Assistant Commandant for Preparedness, U.S. Coast Guard (USCG); Ms. Kelli Ann Walther, Assistant Secretary, Office of Policy, U.S. Department of Homeland Security (DHS); Mr. Stephen Sadler, Assistant Administrator, Transportation Security Administration (TSA); Mr. Joseph Lawless, Director of Maritime Security, Massachusetts Port Authority, on behalf of the American Association of Port Authorities (AAPA); and, Mr. Robert McEllrath, President, International Longshore and Warehouse Union.

Other issues discussed:
- The fact that while the USGS and DHS issue TWIC cards, access decisions are made by the ports or facilities themselves that are regulated by the MTSA.
- The current use of visual inspection only at most ports and facilities, in addition to random checks using hand-held card readers.
- Reduced TWIC fees for documented merchant mariners, as well as CBP's Free and Secure Trade (FAST) driver program members, and truckers with a hazmat material endorsement (HME) to their commercial driver's licenses.
- The TWIC Reader Pilot Program, which occurred from 2008 to 2011 in selected locations, and its use to gather valuable data on reader performance, as well as assess the operational and business process impacts of conducting biometric verification of identity under diverse field conditions.
- Maritime stakeholders' requests that biometric matches be made possible without inserting cards into a reader, and without having to punch in an identification code.
- The new opportunity for TWIC holders to replace their expiring TWICs with a three-year extended expiration date (EED) card for a reduced fee. This means that it is easier to ensure that cards expiring before implementation of the final rule for electronic readers stay active.
- Requests that the EED check/card included a criminal background check, in order to diminish threats to the facilities that could have developed in the time since first issue of the card.
- Challenges surrounding development and implementation of a final rule for electronic readers, as well as impending problems without the rule, including lack of scanners at facilities. This turns cards into "flash passes," making workers with revoked cards harder to track.
- Concerns that the delay of the reader rule comes at a time when funding for ports, through Port Security Grants meant to help facilities purchase reader machines, is decreasing ($400 million within the last decade, $97.5 million for FY 2012).

ECONOMY: HOUSE SUBCOMMITTEES HOLD JOINT HEARING ON HOW WELFARE AND TAX BENEFITS CAN DISCOURAGE WORK

The House Ways and Means Subcommittees on Human Resources and Select Revenue Measures held a joint hearing on Wednesday June 27, 2012 to address how welfare and tax benefits can discourage work. According to the Subcommittees, the hearing specifically focused on "the interaction of various welfare and tax credit programs and how concurrent receipt of benefits from those programs can create perverse incentives that discourage work and higher earnings."

At the announcement of the hearing, Rep. Geoff Davis (KY), Chairman of the Subcommittee on Human Resources said, "Americans should believe with confidence that hard work pays off. However, because of today's many welfare and tax programs for low-income families, it is not clear that work pays – and in fact additional work may not actually result in additional income. Federal programs must send a clear message that work is always better than welfare. This hearing will allow us to explore problems with the current system and determine how we can ensure these programs can be improved to encourage families to increase their work and self-reliance."

Fellow Subcommittee Chairman Pat Tiberi (OH), of the Subcommittee on Select Revenue Measures further stated, "In recent years, Congress has increasingly used the tax code to provide means-tested benefits to low- and moderate-income Americans. These programs, however, are often flawed, imposing high marginal tax rates on those in the phase-out ranges as well as steep marriage penalties - thus discouraging both work and marriage. As part of comprehensive tax reform, this hearing will help the Ways and Means Committee reform these tax programs to make sure they reward work and honor marriage."

Witnesses included: The Right Honourable Iain Duncan Smith, Secretary of State for Work and Pensions, United Kingdom; Representative Gwen Moore (WI); Dr. Clifford Thies, Ph.D., Professor of Economics and Finance, Shenandoah University; Dr. Eugene Steuerle, Ph.D., Senior Fellow, The Urban Institute; Dr. Jared Bernstein, Ph.D., Senior Fellow, Center on Budget and Policy Priorities; and, Dr. Ike Brannon, Ph.D., Director of Economic Policy and Congressional Relations, American Action Forum.

Topics discussed included:
- The steps that the U.K. is taking to reform its public welfare system, and the challenges it faces in doing so. Specifically discussed was the new Universal Credit program and the Work Programme.
- Testimony from Rep. Moore, who disagreed with the very premise of the hearing that "recipients of welfare and tax benefits have no incentive to work and that the benefits they receive from the government are 'harmful' to them." She cited the Temporary Assistance for Needy Families Emergency Fund as a prime example that "invalidates many of the [other] witnesses claims."
- How most social service and welfare programs in Europe are not means-tested, and how this results in less disincentives to work.
- The concept of the "dead zone," where there is little change in income and benefits received from working more until a worker reaches a certain income (varies by locality). Therefore, until a certain income level is reached, more work does not mean more income or a higher standard of living - it means less due to the high marginal tax rate.
- The fact that means testing and joint filing has resulted in hundreds of billions of dollars of marriage penalties for low and middle-income households.
- Expenditure taxes, what they are, and how they disproportionately affect the lower and middle classes.
- Suggestions for reform, including: Adopting a broader social welfare reform, emphasizing opportunity and education more and adequacy and consumption less, putting more tax rates directly into the tax code, making work an even stronger requirement for receipt of other types of benefits, adopting a maximum marginal tax rate, and letting child benefits go with the child and work subsidies go with low-wage workers.
INTELLECTUAL PROPERTY: HOUSE JUDICIARY EXAMINES INTERNATIONAL IP ENFORCEMENT


In his opening remarks, Chairman Lamar Smith (TX) expressed disappointment that the “Administration’s approach to international IP enforcement issues has been too weak.” He called on the Administration, when developing the next Joint Strategic Plan, to expand its approach and “ensure that a significant part of IP enforcement includes the issues around patents, trade secrets and market access.” He said he plans on introducing the “Promoting a Level Playing Field for American Industry, Innovators and Job Creators Act.” It will be an IP attaché, training & capacity building bill based on concepts developed at the PTO and, he said, “will improve the IP attaché program and U.S. government IP training as it aligns policy priorities and brings them under the U.S. PTO. It ensures that our IP efforts abroad are in line with compelling U.S. economic interests.”

Secretary Rea detailed several initiatives that USPTO is taking to strengthen international enforcement. Noting that a problem with overseas IP enforcement is the lack of training available to foreign officials, she testified that the “USPTO has developed rigorous capacity-building programs in key countries and regions targeting foreign enforcement officials, such as police, prosecutors, customs officials, as well as the judiciary.” She also cited several examples where USPTO has worked with judicial officials around the world to educate and brief them on U.S. law.

Regarding China specifically, she pointed out several initiatives that the office has taken to engage Chinese officials in discussions to encourage stronger protection and enforcement of U.S. intellectual property rights in China. The USPTO also has convened four roundtables (three in China and one in the U.S.), Rea stated, with U.S. industry representatives and published a Federal Register notice to solicit input on their experiences enforcing patents in China. USPTO will compile that input into a report which will be made available publicly and be used by the office to guide their engagement with China on patent enforcement.

For more information, go to: