Appropriations: House Subcommittee Approves FY13 Labor, HHS, & Education Appropriations Bill

On Wednesday, July 18, 2012, the House Appropriations Subcommittee on Labor, Health and Human Services (HHS), Education, and Related Agencies passed its FY 2013 Appropriations bill for those entities by a nearly party-line vote of 8-6.

As passed, the bill would include a total of $150 billion in discretionary funding. This figure is $8.8 billion less than the President's request, and $6.3 billion below the 2012 enacted level. The Senate passed its version of the bill (S. 3295) in June 2012. That bill would provide for $158.8 billion in discretionary spending, equal to the President's request. Below are some highlights of the bill:

Health and Human Services

The Department of Health and Human Services receives a total of $68.3 billion, a reduction of $1.3 billion below last year's level and $1.8 billion below the President’s budget request.

Within this total, Community Health Centers are funded at $1.5 billion – the same as last year’s level. This includes a rescission of $300 million in previous-year funding that was provided under the 2010 Affordable Care Act for this program.

The legislation also contains several provisions to stop the implementation of the 2010 healthcare law – including rescinding prior-year mandatory funds, as well as prohibiting the use of any new discretionary funding to implement the law. The Subcommittee estimates that these cuts will save $8.6 billion this year, and will result in a savings of $123 billion over the next five years.

The bill also provides $623 million in total funding for health professions training, including $275 million for the Children’s Hospital Graduate Medical Education program. The President budget requested $88 million for the program. In addition, the bill includes $139 million for rural health programs, an increase of $1.4 million above last year, and eliminates funding for the Family Planning Program.

In addition, the bill would also defund Title X programs, which provide reproductive health services - such as cancer screenings and contraception - mostly to low-income women. Planned Parenthood would also see cuts. The bill would prohibit funding unless the organization and its affiliates promise to discontinue abortion services and stop recommending other service providers that do. Rep. Barbara Lee (Oakland)
A full Appropriations Committee mark up is expected for next week.
**DEFENSE: HOUSE ARMED SERVICES CONTINUES HEARINGS ON SEQUESTRATION IMPACTS**

On July 18, 2012, the House Armed Services Committee held another hearing in its series on the impact of the impending sequestration cuts on defense. This hearing focused on the effect on the defense industry. Witnesses were: Mr. Robert J. Stevens, Chairman and CEO, Lockheed Martin; Mr. David P. Hess, President, Pratt and Whitney; Mr. Sean O’Keefe, Chairman and CEO, EADS North America; and Ms. Della Williams, President, Williams-Pyro.

In his opening remarks, Chairman Buck McKeon (Santa Clarita) expressed concern that the Office of Management and Budget has indicated that it does not plan to issue implementation guidance on sequestration until at least November. “My fear is that guidance will come much too late,” Chairman McKeon said. He noted that the defense industry must contend with significant challenges and requirements in preparing for the possibility of automatic cuts. Notably, he said, is the WARN Act, which requires most employers to provide notification at least 60 calendar days in advance of mass layoffs and plant closings.

All of the witnesses decried sequestration as a catastrophe for the industry and the country’s national security. In his testimony, Mr. Stevens stressed the “arbitrary and uncertain consequences” of sequestration, emphasizing that “[i]t’s not aligned with the national security strategy. It’s not aligned with technology evolution. It’s not aligned with mission areas.” He testified that Lockheed Martin alone may have to cut 10,000 jobs if sequestration is triggered. But in addition to the uncertainty surrounding how many jobs may be lost, which facilities will have to be closed or downsized, and which suppliers will be injured, Mr. Stevens also expressed concern that sequestration may result in the loss of the future for the industry – “a loss of learning, a depletion of talent, and erosion in quality.” He noted that the threat of sequestration is already having a detrimental effect on the industry’s ability to hire the best young talent and invest in training programs and other discretionary investments.

Mr. O’Keefe reiterated those sentiments and stated that EADS has already felt obligated to advise the Governors and Congressional delegations in the states and districts where it operates on the challenge it faces in complying with the WARN Act. “In the absence of definitive guidance from DoD, OMB and the Defense Contract Management Agency,” he said, “we feel compelled to act in the spirit of this law and in all likelihood will issue WARN notices to those employees engaged in ongoing federal contract activities. It’s not something we want to do. But it appears the law requires us to do it.” He also testified that EADS is very concerned with the impact that sequestration would have on its suppliers, especially those small and mid-cap companies that will have the hardest time surviving any significant cutbacks.

For the testimony of all the witnesses, go to: [http://armedservices.house.gov](http://armedservices.house.gov)

**INTELLECTUAL PROPERTY: HOUSE JUDICIARY SUBCOMMITTEE EXAMINES ITC AND PATENT DISPUTES**

The House Judiciary Subcommittee on Intellectual Property, Competition and the Internet held a hearing on July 18, 2012 entitled "The International Trade Commission and Patent Disputes." Witnesses included: Professor Colleen V. Chien, Santa Clara University School of Law; Mr. David B. Kelley, Intellectual Property Counsel, Ford Global Technologies, LLC; Mr. Neal A. Rubin, Vice President of Litigation, Cisco Systems, Inc.; Mr. Bernard J. Cassidy, General Counsel and Executive Vice President, Tessera Technologies, Inc., San Jose, CA; and Mr. Albert A. Foer, President, American Antitrust Institute.

The focus of the hearing was the increased use of the International Trade Commission (ITC) by “patent assertion entities,” aimed at licensing and litigating patents in order to make money.
In her testimony, Prof. Chien explained that integral role that the International Trade Commission (ITC) plays in the U.S. patent system. “Although it can only block imports on behalf of domestic industries, now that most technology products are manufactured abroad and Congress has relaxed the domestic industry requirement,” she testified, “nearly every patentee is a potential ITC complainant and nearly every patent defendant is a potential ITC respondent. The ITC decides patent cases in less than half the time district courts do, on average.” But, Chien also added, the ITC “is also an outlier in the American patent system,” because it can’t award damages or hear counterclaims, but it grants injunctions more readily than district courts. Because some litigants are taking advantage of the ITC’s injunction record, she believes it is contributing to a favorable climate for patent trolling. That climate, she concluded, “is driving investment towards patent speculation, and away from productive enterprises.”

Mr. Rubin reiterated this view, and stated that the patent assertion entities should not be allowed to use the ITC as a forum to extract more than the true value of patented technology from U.S. operating companies. As a solution to this problem, he proposed legislation to clarify that complainants in the ITC cannot rely on “revenue-driven licensing,” or the activities of revenue-driven licensees, to satisfy the domestic industry requirement and gain access to the ITC. Instead, he argued, the domestic industry requirement should only be established if the licensing efforts promote the market adoption and use of the patented technology.

Mr. Cassidy disagreed, however. He argued that the ITC has developed a balanced approach to interpreting the domestic industry requirement and ensuring that it does not extend beyond Congress’ intent, and that it has applied this same balanced manner to interpreting other legal issues. He testified that legislation would be premature and “that the long term interests of our innovation economy and the public will be served if the ITC is permitted to fulfill its obligations pursuant to existing law.”

To obtain the testimony of all the witnesses, go to: http://judiciary.house.gov/hearings/Hearings2012/hear_07182012.html.

**ENERGY: SENATE HOLDS HEARING ON CYBERSECURITY AND THE ELECTRIC GRID**

On July 17, 2012, the Senate Committee on Energy and Natural Resources held a hearing titled *Cyber Security and the Grid*. The hearing examined the status of actions taken to ensure that the electric grid is protected from cyber attacks.

Witnesses included: Mr. Joseph McClelland, Director, Office of Electric Reliability, Federal Energy Regulatory Commission (FERC), Washington, DC; Mr. Gregory C. Wilshusen, Director, Information and Technology, Government Accountability Office (GAO), Washington, DC; Mr. Gerry Cauley, President and Chief Executive Officer, North American Electric Reliability Corporation, Atlanta, GA; and, Mr. Todd Snitchler, Chairman, Public Utilities Commission of Ohio, Columbus, OH.

Topics discussed included:
- FERC’s regulatory power and how its current authority is not sufficient to address national security attacks, including cyber attacks, to the reliability of the U.S. transmission and power system (including the shortcomings of its authority over only “bulk power”).
- Critical Infrastructure Protection Reliability Standards under FERC's authority, including specifics on those that govern cybersecurity.
- Requirements that the Commission select an Electric Reliability Organization (ERO) responsible for proposing, for Commission review and approval, reliability standards or modifications to existing reliability standards to help protect and improve the reliability of the Nation's bulk power system. The Commission has certified the North American Electric Reliability Corporation (NERC) as the ERO.
- GAO's findings on weaknesses in the nation's cybersecurity preparedness, including: lack of a coordinated approach to monitor industry compliance with voluntary standards; aspects of the current regulatory environment making it difficult to ensure the cybersecurity of smart grid systems; focus by utilities on regulatory compliance instead of comprehensive security; lack of security features consistently
built into smart grid systems; the electricity industry's lack of an effective mechanism for sharing information on cybersecurity and other issues; and, the electricity industry's lack of metrics for evaluating cybersecurity.

- Overview of the changing and challenging cybersecurity risks, and what NERC is doing to address them, including: developing mandatory and enforceable standards; ensuring compliance and audit oversight; sharing and analyzing information and issuing Alerts from the Electricity Sector Information Sharing and Analysis Center (ES-ISAC); engaging in private-public partnerships; and conducting outreach, training, and education activities within and external to the bulk power system.

For more information, go to:
8d-e6280431fed8 .

**SCIENCE: SENATE SUBCOMMITTEE HOLDS HEARING ON COMPETITIVENESS OF U.S. AVIATION INDUSTRY**


Witnesses included: Dr. John Tracy, Chief Technology Officer and Senior Vice President of Engineering, Operations and Technology, The Boeing Company; Mr. Stan Sorscher, Labor Representative, Society for Professional Engineering Employees in Aerospace; Mr. Dan Elwell, Vice President for Civil Aviation, Aerospace Industries Association; Mr. Pete Bunce, President and CEO, General Aviation Manufacturers Association; and, Mr. Nicholas Calio, President and CEO, Airlines for America.

Dr. Tracy testified on the scope of the industry, saying "aviation helps drive our economy and contributes $1.3 trillion annually in economic activity." Further, "it generates nearly 10.2 million jobs with $394.4 billion in earnings … creates $785 billion annually in value-added economic activity … accounts for 5.2 percent of Gross Domestic Product and ships more than $562 billion in goods and products each year." Calling foreign efforts to erode U.S. dominance in the industry "no surprise," he cited the need for worldwide compliance with World Trade Organization regulations in order to keep the playing field even.

Dr. Tracy then addressed America's challenges to remaining the industry leader, and cautioned that "A deficiency in the federal support" for these issues "would jeopardize our industry and the jobs within it."

Dr. Tracy highlighted the following issues, and what Boeing has since done to try and address them:

- The looming shortage in key skills, especially in science, technology, engineering and mathematics (STEM) and the need for "more young Americans to pursue education and careers in STEM-related fields" as the baby boomer generation retires.

  - "Several areas in which stronger government support of specific" research and development programs would improve the industry's global competitiveness. These areas include: Increased federal R&D funding; support for the ecoDemonstrator program, which tests environmentally progressive technologies; support for public aviation research infrastructure; support for commercialization of federally-funded research, including addressing intellectual property issues; and support for clearer frameworks for government-proposed joint initiatives.

- Needed modernization improvements to the nation's air traffic control system through NextGen.

- Needed improvements to the Federal Aviation Administration's aircraft certification programs.

Other topics discussed at the hearing included:

- The need to offer students, families and workers a sense that aerospace can give them a career, with some sense of job security.
- The fact that aerospace products are complex and heavily engineered, and thus the industry relies on very demanding development programs, followed by steep learning curves. This gives a competitive advantage to employers who have capable and effective engineering and manufacturing communities with strong problem-solving cultures. Also discussed were the challenges of integrated design and manufacturing communities.

- Overall market outlook for the industry in the short term and long term, including manufacturing outlook in the U.S. as well as geographical market growth outlook, with China, the Asia-Pacific region, and Latin America expected to grow fastest.

- Challenges to U.S. dominance as interpreted by other witnesses, including: FAA budget concerns, international leadership, tax incentives for the development of new technologies, and the inability to maintain a properly skilled workforce.

- Aeronautics' role in the National Export Initiative to double U.S. exports by the year 2014, and how efforts such as the NextGen Vendors Group (NVG), and a similar effort to be held for the Latin America-Caribbean region later in 2012, are using the National Export Initiative to help U.S. aviation manufacturers.

For more information:

EDUCATION: HOUSE SUBCOMMITTEE DISCUSSES STATE INITIATIVES TO REDUCE COLLEGE COSTS

On Wednesday, July 16, 2012 the House Education and the Workforce Subcommittee on Higher Education and Workforce Training, held a hearing entitled Keeping College Within Reach: Exploring State Efforts to Curb Costs.

The hearing provided members an opportunity to learn how state-led initiatives are successfully controlling college costs and lowering student debt throughout the nation. According to the Subcommittee, State-enacted "innovative reforms" include "comprehensive articulation agreements that make it easier for students to transfer credits from community colleges to four-year universities and "pay for performance" programs that reward high-performing institutions with additional state resources."

Witnesses included: Mr. Scott Pattison, Executive Director, National Association of State Budget Officers, Washington, D.C.; Ms. Teresa Lubbers, Commissioner for Higher Education, State of Indiana, Indianapolis, IN; Mr. Stan Jones, President, Complete College America, Zionsville, IN; and, Dr. Joe May, President, Louisiana Community and Technical College System, Baton Rouge, LA.

Issues discussed at the hearing included:

- The impact of the recession on state budgets, and thus on higher education funding at the state level. Also discussed was the fact that many state budgets are consumed by fixed costs, dominated by Medicaid and K-12 education expenses.

- Details about state spending figures on higher education, including the fact that the proportion of dollars spent has decreased but the overall amount has steadily increased. Additionally, details about the proportion of higher education budgets funded by states were discussed. For example, the national average state subsidy for higher education in 2009 accounted for 48% of education and related spending per student at public research institutions, 51% at public master's institutions, and 68% at community colleges.

- Steps that Indiana universities have taken to directly lower their costs of tuition and fees, including those that seek to cut costs while also incentivizing student achievement, such as lowering summer-session tuition and fees, semestery scholarships for tuition reductions to income-qualified students who maintain a 2.5 grade-point average, and graduation bonuses.
- Details on the demographics of American college students, including that more than 40% of students feel they can only manage to attend part-time while 25% attend full-time at residential colleges.
- The issue of the pace of change in higher education being slow compared to the changing needs of students, employers, and the economy.
- The impact of time spent in college, with higher time spent resulting in high bills and drop out rates. In addition, witnesses discussed successful, large-scale programs and systems around the country have proven that by utilizing informed choice and structured delivery, students can successfully balance jobs and school – and are much more likely to graduate.
- Discussion about the role student-paid tuition and fees should play in proportion to actual costs.
- Examples of how Louisiana has capitalized its community and technical college system, using reforms such as merging colleges, establishing the general education common core, eliminating redundant programs, aligning programs with market demands, consolidating information technology systems, simplifying transfer processes, and sharing backroom operations such as payroll and auditing services.

For more information, go to:

**CRIMINAL JUSTICE: SENATE COMMITTEE HOLDS HEARING ON IMPROVING FORENSIC SCIENCE IN THE CRIMINAL JUSTICE SYSTEM**

On Wednesday, July 18, 2012, the Senate Judiciary Committee held a hearing titled *Improving Forensic Science in the Criminal Justice System*.

Witnesses included: Stephanie Stoloff, on behalf of the International Association of Chiefs of Police, Senior Police Bureau Commander, Forensic Services Bureau, Miami-Dade Police Department, Miami, FL; Jill Spriggs, on behalf of the Consortium of Forensic Science Organizations, Chief, Bureau of Forensic Science, California Department of Justice, Sacramento, CA; Peter Neufeld, Co-Director, The Innocence Project, New York, NY; and, Scott Burns, Executive Director, National District Attorneys Association, Alexandria, VA.

Issues discussed by Chief Spriggs included:
- The importance of scientific working groups, such as the Scientific Working Group on DNA Analysis Methods (SWGDNA), on improving industry processes and intercommunication. SWGDNA enjoys the federal government's support and funding, while other SWGs do not.
- The importance of treating the approximately 13 disciplines within the medical examiner and crime laboratory fields as separate but interconnected entities.
- The importance of, and challenges surrounding, "the ability of the system to be flexible and responsive." Specifically, "crime laboratories must have the capacity to process all the evidence that comes into the laboratories in a timely manner and with the utmost in quality and accuracy." While DNA possessing is backed up, the most significant delay in the field is processing of controlled substances.
- The need for further federal leadership to address such backlogs, and the Consortium of Forensic Science Organizations' support of the creation of an independent Office of Forensic Science within the Department of Justice and the continuation of the Scientific Working Groups to assist the Director in providing a national strategy and guidance.
- Support for the accreditation for all public and private crime labs, support for the requirement that they operate in accordance with ISO/IEC 17025:2005 and other relevant ISO standards, and support for accreditation processes for individual workers.
- Call for a national research strategy as well as robust support for undergraduate and graduate education in the forensic sciences.
- Lack of an implemented national standard for comprehensive medicolegal investigations. Roughly half the country utilizes a system of untrained or minimally trained lay coroners lacking requisite forensic training. For more information:
http://www.judiciary.senate.gov/hearings/hearing.cfm?id=daba530c0e84f5186d785e48941ac992

**DEFENSE: REPORT FINDS SEQUESTRATION MAY COST JOBS IN CALIFORNIA**

A report commissioned by the Aerospace Industries Association was released on July 17, 2012, detailing the impact on the economy should the automatic federal spending reductions required by the Budget Control Act of 2011 take effect beginning January 2, 2013. The report, *The Economic Impact of the Budget Control Act of 2011 on DOD & non-DOD Agencies*, was authored by Stephen S. Fuller, Ph.D. Dwight Schar Faculty Chair and University Professor, Director, Center for Regional Analysis, George Mason University, Virginia.

The economic impact assessment contained in the report, according to the author, “includes all discretionary spending subject to cutbacks under the BCA of 2011 (both the effects of statutory limits and automatic reductions) for DOD and non-DOD agencies (e.g., Agriculture, Commerce, Education, EPA, Energy, Health and Human Services, Homeland Security, Housing and Urban Department, Interior, Justice, Labor, NASA, State, and Transportation). However, it excludes spending reductions for all federal mandatory programs such as Medicare.”

The report finds that overall the pending sequestration would:
- Reduce the nation’s GDP by $215 billion;
- Decrease personal earnings of the workforce by $109.4 billion; and,
- Cost the U.S. economy 2.14 million jobs.

Furthermore, as a consequence of sequestration, GDP growth in 2013 will be reduced by two-thirds and unemployment will increase by as much as 1.5 percentage points raising the current national rate above 9 percent, Fuller concludes.

Regarding the impacts at the state level, the report finds that ten states account for more than one-half (55.3 percent) of the total potential job losses, with California topping the list and accounting for 10.5 percent and second-place Virginia accounting for 9.7 percent, representing a combined 20.2 percent of the job losses based on their FY 2010 share of DOD and non-DOD federal payroll and procurement outlays.

In California, the report predicts that 135,209 jobs will be lost as a result of DOD cuts, and 90,255 jobs lost as a result of non-DOD cuts, for a total of 225,464 jobs lost. Virginia would be the second hardest hit state suffering a total of 207,571 jobs lost as a result of both DOD and non-DOD cuts.

The report also finds that sequestration would result in a loss of $22.676 billion in California’s Gross State Product (GSP) as a result of both DOD and non-DOD losses. $11.719 billion of this would be due to DOD cuts, and $10.957 billion because of non-DOD losses. In lost income, the report estimates that the state’s workers would suffer $11.543 billion in lost income ($5.768 billion as a result of DOD cuts, and $5.775 billion as a result of non-DOD cuts).

The report can be found at: [http://www.aia-aerospace.org/assets/Fuller_II_Final_Report.pdf](http://www.aia-aerospace.org/assets/Fuller_II_Final_Report.pdf)