



Legislative Bulletin.....November 17, 2011

H.R. 2112 — Consolidated and Further Continuing Appropriations Act, 2012 (Rogers, R-KY)

BY THE NUMBERS:

In Billions of Dollars

Division	FY08	FY10	FY11	H.R. 2112	H.R. 2112 v. FY11
Agriculture	18.1	23.3	19.9	19.8	-0.1
CJS	51.8	64.3	53.3	52.8	-0.5
T-HUD	48.8	67.9	55.4	55.6	0.2

Excluding Disaster Relief, the Conference Report is:

- **\$26.6 billion or 17.2% less than the request**
- **\$552 million or 0.4% less than last year (\$757 million less if you account for CFTC now being included in the Agriculture bill)**

Spending Discussion: The total amount of non-disaster spending for these three bills comes to **\$128.07 billion**. Including **\$2.3 billion of disaster relief**, the total funding comes to \$130.4 billion. Including the impact of the continuing resolution, CBO scores the legislation as leading to \$1.045 trillion of non-disaster spending. Including the impact of the disaster relief spending, this rises to \$1.047 trillion.

Order of Business: H.R. 2112 is scheduled to be considered today under a closed rule providing one hour of debate.

Summary: Organized as follows:

- *Spending Discussion* (page 2)
- *Continuing Resolution* (page 2)
- *Policy Provisions of Note* (page 3-4)
- *Agriculture* (page 5-6)
- *CJS* (page 7-8)
- *Transportation-HUD* (page 8-10)
- *Conservative Concerns/Conservative Supporting Arguments* (page 11-13)

Spending Discussion

The total amount of non-disaster spending for these three bills comes to **\$128.07 billion**. Including **\$2.3 billion of disaster relief**, the total funding comes to \$130.4 billion. Including the impact of the continuing resolution, CBO scores the legislation as leading to \$1.045 trillion of non-disaster spending. Including the impact of the disaster relief spending, this rises to \$1.047 trillion. It is expected that enactment of the other 9 appropriations bills would reduce the non-disaster number to the \$1.043 trillion cap.

The \$1.043 trillion spending level would be:

- **\$46 billion** below FY 2010;
- **\$7 billion** below FY 2011;
- the **same** level as the spending cap for FY 2012 in the [Budget Control Act](#);
- **\$24 billion** above the House-passed [FY 2012 budget resolution](#); and
- **\$65 billion** above the [FY 2012 RSC budget resolution](#).

The other 9 bills are expected to include disaster relief spending that may lead to a total, final figure of above \$1.05 trillion.

Continuing Resolution

The legislation extends the existing continuing resolution (CR), otherwise set to expire on November 18, 2011, through December 16, 2011 at a total non-emergency spending level equivalent to FY 2011 levels minus 1.503%

Policy Provisions of Note Throughout Legislation

FHA Conforming Loans Extension: The Conference Committee report on H.R. 2112 will extend the maximum loan limits for the Federal Housing Administration (FHA). The Conference report will extend the maximum loan limit rules that had been in place under the American Recovery and Reinvestment Act of 2009 (ARRA) and it will reinstate the loan limits from the date of enactment through December 31, 2013. The reinstated formula would allow the maximum loan limit for all FHA loans (excluding Home Equity Conversion Mortgage reverse mortgages) be the greater of either:

- **The Economic Stimulus Act (ESA) limit**: the lesser of 125 percent of Area Median Home Price (AMHP) for that year or \$729,750, provided that amount is not less than \$271,050; or
- **The Housing and Economic Recovery Act (HERA) limit**: the lesser of 115 percent of AMHP for that year or \$625,500, provided that amount is not less than \$271,050.

Since early 2008, Congress has temporarily extended the one-unit limit to up to \$729,750 in certain high-cost areas through The Economic Stimulus Act, the Housing and

Economic Recovery Act (HERA), and American Recovery and Reinvestment Act (ARRA) and the limits have subsequently expired on October 1, 2011. Prior to 2008, the FHA loan limits could not exceed 87 percent of the GSEs' loan limit. That amount was increased to as high as the GSEs' \$729,750 loan limit in 2008 through the end of September before falling to \$625,500 on October 1st. Under this Conference report, the full \$729,750 loan limit would be reinstated.

Values Issues of Note: The legislation retains a couple of riders that are in current law, including policies prohibiting funding for abortions for prisoners, and ensuring no Legal Services Corporation funds are directed to entities that engage in abortion-related litigation. The policy regarding patenting of human embryos is no longer necessary since the same policy was codified into permanent law in P.L. 112-29, the Leahy-Smith American Invents Act. The [Joint Explanatory Statement](#) accompanying the Conference Report notes that the ban on patenting human organisms was eliminated, because it was codified into permanent law.

Obamacare: The continuing resolution that funded the federal government from last spring until the end of fiscal year 2011 (H.R. 1473) reduced and eliminated funding for some Obamacare programs and required the GAO to issue reports on outside firms contracted to implement the law, requests for administrative waivers from portions of the law, an estimate of the effects that its mandates will have on premium costs, and on expenditures made for comparative effectiveness research in the “stimulus” and Obamacare. Also, H.R. 1473 prohibited an increase in funding the IRS for “costs associated with implementation of legislation”—presumably to hire more IRS agents to enforce the individual mandate, a contentious provision that the Supreme Court will address in the legal challenge in its current term. The conference report for fiscal year 2012 continues to keep the IRS and other agencies charged with implementing Obamacare funded at current levels.

Second Amendment Issues: The conference agreement includes policy provisions supporting the 2nd Amendment including:

Permanent provisions:

- *Prohibiting establishment of a National Gun Registry*—no funds may be used to create, maintain, or administer a firearms owners' database. This prohibition has been a policy provision since fiscal year 1979.
- *Former Firearms Dealers Information Retrieval*—no funds can be used to electronically retrieve personally-identifying information gathered by federal firearms licensees. The provision prohibits the federal government from creating a gun registry from firearms' dealers' records that are required to be surrendered to the federal government upon the dealer going out of business. This is another provision that has been included in appropriation legislation since fiscal year 1997.
- *Firearm Background Checks*—protects the privacy of gun buyers by prohibiting the gun buyers' personal information from being retained by government authorities for

more than 24 hours after a firearm's background check. It has been included in appropriation legislation since 1999.

New Provisions:

- *Prohibits Funding for "Gun Walking" Operations*—no funds can be used to knowingly transfer firearms to agents of drug cartels unless U.S. law enforcement personnel control or monitor the firearms at all times. This amendment addresses the Department of Justice's Operation Fast and Furious incident.
- *Shotgun Importation Limitations*—prohibits the Department of Justice from requiring imported shotguns to meet a "sporting purposes" test that the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) has used to prohibit the importation of shotguns with adjustable stocks, extended magazine tubes.

Maintains Current Provisions:

- *Definitions of Curio and Relic*—no funds can be used to change the definition of a "curio or relic," which addresses the status of collectible firearms.
- *Importation of Curios and Relics*—no funds can be used by BATFE to prevent the importation of collectible firearms that meet all legal requirements.
- *Business Activity*—no funds can be used to deny a federal firearms license or renewal on the basis of low business activity.
- *Firearms Trace Data Disclaimer*—requires any trace data to include a disclaimer stating that such trace data cannot be used to draw broad conclusions about firearms-related crimes.
- *Firearms Parts Exported to Canada*—no funds can be used to require an export license for small firearms parts valued at less than \$500 for export to Canada. This provision eliminates a Clinton Administration requirement.
- *Transfer of BATFE Authority*—no funds can be used to transfer any duty or responsibility of the BATFE to any other federal agency or department. This provision addresses a Clinton Administration plan to transfer BATFE firearms enforcement to the FBI or Secret Service.

Agriculture

Funding Summaries:

In Thousands

	FY 2011 Enacted	FY 2012 Request	FY 2012 Conf	Conf vs FY 2011	Conf vs Request	Conf vs FY 2011	Conf vs Request
Agriculture Programs							
Departmental Administration	538,101	636,517	507,565	-30,536	-128,952	-5.6%	-20.3%
Economic Research Service	81,814	85,971	77,723	-4,091	-8,248	-5.0%	-9.6%
Agriculture Research Service	1,133,230	1,137,690	1,094,647	-38,583	-43,043	-3.4%	-3.8%
Agricultural Marketing Service	1,213,816	1,239,490	1,225,510	11,694	-13,980	-1.0%	-1.1%
Animal and Plant Health Inspection Service S and E	866,799	837,418	819,734	-47,065	-17,684	-5.4%	-2.1%
Grain Inspection, Packer and Stockyards Admin	40,261	44,192	37,750	-2,511	-6,442	-6.2%	-14.6%
Food Safety and Inspection Service	1,006,503	1,011,393	1,004,427	-2,076	-6,966	-0.2%	-0.7%
Farm Service Agency, S and E	1,208,290	1,357,065	1,198,966	-10,942	-158,099	-0.7%	-11.7%
Risk Management Agency	78,842	82,325	74,900	-3,942	-7,425	-5.0%	-9.0%
Conservation Programs							
Office of the Under Secretary	893	911	848	-45	-63	-5.0%	-6.9%
Conservation Operations	870,503	898,647	828,159	-42,344	-70,488	-4.9%	-7.8%
Watershed Rehabilitation	17,964	----	15,000	-2,964	----	-16.5%	----
Rural Development							
Rental Assistance Program	953,724	906,653	904,653	-49,071	-2,000	-5.1%	-0.2%
Mutual and Self-Help Housing Grants	36,926	----	30,000	-6,926	----	-18.8%	----
Rural Housing Assistance Grants	40,319	11,520	33,136	-7,183	21,616	-17.8%	187.6%
Rural Business-Cooperative Service	85,280	89,857	74,809	-10,471	-15,048	-12.3%	-16.7%
Rural Development Loan Fund	12,316	17,265	10,684	-1,632	-6,581	-13.3%	-38.1%
Renewable Energy Programs	4,990	36,788	3,400	-1,590	-33,388	-31.9%	-90.8%
Rural Utilities Service	635,000	576,913	587,348	-47,682	10,435	-7.5%	1.8%
Dist Learning and Telemedicine Loans Subsidies	68,090	47,976	37,372	-30,718	-10,604	-45.1%	-22.1%
Domestic Food Programs							
Office of the Undersecretary	811	828	770	-41	-58	-5.1%	-7.0%
WIC	6,734,027	7,390,100	6,618,497	-115,530	-771,603	-1.7%	-10.4%
Commodity Assistance Program	246,126	249,619	242,336	-3,790	-7,283	-1.5%	-2.9%
Foreign Assistance							
Foreign Agriculture Service	185,628	229,730	176,347	-9,268	-53,383	-4.8%	-22.6%
McGovern-Dole Int'l School Lunch Program	199,101	200,500	184,000	-15,101	-16,500	-7.6%	-8.2%
PL 480 Program Appropriation	1,497,000	1,690,000	1,466,000	-31,000	-224,000	-2.1%	-13.3%
Related Agencies and FDA							
Salaries and Expenses Including Fees	3,680,501	4,251,325	3,890,387	209,886	-360,938	5.7%	-8.5%
Buildings and Facilities	9,980	13,055	8,788	-1,192	-4,267	-11.9%	-32.7%
Commodity Futures Trading Commission	202,270	308,000	205,294	3,024	-102,706	1.5%	-33.3%
Farm Credit Administration	59,400	62,000	61,000	1,600	-1,000	2.7%	-1.6%

Items of Note:

Special Supplement Nutrition Program for Women, Infants, and Children (WIC): \$6.6 billion—\$115.5 million or 1.7% below last year, and \$771.6 million or 10.4% below the request. This spending level is \$36 million above the FY 2012 Senate bill, and \$570 million above the FY 2012 House bill.

Foreign Agriculture Service (FAS): \$176.3 million—\$9.2 million or 4.8% below last year, and \$53.3 million or 22.6% below the request. The FAS maintains attachés at 97 foreign posts to assist overseas development of markets for U.S. farm commodities—largely through collecting information regarding a foreign government’s policies, market conditions, etc. Many conservatives have may believe that this function could be performed by the private sector that benefits from such services.

Food for Peace Program (PL 480 Program): \$1.466 billion—\$31 million or 2.1% below last year, and \$224 million or 13.3% below the request.

Commodities Futures Trading Commission (CFTC): \$205.3 million—\$3.0 million or 1.5% above last year, and \$102.7 million or 33.3% less than the request.

Commodity Assistance Program: \$242.3 million—\$3.8 million or 1.5% below last year, and \$7.3 million or 2.9% below the request. Previous Bush Administration budgets requested no funding for this program on the argument that the program duplicates two other federal nutrition assistance programs: the WIC program and the Food Stamp program.

“GIPSA” Rule: The Conference Report includes language (section 721) that restricts a proposed ruling by the Grain Inspection and Packers and Stockyards Administration (GIPSA), if the costs of that ruling exceeds \$100,000,000.

Examples of spending prohibitions that were in the House-passed version of H.R. 2112, but not in this Conference Report:

- Food aid to the Democratic People’s Republic of Korea (North Korea);
- The Know Your Farmer, Know Your Food initiative;
- The Brazil Cotton Institute;
- The Departmental Regulation entitled “Policy Statement on Climate Change Adaptation”; and
- The construction of an ethanol blender pump or an ethanol storage facility.

Commerce-State-Justice

Funding Summaries:

In thousands

	FY 2011 Enacted	FY 2012 Request	FY 2012 Conf	Conf Vs. FY 2011	Conf Vs. Request	Conf Vs. FY 2011	Conf Vs. Request
Department of Justice							
General Administration.....	312,170	316,283	282,129	-30,041	-34,154	-9.6%	-10.8%
Parole Commission.....	12,833	13,213	12,833	----	-380	----	-2.9%
Legal Activities.....	3,177,257	3,322,675	3,187,191	9,934	-135,484	0.3%	-4.1%
U.S Marshals Service.....	1,140,103	1,259,195	1,189,000	48,897	-70,195	4.3%	-5.6%
FBI.....	7,819,155	7,994,991	8,036,991	217,836	42,000	2.8%	0.5%
DEA.....	2,015,643	2,042,114	2,035,000	19,357	-7,114	1.0%	-0.3%
ATF.....	1,112,542	1,147,295	1,152,000	39,458	4,705	3.5%	0.4%
Federal Prison System.....	6,384,067	6,826,360	6,643,981	259,914	-182,379	4.1%	-2.7%
State and Local Law Enforcement.....	2,797,102	3,083,383	2,227,300	-569,802	-856,083	-20.4%	-27.8%
<i>State & Local Law Enforcement.....</i>	<i>1,117,845</i>	<i>1,173,500</i>	<i>1,162,500</i>	<i>44,500</i>	<i>-11,000</i>	<i>4.0%</i>	<i>-0.9%</i>
VAWA Grants.....	417,663	454,898	412,500	-5,163	-42,398	-1.2%	-9.3%
COPS Program.....	494,933	709,830	198,500	-296,433	-511,330	-59.9%	-72.0%
Commerce Department							
International Trade Administration.....	440,667	516,652	455,561	14,894	-61,091	3.4%	-11.8%
Bureau of Industry and Security.....	100,141	111,187	101,000	859	-10,187	0.9%	-9.2%
Economic Development Admin.....	283,432	324,931	457,000	174,068	132,069	61.4%	40.6%
Minority Business Development.....	30,339	32,322	30,339	----	-1,983	----	-6.1%
Economic & Statistical Analysis.....	97,060	112,937	96,000	-1,060	-16,937	-1.1%	-15.0%
Bureau of Census.....	1,149,720	1,024,765	888,336	-261,384	-136,429	-22.7%	-13.3%
Telecommunications & Information.....	41,568	55,827	45,568	4,000	-10,259	9.6%	-18.4%
Institute of Standards and Technology.....	750,097	1,001,130	750,824	727	-250,306	0.1%	-25.0%
NOAA.....	4,588,033	5,485,734	4,893,875	305,842	-591,859	6.7%	-10.8%
Departmental Management.....	99,800	137,153	88,946	-10,854	-48,207	-10.9%	-35.1%
Science							
Science and Technology Policy.....	6,647	6,850	4,500	-2,147	-2,350	-32.3%	-34.3%
NASA.....	18,448,028	18,724,300	17,800,000	-648,028	-924,300	-3.5%	-4.9%
National Science Foundation.....	5,563,875	6,253,540	5,719,000	155,125	-534,540	2.8%	-8.5%
Related Agencies							
Civil Rights Commission.....	9,381	9,429	9,193	-188	-236	-2.0%	-2.5%
EEOC	366,568	385,520	360,000	-6,568	-25,520	-1.8%	-6.6%
International Trade Commission.....	81,696	87,000	80,000	-1,896	-7,000	-2.3%	-8.0%
Legal Services Corporation.....	404,190	450,000	348,000	-56,190	-102,000	-13.9%	-22.7%
Marine Mammal Commission.....	3,243	3,025	3,025	-218	0	-6.7%	0.0%
Office U.S. Trade Representative.....	47,730	51,251	51,251	3,521	0	7.4%	0.0%
State Justice Institute.....	5,121	5,131	5,121	----	-10	----	-0.2%

Items of Note:

The Economic Development Administration (EDA) is increased by \$174 million, from \$283 million to \$457 million. \$200 million of this funding is for disaster relief. Many conservatives have historically sought to eliminate this program. Duplicating the efforts of more than 80 other federal programs, the Economic Development Administration provides various grants, loans, and other subsidies for economic development to state and local governments. Approximately 10% of the program's funding goes to administrative expenses. There are many examples of questionable spending by the EDA. One notable example was a grant to Bedford, Indiana to build smaller-replicas of the Great Wall of China and the Pyramids which were never completed and are now known as the —Cursed Pyramid. Vindicating former Administration Director Orson Swindle's labeling of the program as —a congressional cookie jar, the Administration's website had a picture in 2008 of Senate Majority Leader Harry Reid (D-NV) giving a \$2 million EDA check to the University of Nevada for the —Harry Reid Research and Technology Park.

Legal Services Corporation: \$348 million—\$56.2 million or 13.9% below last year and \$102.0 million or 22.7% below the President's request. The Legal Services Corporation (LSC) was established by the Legal Services Corporation Act of 1974 to provide free, legal assistance to the poor in civil, non-criminal matters. Its origins lie in President Lyndon Johnson's War on Poverty, specifically with the Office of Economic Opportunity (OEO), which in 1965 began making direct grants to local legal aid organizations. Instead of focusing on this core mission, the LSC has assisted lawyers and groups engaged in lobbying, advocacy of political causes, and litigation against the federal government. The program has not been authorized since 1980. Services currently provided by the LSC are duplicated by state and local governments, bar associations, and private organizations. The RSC Repeal Task Force highlighted (H.R. 2774) by Representative Scott (R-GA) that would eliminate this program.

Alcohol, Tobacco, and Firearms (ATF): \$1.15 billion—\$39.5 million or 3.5% above last year, and \$4.7 million or 0.4 percent more than the President's request.

Bureau of the Census: \$888.3 million—\$261.4 million or 22.7% below last year and \$136.4 million or 13.3% below the President's request.

NASA: \$17.8 billion—\$648.0 million or 3.5 percent below last year, and \$924.3 million or 4.9% less than the President's request.

National Oceanic and Atmospheric Administration (NOAA): \$4.9 billion—\$305.8 million or 6.7% above last year, and \$591.9 million or 10.8% below the President's request.

Transportation-HUD

Funding Summaries:

In Thousands

	FY 2011 Enacted	FY 2012 Request	FY 2012 Conf	Conf vs FY 2011	Conf vs Request	Conf vs FY 2011	Conf vs Request
Transportation Department							
Office of the Secretary.....	807,551	2,289,603	779,591	-27,960	-1,510,012	-3.5%	-66.0%
Federal Aviation Administration.....	15,929,353	16,647,000	15,901,682	-27,671	-745,318	-0.2%	-4.5%
Facilities & Equipment.....	2,730,731	2,870,000	2,730,731	----	-139,269	----	-4.9%
Research, Engineering, and Development.....	169,660	190,000	167,556	-2,104	-22,444	-1.2%	-11.8%
Grants-in-Aid for Airports.....	3,550,000	3,600,000	3,435,000	-115,000	-165,000	-3.2%	-4.6%
Operations.....	9,513,962	9,823,000	9,653,395	139,433	-169,605	1.5%	-1.7%
Federal Highway Administration, Total.....	38,716,000	69,784,000	41,544,583	2,828,583	-28,239,417	7.3%	-40.5%
Federal Motor Carrier Safety Admin., Total.....	555,070	606,000	554,724	-346	-51,276	-0.1%	-8.5%
National Highway Traffic Safety Admin., Total.....	796,489	860,000	799,974	3,485	-60,026	0.4%	-7.0%
Amtrak.....	1,483,652	NA	1,418,000	-65,652	NA	-4.4%	NA
Federal Transit Administration, Total.....	1,673,995	3,718,322	2,189,213	515,218	-1,529,109	30.8%	-41.1%
Washington Metropolitan Area Transit Authority.....	149,700	150,000	150,000	300	0	0.2%	0.0%
Maritime Administration.....	359,030	303,679	313,498	-45,532	9,819	-12.7%	3.2%
Pipeline and Hazardous Materials Safety Admin.....	79,803	79,618	81,632	1,829	2,014	2.3%	2.5%
Surface Transportation Board.....	27,760	30,000	28,060	300	-1,940	1.1%	-6.5%
Housing and Urban Development Department							
Tenant-based Rental Assistance.....	18,378,873	19,222,569	18,914,369	535,496	-308,200	2.9%	-1.6%
Public Housing Capital Fund.....	2,040,112	2,405,345	1,875,000	-165,112	-530,345	-8.1%	-22.0%
Public Housing Operating Fund.....	4,616,748	3,961,850	3,961,850	-654,898	0	-14.2%	0.0%
Choice Neighborhoods.....	----	250,000	120,000	120,000	-130,000	----	-52.0%
Native American Housing Block Grants.....	648,700	700,000	650,000	1,300	-50,000	0.2%	-7.1%
Indian Housing Loan Guarantee Fund.....	6,986	7,000	6,000	-986	-1,000	-14.1%	-14.3%
Native Hawaiian Housing Block Grant.....	12,974	10,000	13,000	26	3,000	0.2%	30.0%
Housing Opportunities for Persons with AIDS.....	334,330	335,000	332,000	-2,330	-3,000	-0.7%	-0.9%
Community Development Block Grants/Fund.....	3,500,984	3,781,368	2,948,090	-552,894	-833,278	-15.8%	-22.0%
Brownfields.....							
Home Investment Partnerships Program.....	1,606,780	1,650,000	1,000,000	-606,780	-650,000	-37.8%	-39.4%
Homeless Assistance Grants.....							
Self-Help Homeownership Program.....	81,836	----	53,500	-28,336	53,500	-34.6%	NA
Housing for the Elderly.....	399,200	757,000	374,627	-24,573	-382,373	-6.2%	-50.5%
Housing for Persons with Disabilities.....	149,700	196,000	165,000	15,300	-31,000	10.2%	-15.8%
Housing Counseling Assistance.....	----	88,000	45,000	45,000	-43,000	----	-48.9%
Rental Housing Assistance.....	39,920	15,733	1,300	-36,620	-14,433	-91.7%	-91.7%
Research and Technology.....	47,904	57,000	46,000	-1,904	-11,000	-4.0%	-19.3%
Lead Hazard Reduction.....	119,760	140,000	120,000	240	-20,000	0.2%	-14.3%
Fair Housing Activities.....	71,856	72,000	70,847	-1,009	-1,153	-1.4%	-1.6%
Working Capital Fund.....	199,600	243,000	199,035	-565	-43,965	-0.3%	-18.1%
Independent Agencies							
Access Board.....	7,285	7,400	7,400	115	0	1.6%	0.0%
Federal Maritime Commission.....	24,087	26,265	24,100	13	-2,165	0.1%	-8.2%
National Transportation Safety Board.....	97,854	102,400	102,400	4,546	0	4.6%	0.0%
Neighborhood Reinvestment Corporation.....	232,734	215,300	215,300	-17,434	0	-7.5%	0.0%

Items of Note:

Amtrak: \$1.418 billion—\$65.7 million or 4.4% below last year. The legislation also prohibits funding for any Amtrak line where Amtrak offers a discounted fee of more than 50% off the normal peak fare. Amtrak was created by Congress in 1970. Since then, it has received \$37 billion in federal subsidies. Taxpayer subsidies enable Amtrak to avoid other necessary reforms that would enable the corporation to turn a profit. For example, in one year, Amtrak lost \$600 million on long-distance trains (on these routes Amtrak cannot compete with other, more economical modes of transportation). Amtrak also has taken losses of between \$75 million and \$158 million a year on its sleeper car service, as well as losses of \$80 million (in one year) on food. The 1997 Amtrak authorization law required Amtrak to operate free of subsidies by 2002, yet Congress continued to provide subsidies thereafter anyway.

Native Hawaiian Housing Block Grant: \$13.0 million—\$3.0 million or 30.0% above the President's request, and \$26,000 or 0.2% above last year. This federal program provides Native Hawaiians federal housing block grant funds for construction or reconstruction of affordable housing, down payment and closing cost assistance, direct lending or interest subsidies, housing counseling, tenant-based rental assistance and safety activities. Providing additional housing assistance to this group is not only duplicative of numerous current federal housing programs available to individuals, but is also likely unconstitutional.

Essential Air Service: \$143 million—\$6.7 million or 4.7% below last year, and \$19.7 million or 16.0% above the President's request. This program subsidizes flights that are often more empty than full, with taxpayers footing up to 93% of the cost of a flight (see [this article](#)).

Washington Metropolitan Area Transit Authority: \$150.0 million—\$300,000 above last year, and the same as the President's request. The Passenger Rail Investment and Improvement Act of 2008 authorized \$1.5 billion over ten years for Washington Metropolitan Area Transit Authority (WMATA) capital and preventative maintenance projects. This earmark rewards Metro's poor performance, while enabling the system to put off essential reforms. In addition, this program is a transfer of wealth from the rest of the country (median income \$48,201) to the Washington DC region (median-income \$78,978). For more information on this program, see [this](#) RSC Policy Brief.

Community Development Fund: \$2.95 billion—\$552.9 million or 15.8% less than last year, and \$833.3 million or 22.0% less than the President's request. Many conservatives argue that this spending falls under the category of state, local, or non-governmental responsibilities.

Conservative Concerns/ Conservative Supporting Arguments: As a general matter, the legislation spends much less than liberals would want to spend, and much more than most conservatives would want to spend. The legislation contains many spending cuts

than conservatives would approve of, while also continuing to fund many programs that conservatives would seek to cut or eliminate, and also increasing funding for at least some programs that conservatives have historically opposed.

Finally, the legislation includes some policy provisions that conservatives would favor, but also at least one major provision that many conservatives would oppose (the FHA conforming loan limit).

Conservatives would be near unanimous in favoring a spending limit at the \$1.019 billion in the House GOP budget, or the \$978 billion in the RSC budget, or something lower than either. Senate Democrats and the President do not. Given that, conservatives have different opinions on the best strategy for FY 2012 appropriations bills.

Potential Conservative Arguments in Favor of H.R. 2112

\$552 Million Spending Cut: The three appropriations bills funded in the bill receive a total spending cut of \$552 million (if disaster relief is not counted). Including the disaster relief and the continuing resolution, the legislation would lead to a full year spending level of \$1.047 trillion according to CBO. Last year, this spending amounted to \$1.05 trillion.

Program Terminations: According to the Appropriations Committee, the legislation eliminates the following programs:

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

New era/ rural technology - \$1 M
Microbiological data program - \$4.2 M
Healthy Food Financing Initiative - \$35 M
Subsidized Guaranteed Farm Loans - \$17 M
Rural Microenterprise Investment Program - \$6 M
12 Federal Agricultural Research Laboratories @ 10 Locations - \$38 M

Commerce, Justice, Science, and Related Agencies

EDA Sustainable Economic Development/Global Climate Change - \$16.5 M
NTIA Public Telecommunications Facilities, Planning and Construction - \$ 1M
NIST Technology Innovation Program - \$44.8M
NIST Baldrige Performance Excellence Program - \$9.6M
NOAA Coastal and Marine Spatial Planning - \$1.5M
DOJ National Drug Intelligence Center - \$34M
DEA Mobile Enforcement Teams Program - \$40M
Community-Based Violence Prevention Initiative - \$8.3M
COPS Technology - \$1.2M
NSF Graduate STEM Fellowships in K-12 Education - \$26M
NSF Deep Underground Science and Engineering Laboratory - \$12M
NSF National STEM Education Distributed Learning - \$10M

Transportation, Housing and Urban Development, and Related Agencies

TIGGER Grants (FTA) - \$50M

Sustainable Communities Grants (HUD) - \$100M

Values Issues: The legislation protects existing values riders. Specifically, the legislation retains a couple of riders that are in current law, including policies prohibiting funding for abortions for prisoners, and ensuring no Legal Services Corporation funds are directed to entities that engage in abortion-related litigation.

Second Amendment Protections: The legislation includes 11 pro-Second Amendment riders. For a full description of these provisions, see pages 3-4.

Maintains Funding for Troops: The legislation provides funding for troops in Iraq and Afghanistan within the continuing resolution. This is a notable contrast to how House Democrats treated troop funding in previous CRs. For example, see [H.J.Res. 69](#) from 2007.

[Potential Conservative Concerns with H.R. 2112](#)

Funding Above House-Passed Budget: Some conservatives may be concerned that the legislation provides an annualized spending level that is \$24 billion above the [House-passed budget resolution](#), and \$65 billion above the RSC budget resolution.

Non-Offset Disaster Relief: The legislation includes \$2.3 billion for disaster relief funding, which is not offset with other spending cuts. On the one hand, this spending has the impact of putting total non-war funding above the often discussed \$1.043 trillion figure in the Budget Control Act. On the other hand, the Budget Control Act allows this spending to not be offset (and places a cap on disaster relief spending). Many conservatives have called for disaster relief spending to not cause total spending to exceed the \$1.043 trillion figure.

FHA Conforming Loan Extension: Many conservatives may be concerned with the FHA Conforming Loan Extension. According to a [GPO report](#) in 2010:

“On the basis of an independent actuarial review, FHA reported in November 2009 that the Fund was not meeting statutory capital reserve requirements as of the end of fiscal year 2009, as measured by the Fund's estimated capital ratio. Additionally, although the Fund historically has produced budgetary receipts for the federal government, a weakening in the performance of FHA-insured loans has heightened the possibility that FHA will require additional funds to help cover its costs on insurance issued to date.”

Some conservatives are concerned that FHA is even more significantly undercapitalized. According to the 2011 independent actuarial review, FHA continues to suffer heavy

losses from its 2007-2009 books of business and especially its loans with seller contributions—a product that was banned in 2009. The FHA's capital reserve ratio measures reserves in excess of those needed to cover projected losses over the next 30 years (i.e., economic value divided by the unamortized insurance-in-force). The MMI Fund estimates FHA's capital reserve ratio to be 0.24 percent of total insurance-in-force this year, falling from 0.50 percent in 2010. FHA's capital ratio has fallen well below Congress's mandated capital reserve ratio of 2.0 percent. At the same time, the economic net worth of the Fund fell by \$2.1 billion this year, from \$4.7 billion to \$2.6 billion, as FHA continued to build loss reserves to prepare for greater claims in the coming years.

MMI also found that FHA's current underwriting and premium structure have created an actuarially sound basis for growing capital at a rapid rate once the economy and housing markets experience steady and sustained growth and base-case projections show the capital ratio reaching 2% again in 2014, sooner than was projected in last year's report. Though this estimate is positive, many conservative are concerned that according to the actuarial report, "with economic net worth being very close to zero under the base-case forecast, the chance that future net losses on the current, outstanding portfolio could exceed current capital resources is close to 50 percent. Negative house price growth in FY 2012, rather than stable or growing prices, would cause such a situation to develop." Significant declines of home prices in FY 2012 would create a situation in which the current portfolio would require additional support. **Should the capital ratio drop below 0 percent, the MMI Fund would require special assistance from the U.S. Treasury, and current law provides for there to be permanent and indefinite budget authority.**

Committee Action: H.R. 2112 (then just the Agriculture Appropriations bill) was reported out of the House Appropriations Committee as an original measure on June 3, 2011. The Conference Report includes the Transportation-HUD and CJS bills which were not previously considered on the House floor.

Earmarks: According to the [Joint Explanatory Statement](#): "The conference agreement does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined by clause 9 of rule XXI of the Rules of the House of Representatives."

Outside Groups:

Against

Club for Growth
Americans for Prosperity
Heritage Action
National Taxpayers Union (NTU)
Council for Citizens Against Government Waste

Supporting

National Rifle Association (NRA)
American Land Title Association

Community Mortgage Lenders of America
Council of North American Insulation Manufactures Association
Credit Union National Association
Leading Builders of America
Mortgage Bankers of America
National Association of Home Builders
National Association of REALTORS
Real Estate Services Providers Council, Inc.

Does the Bill Expand the Size and Scope of the Federal Government?: As noted throughout the Legislative Bulletin, the legislation contains many provisions that increase the size of the federal government, and many that decrease the size of the federal government.

Constitutional Authority: The sponsor cited:

“Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ‘No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law...’ In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ‘The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States’ Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.”

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