GEORGE MASON UNIVERSITY
STATE & LOCAL GOVERNMENT LEADERSHIP CENTER

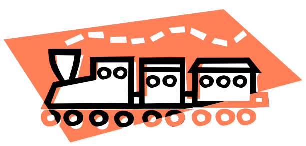
eNews

May 9, 2014

Where is the Trust? Transportation Secretary Anthony Foxx said Wednesday that his agency would be forced to delay payments that it promised to state and local governments if Congress does not approve a new federal highway funding bill this summer. In a letter to state transportation leaders to prepare them for the possibility that the road and transit funding would not be renewed by lawmakers, the Secretary noted: "As Secretary, it also is my responsibility to let you know of the measures that the U.S. Department of Transportation will be required to take in the coming months if Congress does take action to replenish the Highway Trust Fund…While we will take every step possible to continue to fully reimburse your state for as long as possible, these will effectively require us to delay reimbursements that are owed to your agency and the transit agencies in your state." Secretary Foxx added: "As you can see from the chart, the highway account of the trust fund is likely to dip below the critical $4 billion funding level as soon as July, and the transit account will fall below $1 billion sometimes in October: I know first-hand the difficulties that each of you face in trying to plan construction work, significant infrastructure projects, and even state of good repair work, without a clear sense of how - or even whether - that work will be funded." The Congressional Budget Office (CBO) has said that it would take $100 billion in addition to the $34 billion per year that is brought in by the gas tax to provide enough money for a six-year transportation bill now.

Community Development & Transportation Appropriations. The House Appropriations Committee this week released its proposed housing and community development/transportation FY2015 funding bill that proposes cuts for next year of nearly $2 billion, and the subcommittee reported the bill—but any amendments or changes will be kept secret until the full committee acts. The transportation, housing and urban development (THUD) bill appears on paper to increase discretionary spending by $1.2 billion to $52 billion, but factoring in lower than anticipated revenue from the Federal Housing Administration means the bill actually would impose cuts $1.8 billion. The draft proposes cuts to Amtrak, Section 8 housing, lead hazard grants, HOME partnerships, and capital investment grants for transit projects, while largely preserving CDBG and Federal Aviation Administration (FAA) funding levels. The proposed appropriation seeks $7.8 billion in cuts from the President's $52 billion request. Overall, the House committee proposed $7.8 billion below the White House request. The committee's bill defers major questions about highway funding and the rapidly depleting state of the Highway Trust Fund to the authorizing committees, assuming without any reality that $40.25 billion from the Highway Trust Fund will be spent on the Federal Highway program, equal to this year's level. The bill cuts TIGER grants by $500 million to a total of $100 million; it bars any funds for bike and pedestrian paths. The FAA is funded at $7.3 million below the year funding level. There is no funding for high speed rail. To cut costs, Amtrak would be required to put overtime limits on employees and not use federal funding for routes where Amtrak offers a discount of 50 percent or more peak fares. The bill would cut funding for HUD next year by $769 million--$2 billion below the White House request, but would increase Section 8 and public housing funding by $6.2 million.

The House Appropriations Committee this week approved the fiscal year 2015 Commerce, Justice, Science (CJS) Appropriations bill on a bipartisan voice vote. The bill funds the Department of Commerce, the Department of Justice, the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), and other related agencies. The legislation will now head to the House floor for consideration. The bill provides $51.2 billion in total discretionary funding, a cut of $398 million below current funding. Subcommittee Chairman Frank Wolf (R-Va.) said. "We have focused limited resources on the most critical areas: fighting crime and terrorism, including cyber-attacks; improving weather forecasts and warnings; and boosting U.S. competitiveness and job creation by investing in science, space, exports and manufacturing."



Imminent Hazard Protection for Local Governments. The Department of Transportation (DOT) this week issued a directive requiring that some large shipments of crude oil by rail should only use newer tank cars and railroads must notify local emergency responders whenever such shipments travel through their states. The new federal mandate applies to trains carrying more than 1 million gallons of oil — which would fill about 35 tank cars — from the Bakken formation in North Dakota, Montana, and Canada. Railroads should use the most advanced tankers in their fleets for those shipments and avoid using legacy cars from the DOT 111 standard, according to DOT, unlike Canada which has mandated the use of such tank cars. The requirement includes disclosing the number of trains each week, the specific routes the trains will travel and which counties they will cross. The announcements come a week after an oil train derailed in Lynchburg, Va., spilling 30,000 gallons into the James River, erupting into flames and forcing the evacuation of 350 people—the latest in a series of accidents in the wake of last year's oil train explosion in Lac-Mégantic, Quebec, which killed 47 people. The number of accidents, the order said, "is startling, and the quantity of petroleum crude oil spilled as a result of those accidents is voluminous" in comparison with past accidents. Last month, regulators in Canada said they would require emergency plans from the railroads on responding to catastrophic explosions and would quickly retire older models of tank cars commonly used to carry crude oil. In addition, Canada also took a decisive step to force shippers to use a stronger model of tank car within the next three years, effectively setting a new benchmark in the United States as well, given the amount of traffic between the two countries. The new model is based on a standard developed by the North American railroad industry in 2011. Cities and towns across the country and in Canada have experienced a surge in oil rail traffic in the last five years due to a boom in domestic oil production, particularly from the Bakken Shale region. This Bakken oil, which accounts for almost all the crude oil in the U.S. is more flammable than other types of crude oil, which typically travels by pipeline. The Bakken region produces about one million barrels of crude each day; about two-thirds of which is shipped by rail. Many states, including New York, Oregon, and Minnesota, and cities like Seattle and Chicago had been urging the railroads to provide much more information—even as the railroads have sought to avail themselves of the federal preemption of state and local hazardous threat authority under federal interstate commerce rules. In this week's announcement, however, DOT stated the recent accidents "have demonstrated the need for emergency action to address unsafe conditions or practices in the shipment of crude oil by rail," ordering that that railroads also assist state officials in disseminating any information they provide to emergency responders in the affected cities and counties. However, according to transportation officials, the shipping information provided by railroads would not be made public; instead it is to be restricted to emergency personnel. Currently, there more than 80,000 older tank cars used to transport crude oil in Canada and the

United States, according to the Railway Supply Institute—and only about 14,000 newer cars built after 2011 based on a new industry standard, CPC-1232, that complies with the new Canadian rules.

Money Market Funds. SEC Chair Mary Jo White testified before the House Financial Services Committee that the Commission will continue to monitor state and local public pensions and disclosures, and that the SEC intends to move forward with Money Market Mutual Fund reforms and rulemaking—refusing to testify whether municipal money market funds would be exempted from federal mandates or not. As Fabulous Matt Posner of Municipal Market Advisors warns: "This could be disruptive to state and local governments in two ways: 1) those that use funds as part of their cash management program may have to find alternate investments, and 2) as such funds are the largest purchasers of short term municipal bonds, their buying power may dampen, which could increase debt issuance costs for state and local governments.

Mobile Workforce State Income Tax Simplification Act (H.R. 1129). Congress, for a number of years, has considered federal preemption legislation to limit states' ability to impose withholding or tax liability on employees traveling and working outside their domicile. The journey began in 2005 when the Council on State Taxation (COST) first approached the FTA about the issue, and suggested federal legislation as a possible course. The original version of the bill was introduced in Congress in 2006. In 2012, the House passed such preemption legislation, which died in the Senate. Last week, that same version of the bill, as , reintroduced both the House and the Senate, was considered in the Subcommittee on Regulatory Reform, Commercial and Antitrust Law of the House Judiciary Committee, with three witnesses providing testimony on behalf of proponent-groups—including COST, the American Institute of Certified Public Accountants (AICPA) and the American Payroll Association (APA). Patrick Carter, Director of the Delaware tax division, provided testimony on behalf of the Federation of Tax Administrators opposing the bill. Members of the subcommittee spoke largely in favor of the bill, citing the burdens imposed on employers and employees who have to keep track of each state's separate laws (and comply with withholding and reporting in states), and complaining that the burden is becoming more expensive and daunting, because the American workforce is becoming more mobile and that, ergo, one set of preemptive rules, adopted at the federal level, would substantially reduce this burden.

The Congressional Double Standard on the Federal Deficit. Despite a White House veto threat, the House today has scheduled votes on legislation to make permanent the R&D (research-and-development tax credit) for businesses, a bill that would increase the federal deficit by $156 billion cost over the next decade. Unlike any bills affecting state and local governments which, under House rules, may only be considered if they are offset by equal spending cuts or tax increases, the House treats federal tax expenditures—the largest and fastest growing contributors to the federal deficit and debt—by different rules. Tuesday, the President's Office of Management and Budget released a statement saying the President will be advised to veto the measure if it passes the House and Senate, describing the projected cost as adding to the nation's deficit over 10 years "more than 15 times the cost of the proposed extension of the emergency unemployment benefits." OMB also noted that the House-passed budget resolution required offsetting any tax extenders that were made permanent with other revenue measures.

Priorities. The House yesterday voted 232 to 186 to approve a measure opening a new investigation of the deadly assault on the American diplomatic mission in Benghazi, Libya, on Sept. 11, 2012. The panel's investigation will be the eighth on Benghazi and will examine the entirety of the attack that killed Ambassador J. Christopher Stevens and three other Americans. The Pentagon reported to Congress in March that Congress' previous, multiple investigations of the deadly 2012 attack on the U.S. diplomatic mission in Benghazi, Libya, have cost the Pentagon millions of dollars and thousands of hours of personnel time, as it outlined its previous cooperation with six investigations of the Sept. 11 assault that killed four Americans, including U.S. Ambassador Chris Stevens, and its response to repetitive requests for information from about 50 congressional hearings, briefings, and interviews.

State & Local Finance

Reshaping the Nation's Cities. As we observe the changing economy—what with the sharing economy, the impact of the internet on work hours and locations, we can anticipate it will lead to profound changes in transportation and housing. Because the internet is permitting more people to work from anywhere, anytime, the old model of cities and suburbs is becoming increasingly obsolete. An emerging tip of this iceberg seems to be occurring with office buildings—which now, increasingly in many cities, are being repurposed from spaces where people work to spaces where they sleep, so that the traditional economic relationship between residential and commercial real estate in cities is turning upside down, or, as one expert notes: "The rental market is very tight, with lots of demand…The pace of absorption you're seeing in the office market is just so slow compared to past cycles…We just have too much office space out there." Historically, office space has commanded substantially higher rent than residential space, but now that appears to be changing, especially for older buildings, often located in urban downtowns. At the end of 2013, the U.S. apartment vacancy rate stood at 4.1%—the lowest since the end of the dot-com boom in the early 2000s, and below its 5.7% average rate since 1980, according to an analysis of 50 top markets by property-data firm Reis Inc. At the same time, in contrast, the office vacancy rate was 16.7%—only a tad below the 17.6% post-economic crisis high reached in 2010, but well above its average of 14.9% since 1980. In previous recoveries, demand for office space picks up within a year or two after a recovery begins. That means that office landlords fill their vacancies and charge higher rents—and cities and counties compute (and realize) higher assessments. But something has changed this time: office vacancies have remained high as employers have been slow to expand, more employees telecommute—so today there are hundreds of millions of vacant square feet—and increasingly depressed assessed property valuations. Even as these spaces, however, have become less attractive for office space; they have become increasingly attractive – whether in Downtown Detroit or Washington, D.C. or other urban cities — to a younger generation that abhors commuting. So assessed housing values are soaring.

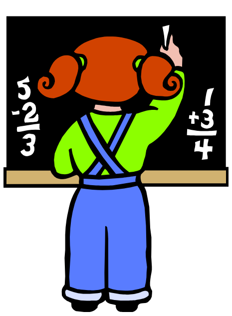
A New State Role in Municipal Fiscal Distress & Dissolution. We have previously considered the issue of what happens when a city or town dies—that is—as in some parts of the Midwest and Mountain West, where an aging population does not attract a younger generation, and towns and cities seem to wither. We have also observed the awkward and evolving relationship of states to local governments on the issue of severe fiscal distress—noting especially the changing state roles in Rhode Island, Michigan (this morning's eBlog), Alabama, etc. In our report on severe municipal fiscal distress, we examined the various kinds of state roles vis-à-vis municipalities in California, Illinois, Michigan, Pennsylvania, Maryland, and Rhode Island—noting, for instance, that many states do not permit cities or counties to file for federal bankruptcy protection, and finding that, in some instances, as U.S. Bankruptcy Judge Thomas Bennett noted in the case of Jefferson County, the state actually was a signal precipitator of Jefferson County's municipal bankruptcy. In our report on Pittsburgh, we noted that the state's Act 47, its municipal fiscal distress law, appeared to create a permanent dependency, rather than providing a path to a sustainable recovery. Designed in 1987 to help cities after the fall of the steel industry, it offers a loan and allows the levying of certain taxes. But only 7 of the 27 local governments in the program have ever left Act 47, and 6 of the remaining 20 have been in it for over 25 years. Under the proposed legislation the bill would seek to cap the time a city can be in Act 47, forcing a choice when time's up: Elected city officials can fix the budget (cut jobs and services, raise taxes) or, at worst, face disincorporation. The significant changes to the act seek to take a proactive approach to helping local governments return to and maintain financial stability—or, in the alternative, provide disincorporation procedures in the event future viability as a municipality is unlikely. State Representative Chris Ross, the prime sponsor of the Local Government Commission bill, House Bill 1773, hopes the House will act on the legislation and send the bill to the Senate in early June. The bill would impose a time limit on how long a municipality could be in distressed status, with a coordinator then directed to recommend one of the following options:

- The distressed status be lifted;
- The municipality be disincorporated;
- The municipality be declared in a state of fiscal emergency with the possibility of receivership; or
- That a three-year exit plan be adopted.

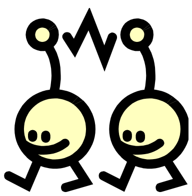
The Pennsylvania Municipal League and other organizations representing local governments in the Keystone State testified before the legislature last month, identifying positives, but also noting that the state's local government tax structure is "antiquated and static," and that limitations on new revenue authority would be problematic. The League also noted its apprehension about the disincorporation provisions as "unworkable, with draconian fees levied on properties in the community that would lead to mass exodus and increased blight." *Nevertheless, this initiative is a recognition that the current law is not working well, and in a state whose Constitution provides for five types of local government: county, township, borough, city, and school district; it is a state made up of 67 counties, and 2,562 municipalities—and it is one of ten states that does not permit a community or municipality to dissolve—the debate and discussion is fundamental towards altering the near permanent dependency of some cities—and maybe to provide a way to discuss sharing services and rethinking the unsustainable number of local governments in the state. The Keystone State trails only Illinois and Texas in the number of local governments and school districts, with about 4,900—including nearly 800 local governments with fewer than 1,000 residents. Thus, this new initiative the House is considering which would allow dissolution and limit municipalities' stay in the state's distressed program—a program in which some thirteen cities have been stuck with for at least a decade. Indeed, Matt Posner tells us that fragmentation at the local level in Pennsylvania makes it harder to turn them around, and state Rep. and bill author Chris Ross notes: "The commonwealth of Pennsylvania creates all these municipalities, so the buck comes back to the commonwealth if their citizens are not able to receive services adequately…We need to have a viable alternative, adding that some localities have shrunk so much they may be unable to operate. At the Bankruptcy and Beyond symposium last month in state capitol Harrisburg, a number of attendees asked what options there might be to provide for affordable fire protection—as the cost of police and fire with the ever increasing associated pension liabilities is making public safety a more and more expensive and unaffordable proposition. Standard & Poor's notes that the state's communities are stagnating as Pennsylvania's economy is falling behind, with job and population growth trailing most states—even as nearly 1/3 of the state's school districts (164 out of 497) are seeking an exemption from the state law (Act 1)that limits how much districts can raise property taxes without voter approval. The state Department of Education approved exceptions totaling $121.1 million, largely to meet public pension obligations and special education costs.*

Fiscally Challenged Local Governments. In a related development, Thomas Compton of Moody's this week wrote about nearby Connecticut's efforts to address distressed cities, noting that last month, the State approved an $11 million advance in education aid to the City of New London one week ahead of schedule, a critical infusion of funds to meet near-term operating costs of the city-run school district, including payroll. Mr. Compton wrote that the advance is credit positive for New London and other Connecticut local governments, because it demonstrates the state's commitment to assisting fiscally challenged municipalities. New London has struggled with increasingly strained liquidity over the last several years as its finances have deteriorated. As a result of the city's below average demographics and high percentage of tax exempt property, New London remains heavily dependent on state aid, a variable revenue source that the city receives only three times a year. Most Connecticut local governments rely primarily on property tax revenues, which are more predictable and can be increased annually without statutory limit. State aid comprises 44% of the city's annual revenues, close to the same proportion as property tax revenues (49%). This compares to an average 70% reliance on property taxes and 25% on state aid for Connecticut municipalities as a whole.

Innovative investing in the Future. A serious challenge for state and local leaders is to think beyond and outside the current year (or the next election), as well as outside the box. But entrepreneurial leaders can sometimes help us to understand how critical such innovation is to addressing not just the future, but also how critical infrastructure investments may be to shaping that future. For instance, two leaders in Arlington County shared with me a new direction that will have many applications in both Public Safety and Government that will emerge once it is completed. In 2001, Arlington County upon the negotiation of a Cable Television Franchise Agreement with Comcast received the benefit of the provision of a fiber optic network (Institutional Network 'INET') consisting of twelve strands of fiber to connect all County and School facilities. With the INET, the County was able to conduct at no cost intra County telephone calls, high speed data access and video conferencing. As the term of the Cable Franchise approached the time for renewal, it became apparent that Comcast no longer wished to provide the INET to the County. The County observed that neighboring jurisdictions were faced with absorbing a fee based subscription to enjoy the benefits of their INETs upon renegotiation of their cable television franchises. The County decided to leverage capital investments to refresh the County's traffic signal system and secure the County's Public Safety Radio System to simultaneously deploy a fiber optic network that would be wholly owned by the County that would interconnect all County and School Buildings. In addition, the County reached agreement to deploy additional network capacity as the local Power Authority, Dominion, upgraded its electrical grid in the community as well as instituting site conditions that allowed the County to deploy conduit and fiber when a new commercial building was being constructed. As a result, beginning in 2011 the County commenced the deployment of a 59 mile broadband network consisting of 288 strands of fiber optic cable. While building the network the County purposely deployed surplus conduit primarily to serve future needs as well as to provide for redundancy and recovery in the event of an accidental fiber cut. Over the past three years it became apparent to the County's leadership that the economic base of the County, largely Federal and Federal consultancies was shifting through Base Realignment, the pressure to reduce office rentals and the expansion of the subway system that so uniquely distinguished Arlington County to further in the suburbs. To address this challenge the County leadership has decided to populate that surplus conduit with a significant amount of dark fiber (864 strands) and make that available to Businesses(large and Small to Medium), High Education, Non-Profits (such as Hospitals and other Health Care facilities), and to other governmental organizations for the explicit purposes of inspiring economic development. The business model that currently is in finalization will acquire a third party contractor who will serve as the broker to market and facilitate the licensing of this broadband infrastructure in a nondiscriminatory manner. The network once completed will constitute a twenty two mile core 'middle mile' infrastructure transiting the urban core of the County. There is no intention to provide retail services or to compete with existing telecommunications providers. The business model is based on the assumption that providing abundant dark fiber communications infrastructure ubiquitously through the core business corridor will have the effect of significantly increasing the available broad connection speeds and providing a distinctive economic advantage to those businesses, high education, non-profits and governmental organizations currently in the County and a compelling attraction to those considering moving to the County.



Who Loves to Hate Property Taxes? As neighborly as Canada and the U.S. are, they are also remarkably different. The Canuck system provides much greater support so that Canadian municipalities are unsusceptible to municipal bankruptcy; during the great recession, there was no collapse among Canada's major banks. In short, the border suddenly became very real. Nevertheless, as you can see from the "Parting company" chart, housing prices are demonstrating a remarkable disparity—something that might seem like good news to many finance director types in this country, but which are drawing increasing concern up north. The Canadian government has repeatedly amended mortgage rules in an effort to retard the rate of price increases, so that now the Canada Mortgage and Housing Corporation, which provides government-backed insurance, will no longer underwrite mortgages on second homes, and the self-employed will no longer get insurance unless their income is verified. According to *The Economist*, these measures have slowed the increase in household debt and house sales (house prices have even declined in some cities); nevertheless, these prices remain at sky high levels, with the British publication suggesting that house prices in Canada are overvalued by 76% and 31% when measured against long-term average rents and incomes respectively. On the other side, with Canadian interest rates still near a record low, Canadians have continued to pile on debt since the crisis. With interest rates still near a record low, Canadians have continued to pile on debt since the crisis: Canadian household debt rose to 93% of GDP in the third quarter of 2013 from 76% in the third quarter of 2007. Most of the borrowing has been in the form of mortgages, driving house prices higher. The IMF and others fret that Canada is vulnerable to a sudden shock (see chart).



Challenges of the Emerging Sharing Economy. Last week, we wrote about some of the challenges state and local leaders confront in the emerging sharing economy, but we are interested in innovative (see Arlington County, Va. above) programs to utilize this new, emerging economy. For instance, knowing we have a surge of aging Americans who will outlive any previous generation in U.S. history—state and local leaders are, more and more, faced with the issue of when is it time to take car keys from elderly drivers? As one writer notes: "Mobility is fundamental to happiness," whilst another wrote: "Families, doctors, policy makers and others struggle with how to help Michigan's seniors safe on the roads — and how to give them alternatives when the time comes to park the car for good. While much of the focus on ride sharing programs by states and local governments has related to insurance and tax issues, we would be intrigued by any examples of state or local programs to take advantage of these emerging ride-sharing programs to address this pressing question of what to do when the older driver may no longer safely drive.

Is Detroit (or New Jersey) Contagious?

Non-disclosure can be viral. Fitch Ratings last week downgraded the Garden State's underlying rating, mimicking S&P's downgrade the previous week, both as a result of revenue shortfalls after the state's Treasury office reported income tax collections fell $700 million short of the Governor's estimates. What only the acutely perceptive Matt Posner of Municipal Market Advisors caught, however, was that the failure – as Paul Newman once noted – to communicate can cost. In this instance, the Matt Dillon of the municipal finance market writes that the failure of two New Jersey agencies to include this information—because it had not been communicated to them, meant that non-disclosure imposed a 10 basis point penalty on New jersey taxpayers, or, as he noted: "Communication between bodies of government is essential, and, in this case, the failure to do so cost New Jersey taxpayers."

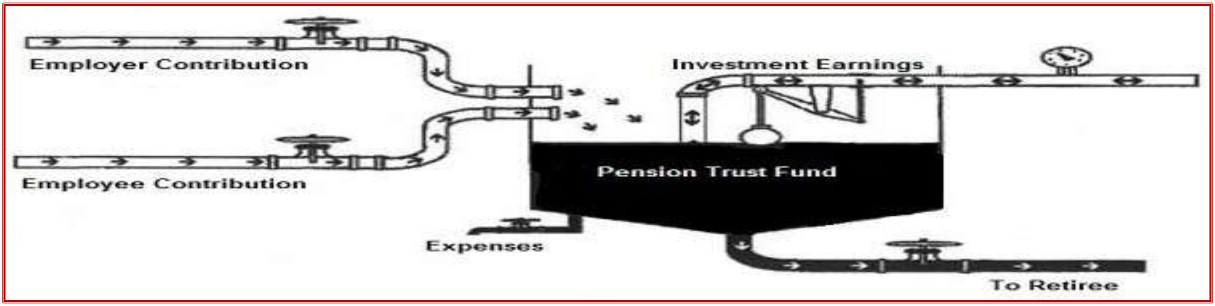


Figure 1 Illustration by David P. Hayes

Pensionary Tidings

The Trend Gap. U.S. Bankruptcy Judge Christopher Klein has expressed apprehension that the City of Vallejo could slip back into municipal bankruptcy. Judge Klein's concern is important as he begins a four-day hearing commencing on Monday to determine whether the City of Stockton's recovery plan passes muster. A key part of his apprehension is focused on whether Stockton's plan – because it does not address its pension obligations—will ensure a sustainable future, or as the Chapter 9 Wizard of Chicago, Jim Spiotto puts it: "The important thing is, you want a permanent fix, not a temporary fix. If pension payments are not affordable and sustainable in the long run and you don't address them now, that obviously will be a problem later." According to Mr. Spiotto, Stockton will have to demonstrate to the federal court that its pension obligations will not be a problem in the future and that it takes care of them under the recovery plan: "The best interest to creditors is a long-term success and growing of the community so that there are more taxpayers and revenues…And it is not in the best interest of creditors not to address systemic problems that exist today."

Demography

Knock, knock! Richard Rubin and Margaret Collins this week wrote about the "**Early Tap of 401(k) Replaces Homes as American Piggy Bank**," noting that premature withdrawals from retirement accounts have become America's new piggy bank, "cracked open in record amounts during lean times by people" well before reaching retirement. Even as many, including members of the U.S. House and Senate who are generously provided for through defined benefit pensions are pressing hard on state and local leaders to replace defined benefit public pension plans with defined contribution plans, recent data from the IRS finds that the Service collected $5.7 billion in 2011 from early withdrawal penalties, meaning that Americans took out about $57 billion from retirement funds before they were eligible—and meaning, of course, that their respective defined contribution plans are unlikely to suffice, or, as they noted: "Taking money from a 401(k) — and worrying about the consequences later—became a more attractive alternative and a record number of Americans made early withdrawals in 2010." Younger workers ages 20 to 39 have the highest cash-out rates, with some 40 percent taking money with them when they switch jobs, according to data from Fidelity, the largest administrator of 401(k) plans. Since the housing collapse of 2008, that's often no longer an option. Today, they report, the median size of a 401(k) is $24,400, with people older than 55 having $65,300, according to Fidelity: "Those funds can disappear quickly in retirement, and the **early withdrawals** indicate that the coming retirement crisis could be even more acute than expected." Just as state and local government leaders are increasingly being forced to address issues about the viability of their long-term pension promises, they are now likely to face a new generation of retirees who will have exhausted their retirement accounts, but live longer—and be ever more dependent than any previous generation on essential state and local services.

Quotes of the Week

"Washington is AWOL, totally AWOL,…And the state capitals have, as we know in Illinois, huge budgetary problems, and we are cast on our own at a moment in time to try to boost our economies." ~ Windy City Mayor Rahm Emanuel.

TIME TO STEP UP

Daily Press Editorial (Paywall for certain articles)

Running for public office takes courage, confidence and the committed support of family and friends. The endeavor is not easy — walking through neighborhoods and knocking on doors takes plenty of time and effort — nor is it cheap, since campaign signs do not grow on trees. So as we head down the stretch toward Election Day, we extend our gratitude to those who volunteered for the experience and seek a place in local government. And we encourage other civic-minded citizens to lend their time and talent to the calling of public service, since our communities will surely benefit as a result.

"Property values are back up faster than expected, but the pressure is still there…It's hard to be a city in Michigan because state policy is very negative toward cities in general." ~ Eric Scorsone, an economist at Michigan State University in East Lansing who specializes in municipal finance.

"The decision here is most likely all or nothing: One side is going to win and the other side is going to lose — and that's going to be very happy on one side and very tough on the other side." ~ U.S. Bankruptcy Judge Steven Rhodes.

"Municipal Bankruptcy, to a large degree, is like 'Let's Make A Deal.' " ~ The incomparable Jim Spiotto.

"State and local finances are very important to the stability of our economy. I think that the complete elimination of the state and local deduction would be something that would be a real challenge for many jurisdictions." ~ U.S. Treasury Secretary Jacob Lew, testifying before Congress on the proposed tax reform plan recently released by Ways and Means Chairman Dave Camp (R-Mi.).

Little Legalities

Federalism

Prayer. The U.S. Supreme Court ruled on Monday that the Town of Greece in New York State did not violate the U.S. Constitution's ban on government endorsement of religion by allowing prayers before its monthly meetings. In a decision that is likely to guide how local governments throughout the United States address the issue, the court held on a 5-4 vote that officials in the town of Greece did not violate the law when picking prayer-givers, who were overwhelmingly Christian, finding that local governments may open their meetings with prayers that are explicitly religious—and narrowly defining what is not allowed in such prayers, the Court said they may not be used to praise the virtues of one faith and may not cast other faiths or other believers in a sharply negative light. Courts have no role in judging whether individual prayers satisfy that test, but rather may only examine a "pattern of prayer" to determine whether it crosses the forbidden constitutional line and becomes a form of "coercion." The difficulty facing the justices was how to decide how courts should consider when a prayer could violate the First Amendment calling for separation of church and state. Justice Anthony Kennedy wrote the majority opinion, writing that the town's prayers are consistent with the high court's 1983 precedent in a case called *Marsh v. Chambers*, a decision that allowed prayers before legislative sessions based in large part on the historical nature of the practice. Although the policy in the town of Greece does not embrace a particular religion, in practice all members of the public who gave a prayer were Christians until some residents filed suit in 2008. Justice Kennedy wrote that public prayers need not be nonsectarian: "To hold that invocations must be nonsectarian would force the legislatures that sponsor prayers and the courts that are asked to decide these cases to act as supervisors and censors of religious speech." Since 1999, Greece, New York has opened monthly town board meetings with a roll call, recitation of the Pledge of Allegiance, and a prayer by a local clergy member. While the prayer program is open to all creeds, nearly all local congregations are Christian. Citizens alleged violation of the First Amendment's Establishment Clause by preferring Christians over other prayer givers and by sponsoring sectarian prayers and sought to limit the town to "inclusive and ecumenical" prayers that referred only to a "generic God." Legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause. Most states have also had a practice of legislative prayer and there is historical precedent for opening local legislative meetings with prayer. Any test of such a practice must acknowledge that it was accepted by the Framers and has withstood the scrutiny of time and political change. The inquiry is whether the town of Greece's practice fits within that tradition. To hold that invocations must be nonsectarian would force legislatures sponsoring prayers and courts deciding these cases to act as censors of religious speech, thus involving government in religious matters to a greater degree than under the town's current practice of neither editing nor approving prayers in advance nor criticizing their content after the fact. It is doubtful that consensus could be reached as to what qualifies as a generic or nonsectarian prayer. The First Amendment is not a "majority rule" and government may not seek to define permissible categories of religious speech. The relevant constraint derives from the prayer's place at the opening of legislative sessions, where it is meant to lend gravity and reflect values long part of the Nation's heritage. Absent a pattern of prayers that over time denigrate, proselytize, or betray an impermissible government purpose, a challenge based only on the content of a particular prayer will not likely establish a constitutional violation. If the town maintains a policy of nondiscrimination, the Constitution does not require it to search beyond its borders for non-Christian prayer givers to achieve religious balance. Residents Susan Galloway, who is Jewish, and Linda Stephens, an atheist, filed the suit, saying the practice made them uncomfortable. The case reached the high court after the 2nd U.S. Circuit Court of Appeals in New York ruled against the town in May 2012. A district court had previously supported the town's position by dismissing the lawsuit filed by Galloway and Stephens. *Town of Greece v. Galloway*, U.S. Supreme Court, No. 12-696, May 7, 5, 2014.

School Funding Formulae. Plaintiffs, school committees of Woonsocket and Pawtucket and unnamed students, parents, and the superintendents from both districts, brought suit against the legislative and executive branches of Rhode Island's state government challenging the state's school funding formula. Specifically, the plaintiffs alleged violations of the Education Clause as well as violations of their substantive due process and equal protection rights because the formula failed to allocate adequate resources to less affluent communities. The superior court granted Defendant's motion to dismiss the complaint. The Supreme Court affirmed, holding (1) prior case law as well as the separation of powers doctrine warranted dismissal of Plaintiffs' Education Clause claim; and (2) Plaintiffs' complaint was insufficient to establish potential substantive due process claims. In their decision, the court noted; "We emphasize that we are deeply concerned by the conditions of the schools in Pawtucket and Woonsocket alleged by the plaintiffs, as well as by the alleged predicaments of those municipalities regarding their inabilities to allocate funding required to meet state mandates, quoting from a U.S. Supreme Court opinion: "Installing a means of providing adequate educational opportunities to every child in the state is not only an admirable goal; it is 'perhaps the most important function of state and local governments." *Woonsocket School Comm. V. Chafee*, Rhode Island Supreme Court, No. 2012-271-Appeal, May 2, 2014.

State Sovereignty. Pontiac has experienced significant economic difficulties. In 2011 Michigan's Governor appointed Mr. Lou Schimmel as Pontiac's emergency manager under then-existing law (Public Act 4), in 2011, Mr. Schimmel modified the collective bargaining agreements of retired city employees and severance benefits, including pension benefits, for retirees not covered by collective bargaining agreements. Retired employees sued under the Contracts Clause, the Due Process Clause, and the Bankruptcy Clause. The district court denied an injunction; last year, the Sixth Circuit vacated and remanded for expedited consideration of state law issues. Michigan voters later rejected Public Act 4 by referendum. Following rehearing, en banc, the Sixth Circuit again vacated and remanded for consideration of whether, under section 903(1) of the Bankruptcy Code, Public Act 4 prescribed a method of composition of indebtedness that binds the retirees without their consent and, if so, whether principles of state sovereignty preclude application of section 903(1) in this case; whether the emergency manager's orders were legislative acts under the Contract Clause; whether the reductions and eliminations of health care benefits were "necessary and reasonable" under the Contract Clause; whether the retirees' procedural due process claim is viable; and, assuming the Due Process Clause's procedural protections apply, whether the collective bargaining agreements, considered in their entireties, establish protected property rights. *City of Pontiac Retired Emps. Ass'n v. Schimmel*, U.S. 6th Circuit Court of Appeals, #12-2087, May 5, 2014.

Tax applied to hospitals. The New Hampshire superior court has ruled that the state Medicaid Enhancement Tax is discriminatory, this time under the Equal Protection Clause of state and federal constitutions. Applying a rational basis standard, the court concluded the state's justification for taxing hospitals, but not non-hospitals which might provide identical medical or health services, was no longer applicable. The court noted that when lawmakers originally debated the tax, the goal was apparently to collect money for the general fund from the federal government. Essentially, hospitals were to pay money to the state, the state would repay that money to the hospitals, and the federal government would match it. Hospitals were therefore incented to cooperate with the tax. Now that the federal government had closed this loophole, the state argued that the rationale had actually been to raise money from the hospitals to fund uncompensated care. Not only was this not the actual purpose of the tax, it was not exactly what the tax did, given that half of it went into the general fund. Therefore the court rejected the rational as put forward by the state. The court also concluded that the tax was facially invalid and therefore could not be sustained when imposed on services not provided by nonhospital facilities. *Catholic Medical Center v. Department of Revenue*, New Hampshire Superior Court, 216-2011-CV-00955; 216-2011-CV-00850; 218-2011-CV-01394 (ROCKINGHAM, SS), 4/8/2014.

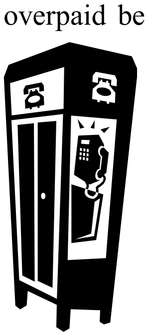
Federal court rejects takings claim, dismisses other challenges to local tax under TIA. The Sixth Circuit has affirmed dismissal and remand to state court of various claims brought by taxpayers challenging the imposition of a local income tax in Ohio. The plaintiffs claimed that the city failed to grant proper credit for taxes paid elsewhere and alleged, as a federal question, an unconstitutional takings claims under the Fifth Amendment and 42 U.S.C. § 1983. The district court had granted the local government's motion to dismiss the takings claim and had concluded that the federal Tax Injunction Act, which divests federal courts of jurisdiction to hear claims that would enjoin the assessment or collection of state or local tax, barred the remaining state-law claims. As for the takings claim, the court noted that to survive a motion to dismiss under 42 U.S.C §1983, a plaintiff must allege official action under color of state law depriving the plaintiff of rights secured under federal law. Here, the taxpayers alleged that the tax credit was an "intangible" property interest falling within the protection of the Fifth Amendment takings clause, or alternatively, that it was a tangible in that it could be considered a monetary appropriation. The taxpayers further alleged that they were not seeking to enjoin the assessment of a tax, but simply to require that the city, on its tax forms, use a calculation of the credit that was in accordance with the law. The circuit court agreed with the lower court that taxation is not a "taking" under the Constitution, nor does a tax credit represent an intangible property right. Moreover, said the court, allegations of deprivation of constitutional rights do not render the TIA inapplicable. Nor did it matter that the challenge involved a tax credit rather than a tax. There was also no doubt that there was a "plain, speedy and efficient remedy" in state courts as required by the TIA. Therefore, the state law claims were also properly remanded. *LaBorde v. The City of Gahanna*, U.S. Court of Appeals, 6th Circuit, 13-3731, 4/1/2014.

Retroactive amendment found to violate due process. The New York intermediate appellate court, applying a balancing test adopted by the state's high court, has ruled that an amendment to the state's tax law could not be applied retroactively to a transaction more than three-and-a-half years earlier without violating the taxpayer's due process rights. The court found that the taxpayer had reasonably relied on the old law and had no forewarning of the change in the legislation. Moreover, the court found no compelling public purpose for the retroactive application. The transaction involved sale of the stock of an S corporation (doing business in the state) by a nonresident stockholder and an IRC § 338(h)(10) election allowing the transaction to be treated as an asset sale for federal tax purposes. The taxpayer did not report the gains from the sale to New York when recognized because New York law sources sales of stock to the state only if the stock itself (as opposed to the underlying assets of the corporation) is "employed in a business, trade, profession, or occupation carried on in [New York]." Subsequently, state law was retroactively amended to tax gains recognized under these circumstances. The court noted that whether the retroactive application of a tax statute violates a taxpayer's due process rights had been addressed by New York's high court, which affirmed a three prong balancing test. The factors to be balanced are the taxpayer's reliance on the old law and any forewarning of the change, the length of the retroactive period, and the public purpose for retroactive application. Here, it was clear the taxpayer had no warning and therefore no opportunity to alter behavior. While the law contained no specific provision, prior to the amendment, explicitly governing such transactions, a decision issued subsequent to the transaction (and prior to the amendment) concluded that the general rule excluded gains in such cases from New York tax. The tax division claimed to have a long-standing policy of taxing gains in these circumstances, but the court found that the only proof such a policy was an isolated 2002 PowerPoint presentation. Nor was the court persuaded that, to show reliance, taxpayers must demonstrate that they would have structured the transaction differently. The court also found that the three-and-a-half year retroactive period was excessive. It also rejected the argument that the longer retroactive period was warranted because the amendment did not impose a wholly new tax, but was a "curative" measure. There was no legislative history indicating that the legislature was correcting any specific error in the existing law. Rather, it appeared that the amendment created an exception to the general rule. As for the public purpose for retroactive application, the tax division admitted that it was to prevent revenue loss. This was not a particularly compelling justification, said the court, which also objected to the notion that, without the amendment, taxpayers would somehow realize a "windfall." *Philip Caprio v. New York State Department of Taxation and Finance*, New York Supreme Court, Appellate Division, First Judicial Department, 2014 NY Slip Op 02399, 4/8/2014.

Dormant commerce clause doctrine. A divided Oklahoma Supreme court has ruled that a tax deduction for owners of a company premised on the requirement that the company be headquartered in Oklahoma does not implicate the dormant commerce clause doctrine and even if it did, the headquarter requirement did not facially discriminate against interstate commerce, did not have a discriminatory purpose, and had no discriminatory effect on interstate commerce. The court noted that: "Most, if not all states, have tax incentives whose primary purpose is to attract business to the state and to promote economic development within the state." The court also cited the Supreme Court's decision in *Cuno* for the proposition that there is a "delicate balancing of the national interest in free and open trade and a State's interest in exercising its taxing powers." The court concluded that because the deduction was not limited to a particular industry or market, there was no basis for the claim that similarly situated entities were being treated differently. The court also noted that counsel for the challenger in this case, when asked at oral argument how this particular deduction discriminated against interstate commerce, could not articulate the discriminatory effect. The court reasoned that: "Whereas the out-of-state challenger to these sorts of provisions can convincingly complain that the state unfairly excluded or penalized outsiders, such pleas are far less compelling when the challenged provision is instead designed to invite, even to entice, the outsiders in." The court distinguished the Supreme Court's decision in *Fulton Corp. v. Faulkner*. There, the court struck down a deduction provided to North Carolina residents for a portion of income from corporate distributions equal to the fraction of the issuing corporation's income subject to tax in the state. This decision did not apply here, said the Oklahoma court, because the state in *Fulton* did not dispute that the statute was facially discriminatory, only that it was justified as a compensatory tax. Also, said the court, the deduction in this case was different because it did not calculate tax liability based on the proportion of in-state activity to out-of-state activity. Rather, taxpayers subject to Oklahoma income tax received the deduction for "investing in Oklahoma's economy." The court also distinguished the Supreme Court's decision in *Westinghouse Elec. Corp. v.Tully*, which struck down a credit related to gross receipts from products exported from New York. The *Westinghouse* decision did not apply, said the court, because unlike the deduction here (an all-or-nothing proposition) the credit in that case decreased as exports decreased, thus creating a penalty for engaging in out-of-state activities. The court also found that the deduction did not have a discriminatory purpose. Encouraging investment in Oklahoma's economy, said the court, was not economic protectionism because the deduction in no way burdened out-of-state competitors—it merely enticed them to locate in state. The court found nothing in the record to indicate that the deduction here was passed in order to discriminate against products manufactured in another state or to discriminatorily tax the business operations performed in any other state. Finally, the court found the deduction and the headquarters requirement had no discriminatory effect on interstate commerce. The challenger in this case had not argued that it was somehow compelled to make a different business decision as a result of the requirement, said the court. The Supreme Court's decision in *Pike v. Bruch Church, Inc.*, where an out-of-state company was compelled to build a facility in Arizona in order to avoid certain regulatory requirements, was therefore inapplicable. Since there was no evidence that the challenger here *considered* relocating in order to receive the Oklahoma deduction, it could not claim that the headquarters requirement was coercive. Four justices, including the Chief, dissented. The dissent would have found the deduction to be facially discriminatory or at least discriminatory in effect. The dissent rejected the majority's conclusion that, because there was not a single industry or market impacted by the deduction, there were no similarly situated taxpayers and no reason to apply the dormant commerce clause doctrine. Here, the law clearly discriminated against companies headquartered out-of-state. Discrimination in this context simply means differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter. Once a law is determined to be discriminatory in this context, it is virtually per se invalid. The dissent noted that if the challenger here had been headquartered in the state, it would have been entitled to the tax deduction, but because it was headquartered elsewhere, it was not. There was no question, therefore, that the headquarters requirement was facially discriminatory. The dissent also concluded that the majority misread the controlling precedent. For example, the *Westinghouse* decision did not stand for the principle that a rule is discriminatory only to the extent that it punishes companies for increasing out-of-state activities. Rather, said the dissent, the holding in that case was that a discriminatory rule cannot be saved simply because the state argues that its purpose is to reduce the burden on instate activities. Also, in *Fulton*, the Supreme Court ruled that it was irrelevant that the effect of a facially discriminatory rule might be de minimis, the dissent noted. Moreover, in *Pike v. Bruce Church*, the Court had said that it viewed with particular suspicion state statutes requiring business operations to be performed in the home state that could more efficiently be performed elsewhere—even if the state is pursuing a clearly legitimate local interest. *CDR Systems Corporation v. Oklahoma Tax Commission*, Supreme Court of Oklahoma, 2014 OK 31, 4/22/2014.

Sales, eSales, Telcom & Use Tax Decisions

AT&T refunds of tax charged in violation by ITFA were properly filed. An Alabama administrative law judge has ruled that refunds of telecommunications taxes claimed by an affiliate of AT&T for tax erroneously collected from customers in violation of the federal Internet Tax Freedom Act were properly filed. AT&T's customers purchased a variety of services, which were sometimes bundled or commingled in a single charge for billing purposes. In late 2009, AT&T's customers filed numerous federal class action lawsuits against the company. The lawsuits alleged that AT&T Mobility had violated ITFA by erroneously collecting tax on internet access charges. The parties settled the cases pursuant to a Global Class Action Settlement Agreement, under which AT&T would cease collecting tax on the internet access charges and would petition the various taxing jurisdictions to obtain refunds. The agreement directed AT&T to ask the taxing jurisdictions to remit the refunds directly to jurisdiction-specific escrow accounts for distribution to class members in the jurisdiction on a pro-rata basis, regardless of whether the class member was a customer for the entire refund period. AT&T identified the Alabama customers that had erroneously paid the tax during the applicable refund period based on its invoice billing codes. The company filed the refund claims in the state before the settlement agreement in the class action cases was final. Alabama's refund statute requires that the service provider and the customer file a joint petition for refund but allows the provider to file a direct petition "if the tax has been credited or repaid to the consumer/purchaser by the (service provider)." AT&T argued that the refund petitions filed here were valid because their customers appointed them as agent for purposes of filing the joint petitions. The revenue department, however, argued that this was an invalid assignment of the customers' right to refunds, that AT&T was not acting as agent since the refunds were filed before the settlement was final, and that the federal court could not approve the settlement in any case because it lacked subject matter jurisdiction under the federal Tax Injunction Act (TIA). The department also argued that members of the class could not claim the refunds on a pro-rata basis and that the amount returned to customers could not be reduced by litigation costs and attorney fees. Furthermore, the department contended that filing the refunds in this manner imposed extensive costs on the department not intended by the state legislature. Finally, the department argued it was not a party to the class action suits and therefore not bound by the settlement order. The ALJ rejected each of the revenue department's arguments in turn. First, while customers may not assign a right to a refund claim, here, they had only appointed AT&T as their agent for filing the claim; nor did it mater that the federal court approved the settlement after the claims were filed, since the class had already signed the agreement. Moreover, by not opting out of the class, customers had effectively ratified the filing of the refund claims. The ALJ also disagreed that the settlement agreement was void because the federal court lacked jurisdiction under the TIA. First, the federal court had already considered and rejected the claim that it lacked subject matter jurisdiction. Second, the settlement did not amount to an injunction but was simply an enforceable contract. Third, the settlement did not address the substance of the claims nor did it interfere with state requirements for filing those claims. As for the use of the escrow account, the ALJ found nothing in state law prohibiting the department from paying refunds to that account at the request of the customer-taxpayers. Remitting a refund into such an escrow account, said the ALJ, clearly satisfied state law requirements that the overpayment of tax be refunded to the taxpayer. The settlement agreement did not require the department to pay refunds to customers who had not paid the tax and there was nothing in state law prohibiting customers entitled to refunds from agreeing to pro-rata share their refund amounts with all class members, or agreeing to net out costs and attorney fees. The deducting of such amounts was not explicitly prohibited by the requirement that amounts overpaid be refunded to customers, and, said the ALJ, it was no concern of the department's that the



ultimate beneficiary of a refund might be content to pay attorney's fees and costs out of the proceeds. The ALJ also considered the department's objection to the claims on the grounds that the amounts included were based on taxes billed to customers rather than taxes actually paid. The records provided showed that AT&T remitted all the tax *billed* and then took a bad debt credit on later returns amounting to 1.5 percent. This, the ALJ concluded, represented the tax actually paid. The ALJ also rejected the department's contention that the refund suit was, itself, an improper class action tax suit. The customers in this case were not an amorphous group of individuals, said the ALJ, but were each identified, along with the specific amount of tax erroneously paid by each customer. The fact that AT&T had agreed to file the claims as a result of the class action suit against it did not make the refund suit itself a class action. The identification of actual customers would also allow the department to off-set taxes owed by those customers and the fact that the claim involved a voluminous amount of records was not the fault of the way in which the claims were filed, nor would it be better for AT&T to have filed separate claims for each customer. Finally, the ALJ found that nothing in the settlement agreement required the department to pay out refunds that were not authorized by state law, and therefore it was irrelevant that the department was not bound by the agreement. Nor could the ALJ find a reason to reject the claims on the grounds that the refund remedy was to be narrowly construed. Rather, the remedy must be construed consistently with the goal of substantial justice. To deny refunds to the thousands of Alabama customers that erroneously paid the tax, said the ALJ, would be manifestly unjust. *Decatur RSA LP v. Alabama Department of Revenue*, Alabama Department of Revenue, Administrative Law Division, S. 13-414; S. 13-415, 4/2/2014.

AT&T refunds of tax charged in violation by ITFA. The California court of appeal has ruled that local ordinances could not prevent an affiliate of AT&T from filing refunds on behalf of its customers for taxes charged in violation of the federal Internet Tax Freedom Act, and also that the company had standing to pursue a suit for denial of the claims. AT&T had settled a number of class action lawsuits brought in federal court claiming that it had overcharged tax to its customers and had agreed to file refund claims in the many taxing jurisdictions in which taxes on internet access were erroneously paid, including in the defendant cities and counties here. Any refunds granted by the taxing authorities were to be paid to escrow accounts, and eventually paid out to individual class members. If credits were issued instead, AT&T was to make payments in the amount of the credits to the escrow accounts. The refund claims were filed in 55 different local jurisdictions. The case involved California's Government Claims Act which sets out general procedures for making a claim against local governments and would allow class action claims. The trial court had dismissed the refund claims finding they violated prohibitions against class claims adopted by the local governments by ordinance. After the lower court had ruled, however, the state supreme court decided a case that invalidated these ordinances and allowed class claims as permitted under the Act. On appeal, the local governments argued that, despite being allowed to file class action refund claims, AT&T was required to refund the tax to customers first, before it could be repaid the over-reported tax. The court here, however, found that to the extent these "refund first" ordinances establish a precondition to filing a claim, they were also preempted by the Government Claims Act. The Act allows a claim to be presented by "the claimant or by a person acting on his or her behalf." Therefore, the court concluded that the "refund first" ordinances were invalid. The local governments also contended that even if AT&T had authority to file the refund claims, it had no standing to bring the suit challenging the denial of those claims. While the court found no cases directly addressing this issue, and that the facts created a close case, it concluded that concerns for fairness were important. AT&T had itself improperly charged the taxes and was sued for doing so. To settle that suit, it had agreed to seek refunds. Settling allowed it to avoid potential liability and attorney fees. Therefore AT&T clearly had an interest that could give rise to standing. Also, AT&T would not be unjustly enriched by the payment of refunds since the money would all go to the escrow fund for the benefit of the customers. *Sipple v. City of Hayward*, California Court of Appeal, Second Appellate District, Division Two, B242893, 4/08/2014.

Hotel.com. The Wyoming Supreme court has ruled that online travel companies owe sales tax on the full amount charged for booking rooms, including the mark-up retained by the OTCs, rejecting challenges to imposition of the tax under state law, the dormant Commerce, Equal Protection Clause, and Due Process Clauses and under the federal Internet Tax Freedom Act. The court noted that this case involved the so-called "merchant model" that comprised the majority of the OTCs' business, in which the OTC pays one price to the hotel for the rooms and charges customers a marked-up rate. The OTCS argued that they did not provide a "lodging service" which is defined as "the provision of sleeping accommodations to transient guests." They also contended that the revenue department's own rules supported this conclusion because those rules provide that only "lodging establishments" providing "lodging services" are liable as "vendors." The court, however, found that even though OTCs did not physically assign rooms and hand out keys, they contracted with hotels that do, and the OTCs themselves had authority to rent hotel rooms at prices they establish. The court also found that the contracts between the OTCs and hotels supported this conclusion. Dissatisfied customers had to seek a refund from the OTC and not the hotel, and could only cancel reservations through the OTCs. Therefore, the court determined the OTCs were "vendors" for sales tax purposes. The OTCs also argued that the mark-up was not taxable as it did not fit the department's description of the taxable room price— "[t]he total amount charged transient guests for board or room or both…" Under the department's rules, charges for facilities not used for lodging, such as meeting rooms, sample rooms, and ballrooms are exempt from the tax. The court, however, noted that the statutory definition of "price" is broad and that the department's rules would also require that the mark-up be separately stated in order not to be taxable. Moreover, the mark-up is directly related to the taxable lodging. The court further reasoned that if the mark-up could be excluded, hotels could simply set up shell companies to charge a mark-up in order to lower the tax paid on the same total room rate. Alternatively, if the OTCs are not taxable on the amount they receive, the no tax might be due at all since the hotels themselves receive no money from the ultimate purchasers. The OTCs also claimed that under *Complete Auto* and *Quill*, their transactions with customers lacked nexus with Wyoming since the servers used to complete the transactions are located outside the state. The court, however, focused on the contractual relationships between the OTCs and Wyoming hotels. It also focused on the contractual relationships with "affiliates" or "partners" located in Wyoming that work with the OTCs to rent their inventory of Wyoming hotel rooms. For example, the visitor's bureau in the state used a search engine owned by one of the OTCs to allow travelers to book rooms locally. The court, therefore, concluded that these contacts created a sufficient nexus to impose tax. (The court also concluded that the tax was internally and externally consistent under *Complete Auto*.) The court rejected Equal Protection and Due Process Clause challenges as well. There was no evidence that other taxpayers doing the same thing within the state were being treated differently, nor was the law here impermissibly vague, as the OTCs contended. Finally, the court also addressed the OTCs claim that the tax violated anti-"discriminatory" provision of ITFA by taxing goods or services provided through the internet differently than when sold by other means. The court pointed out that the department's position was that any similar "merchant model" transaction conducted by telephone, fax machine, travel agent, or by simply showing up at the hotel's front desk, was going to be taxed the same—that is—on the gross amount paid by the customer. *Travelocity.com LP v. Wyoming Department of Revenue*, Supreme Court of Wyoming, 2014 WY 43, 4/3/2014.

Copies of medical records are subject to tax. The Arkansas Supreme court has ruled that copies of medical records provided for a charge are subject to the state sales tax, the tax was not effectively preempted by other state law allowing for patients to be charged only for costs of reproduction, and the charges were not exempted under an "isolated sale" provision of the tax code. The court noted that the sales tax is imposed on transfer of tangible personal property regardless of the manner, method, instrumentality, or device by which the transfer is accomplished. Since paper copies of medical records are tangible property, the tax applied. The isolated sales exemption applied generally, and not to sales of copies of medical records as such. Moreover, the state department of finance had ruled that medical records were subject to sales tax. As for the claim that patients are only required to pay the cost of reproduction, the court reasoned that, in general, taxation is the rule, and exemption is the exception. Therefore, said the court, any doubts should be resolved to deny the exemption in this case. *Holbrook v. Healthport, Inc.*, Supreme Court of Arkansas, 2014 Ark 146, 4/3/2014.

Interstate Commerce. A New York administrative law judge had ruled that a taxpayer providing fishing expeditions into the waters of other states is entitled to a sales tax exemption for commercial charter vessels primarily engaged in interstate or foreign commerce. The vessels in question transported customers from and to ports in New York, but traversed the waters of other states. The ALJ concluded that these trips were clearly trips in interstate commerce, provided that the purpose of the trip, or the destination, was clearly the waters

of another jurisdiction and not simply an incidental transit into those waters for purposes of returning to the state. The ALJ also noted that the tax division had originally challenged the claimed exemption on legal grounds, but had changed its focus to a factual inquiry, arguing that the taxpayer had not met its burden of proof. The ALJ was persuaded that the evidence was sufficient since it showed that the trips were advertised as being destined for the waters off Connecticut or Rhode Island and the owner of the company gave credible testimony as to why the expeditions needed to travel to these locations. The ALJ therefore rejected the division's contention that the taxpayer should have maintained trip diaries, logs, coordinates, routes, maps, reports, etc. Given that the division had initially denied the exemption on legal grounds, and had not raised the evidentiary arguments until after the record was closed, the ALJ was not inclined to require such evidence here. *In the Matter of the Petitions of Celtic Quest, Inc.*, New York Division of Tax Appeals, Administrative Law Judge Determination, 825281; 824935, 4/3/2014

Taxing balloon rides & federal preemption. The Missouri Supreme court has held that sales tax imposed on a company offering hot air balloon rides is preempted by the federal Anti-Head Tax Act (AHTA), which prohibits state taxes on "air commerce." The court upheld use tax on the hot air balloon and inflator fan, however, concluding that the company was not entitled to a state tax exemption as a common carrier. The company sold untethered hot air balloon rides taking off from and generally landing in Missouri. Pilots of the balloons would typically fly at an altitude of more than 10,000 feet to avoid airports airspace. At the end of each flight, pilots would attempt to land the balloons in Missouri as close to the launch site as possible. The court found no cases that had applied the provisions of the AHTA to hot air balloons. Examining the AHTA, the court determined that it might prohibit a tax imposed on the purchase of balloon rides depending on the definition of "air commerce." The Act defines "air commerce" to include, among other things, the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce. There was no dispute that the balloons were "aircraft," which the Act defines as "any contrivance invented, used, or designed to navigate, or fly in, the air." The court also noted that the Tenth Circuit had interpreted a provision very similar to the one here (involving a helicopter pilot's license), had had held that "air commerce" should be construed broadly to properly effectuate the congressional purpose of protecting air safety. The court found that such a broad interpretation was warranted here as well. The court further noted that the FAA, which administers the Act, has promulgated regulations to promote safety in air commerce. These regulations dictate various measures—to be taken before, during, and after a balloon flight—to ensure not only the safety of the hot air balloon and its passengers but also the safety of other aircraft. The FAA's purpose, the court concluded, was to decrease the potential danger posed to both the hot air balloon and to other aircraft. Indeed, if balloon flights did not have the potential to endanger safety in interstate air commerce, then the FAA could not regulate them. Therefore, the court concluded that tax on the company's charges for balloon rides was preempted. The court disagreed with the company, however, that it was entitled to a common carrier exemption for its balloons and other equipment. The term "common carrier" is not defined in the tax statutes but the court noted it had been construed by courts in the state to mean "a carrier offering its services to all comers" and holding itself out as being available for public use. Evidence here showed that the company did not agree to give rides to all members of the public, but instead exercised discretion as to whether to allow a customer to purchase a ride. *Balloons Over the Rainbow, Inc. v. Director of Revenue*, Supreme Court of Missouri, SC93039, 4/15/2014.

Property Tax Decisions

Property Taxes & Schools. *Lynch v. Alabama*, U.S. Supreme Court, Docket No. 13-1232, petition for certiorari filed 4/14/2014. (Below: *I. L. v. State of Alabama*) Issue: Does Alabama, by capping property taxes used to fund schools, commit unconstitutional racial discrimination?

Residency exemption. The Michigan appeals court has ruled that a wife who was granted a life estate in her deceased husband's home prior to his death, with the remainder going to their children, was entitled to a principal residence exemption. Although statutes providing the exemption define "owner" to include a person holding a life lease in property previously sold or transferred to another. The court concluded that the wife did not meet this requirement since she did not own the home prior to the "transfer to another." But the court also found that "owner" includes a "person who is a partial owner of property." The court found this requirement was ambiguous and circular. It therefore looked to the common treatment of "partial owners" in related contexts and concluded that the holder of a life estate has an interest in property sufficient to be considered an "owner." *Flowers v. Township of Bedford*, Court of Appeals of Michigan, 314125, 4/8/2014.

Presumption of "recency." The Ohio Supreme court has ruled that a sale occurring more than 24 months before tax-lien date should not be presumed to be "recent," rather, the proponent of the sale price must come forward with evidence that the character of the property or market conditions have not changed between sale date and lien date. The court first concluded that a determination of "recency" here was a question of law—that is, in the words of the statute, whether the sale was "within a reasonable length of time, either before or after the tax lien date." The presumption of recency in relation to the tax-lien date falls into the category of "judicially created presumptions," the court noted. While it had never set a bright line to establish when a sale is sufficiently close to the tax-lien date to be presumed to be recent, the court decided that it had never actually accorded a presumption of recency to a sale that occurred more than 24 months before the lien date. Reviewing all the cited case law, the court concluded that nothing therefore compelled it to apply a presumption of recency for a sale that occurred more than 24 months before the lien date. Here, the valuation was done in the context of the six-year reappraisal and the court determined that, in that context, all relevant factors for determining the current value of the property should be considered. (Since this bright line standard was a new one, the court remanded the case to allow the parties to bring forward this additional evidence.) *Akron City School District Board of Education v. Summit County Board of Revision*, Ohio Supreme Court, 2014-Ohio-1588, 4/16/2014.

Ownership of parsonage confirmed by evidence of ownership, taken as a whole. The Michigan court of appeals has ruled that a nonprofit religious organization was entitled to a property tax exemption for a residence being used as a parsonage. The assessor argued that a land contract was not sufficient to show that the nonprofit religious organization actually owned the property because no individual who had authority to bind the seller had signed the contract. The tribunal below, however, found the seller ratified the contract by accepting payments and therefore, the court noted, there was evidence sufficient to prove ownership. The court found that other challenges brought by the assessor to the admission or weight of evidence considered by the tribunal were not well taken, concluding instead that the evidence had been properly evaluated and showed that the organization had possession, control, and dominion over the parsonage—which are the primary features of ownership. *Prophetic Word Ministries, Inc. v. City of Saugatuck*, Court of Appeals of Michigan, 313706, 4/17/2014.

Land Use & Zoning

Property Law, Zoning, Planning & Land Use. The 10th U.S. Circuit Court of Appeals has ruled that Utah and San Juan County failed to prove that Salt Creek Canyon Road was a "public thoroughfare," meaning the road remains off-limits to their rights-of-way claims under a Civil War-era statute. Salt Creek Road is an unimproved 12.3-mile road intertwined with the creek bed in Salt Creek Canyon. The state and county had wanted to use their claimed right-of-way to prevent the United States from closing the Salt Creek Road to vehicle traffic (The road is the primary way for tourists to reach several scenic sites within the Canyonlands National Park, including Angel Arch). Without vehicle access, the only way to access Angel Arch is to make the nine-mile trek by foot. The state and county based their claim on Revised Statute (R.S.) 2477: "[T]he right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." Congress enacted R.S. 2477 in 1866, and it remained in effect until 1976. Even then, however, Congress preserved the rights-of-way established under the statute. This Quiet Title Act case presented to the Tenth Circuit the issue of whether the district court erred in rejecting the claims of San Juan County and the State of Utah to Salt Creek Road. Finding no reversible error, the Tenth Circuit affirmed. *San Juan County v. United States*, 10 U.S. Circuit Court of Appeals, #11-4146 April 25, 2014.

Grants

CFDA	Opportunity Title	Federal Agency	Opportunity Number	Eligibility	Due Date	Match?
10.093	Voluntary Public Access and Habitat Incentive Program	Department of Agriculture- Natural Resources Conservation Service	USDA-NRCS-NHQ-VPA-HIP-14-01	State governments	6/16/2014	
10.156	Federal-State Marketing Improvement Program	Agricultural Marketing Service	USDA-AMS-FSMIP-2014	State and local governments, Institutions of Higher Education (IHEs)	6/16/2014	X
10.200	Critical Agricultural Materials	National Institute of Food and Agriculture	USDA-NIFA-OP-004526	Public agencies and organizations	6/27/2014	
10.253	Competitive Grant to Establish a USDA Center for Behavioral Economics and Healthy Food Choice Research	Economic Research Service	FANRP2014001	IHEs	6/30/2014	
10.303	National Integrated Water Quality Program	National Institute of Food and Agriculture	USDA-NIFA-ICGP-004527	IHEs	7/3/2014	X
10.500	Smith-Lever Special Needs Competitive Grants Program	National Institute of Food and Agriculture	USDA-NIFA-SLBCD-004528	1862 land-grant Institutions	6/2/2014	X
10.771	Rural Cooperative Development Grant	Business and Cooperative Programs	RDBCP-RCDG-2014	IHEs	6/24/2014	X
NA	Small Socially Disadvantaged Producer Grant	Business and Cooperative Programs	RDBCP-SSDPG-2014	Cooperatives, groups of coops, and coop development centers	6/24/2014	
10.773	Rural Business Opportunity Grant	Business and Cooperative Programs	RDBCP-RBOG-2014	State and local governments, IHEs	6/13/2014	
10.912	FY 2014 Conservation Innovation Grant - NY	New York State Office	USDA-NRCS-NY-14-01	State and local governments, IHEs	5/30/2014	X
10.912	Conservation Innovation Grants (CIG) Caribbean Area	Puerto Rico State Office	USDA-NRCS-PR-1401	State and local governments, IHEs	5/30/2014	X
12.300	Ecologically Sustainable Fire Risk Reduction	Department of Defense- Naval Facilities Engineering Command	N62473-14-2-0006	Unrestricted	5/31/2014	
12.420	DoD Peer Reviewed Medical Clinical	Dept. of the	W81XWH-14-	Unrestricted	10/17/2014	

	Trial Award	Army -- USAMRAA	PRMRP-CTA			
12.420	DoD Peer Reviewed Orthopaedic Clinical Trial Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRORP-CTA	Unrestricted	10/24/2014	
12.420	DoD Peer Reviewed Orthopaedic Translational Research Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRORP-TRA	Unrestricted	10/24/2014	
12.420	DoD Peer Reviewed Orthopaedic Clinical Trial Development Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRORP-CTDA	Unrestricted	10/24/2014	
12.420	DoD Peer Reviewed Orthopaedic Idea Development Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRORP-IDA	Unrestricted	10/24/2014	
12.420	DoD Peer Reviewed Medical Investigator-Initiated Research Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRMRP-IIRA	Unrestricted	10/17/2014	
12.420	DoD Peer Reviewed Medical Technology/Therapeutic Development Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRMRP-TTDA	Unrestricted	10/17/2014	
12.420	DoD Peer Reviewed Medical Focused Program Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRMRP-FPA	Unrestricted	11/13/2014	
12.420	DoD Peer Reviewed Medical Discovery Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRMRP-DA	Unrestricted	7/30/2014	
12.420	DoD Peer Reviewed Orthopaedic Outcomes Research Award	Dept. of the Army -- USAMRAA	W81XWH-14-PRORP-ORA	Unrestricted	10/24/2014	
12.630	Centers of Excellence: Autonomy, Cyber Security, and Research Data Analysis at Historically Black Colleges and Universities and Other Minority-Serving Institutions of Higher Education	Air Force -- Research Lab	BAA-RIK-2014-0008	IHEs	7/22/2014	
12.910	Biological Technologies	Defense Advanced Research Projects Agency	DARPA-BAA-14-38	Unrestricted	4/30/2015	
None	Missile Defense Agency STEM Outreach B.E.S.T. Robotics Grant	Department of Defense	MDA-2014-DACV-STEM-0001	IHEs	5/21/2014	
15.224	BLM AK CESU University of Alaska Fairbanks, Athabascan Place Names	Department of the Interior-Bureau of Land Management	L14AS00085	IHEs	5/29/2014	
15.229	Wild Horse and Burro Contraception	Bureau of Land Management	L14AS00048	State and local governments, IHEs	5/28/2014	
15.229	Inmate Wild Horse & Burro Training, Holding, and Adoption Project, within the State of Colorado	Bureau of Land Management	L14AS00087	State governments	5/16/2014	
15.230	BLM CO Noxious Weed Management under jurisdiction of BLM Kremmling Field Office, Colorado	Bureau of Land Management	L14AS00084	Unrestricted	5/16/2014	
15.231	BLM Utah Watershed Restoration Initiative Project	Bureau of Land Management	L14AS00088	Unrestricted	5/30/2014	X
15.231	Idaho BLM Boise District Collegiate	Bureau of Land	L14AS00083	Unrestricted	5/9/2014	X

	Resource Management	Management				
15.237	BLM WY Sublette County Conservation District Projects	Bureau of Land Management	L14AS00090	Local governments	5/27/2014	
15.441	BSEE FY 2014 Scripps Institution of Oceanography, University of California, San Diego	Bureau of Safety and Environmental Enforcement	E14AS00001	IHEs	6/16/2014	
15.517	Lewiston Orchards Project Pilot Water Exchange	Bureau of Reclamation	R14AS00045	Special district governments	5/16/2014	
15.517	Lapwai Basin Steelhead Density Monitoring (CESU)	Bureau of Reclamation	R14AS00044	IHEs	5/16/2014	
15.615	R3 FY2014 Endangered Species Section 6	Fish and Wildlife Service	F14AS00172	State governments	8/31/2014	X
15.634	State Wildlife Grant Program	Fish and Wildlife Service	F14AS00174	State governments	8/31/2015	X
15.634	R3 State Wildlife Grants	Fish and Wildlife Service	F14AS00171	State governments	8/31/2015	X
15.669	CESU Greater Sage Grouse Research	Fish and Wildlife Service	F14AS00173	IHEs	5/13/2014	
15.677	Removal of Bloede Dam, Catonsville, MD: Hurricane Sandy Disaster Relief, DOI Project 89, Bloede Dam	Fish and Wildlife Service	F14AS00167	Unrestricted	5/24/2014	
15.677	DOI Project #PKR 43; Implement Invasive Plant Control Measures, Parker's River NWR; Hurricane Sandy Disaster Relief	Fish and Wildlife Service	F14AS00170	Unrestricted	5/28/2014	
15.808	Cooperative Ecosystems Studies Unit, Great Lakes Northern Forests	Geological Survey	G14AS00064	Participating partners of the Great Lakes Northern Forest Cooperative Ecosystem Studies Unit (CESU) Program	5/9/2014	
15.808	Cooperative Ecosystem Studies Unit, Great Basin CESU	Geological Survey	G14AS00066	Participating partners of the Great Basin CESU Program	5/9/2014	
15.808	Cooperative Ecosystem Studies Unit, Colorado Plateau CESU	Geological Survey	G14AS00065	Participating partners of the Colorado Plateau CESU Program	5/9/2014	
16.203	SMART FY Campus Sexual Assault Perpetrator Treatment Pilot Project	Department of Justice	SMART-2014-3915	IHEs	6/13/2014	
16.560	NIJ FY 14 Evaluation of the Office for Victims of Crime Service, Support & Justice: A Strategy to Enhance Law Enforcement Response to Victims Demonstration Project	National Institute of Justice	NIJ-2014-3761	State and local governments, IHEs	6/30/2014	
16.889	OVW FY 2014 Grants for Outreach and Services to Underserved Populations	Office on Violence Against Women	OVW-2014-3851	Governmental rape crisis centers	5/28/2014	
17.401	International Labor Programs	Department of	NOI-04-ETHIOPIA	Any	6/30/2014	

		Labor-OASAM		commercial, international, educational, or non-profit organization		
19.345	Bureau of Democracy, Human Rights and Labor Request for Proposals: Democracy, Human Rights, and Religious Freedom in Nigeria	Department of State-Bureau of Democracy	DRLA-DRLAQM-14-048	IHEs	6/2/2014	
20.514	Mobility Services for All Americans Deployment Planning	Department of Transportation-Federal Transit Administration	FTA-2014-003-TRI	State and local governments	7/1/2014	X
20.614	Advanced Automatic Collision Notification for Medical Directors	DOT/National Highway Traffic Safety Administration	DTNH22-14-R-00010	State and local governments, IHEs	6/25/2014	
21.009	Volunteer Income Tax Assistance 2015	Internal Revenue Service-Volunteer Income Tax Assistance	VITA-2015	State and local governments, IHEs	6/2/2014	X
43.001	ROSES 2014: WFIRST Preparatory Science	NASA-Headquarters	NNH14ZDA001N-WPS	IHEs	7/11/2014	
43.001	ROSES 2014: Heliophysics Infrastructure and Data Environment Enhancements	NASA Headquarters	NNH14ZDA001N-HIDEE	IHEs	5/23/2014	
43.001	ROSES 2014: Heliophysics Technology and Instrument Development for Science	NASA Headquarters	NNH14ZDA001N-HTIDS	IHEs	6/13/2014	
43.001	ROSES 2014: Astrophysics Theory Program	NASA Headquarters	NNH14ZDA001N-ATP	IHEs	7/11/2014	
43.001	ROSES 2014: Carbon Monitoring System: Continuing Prototype Product Development, Research, and Scoping	NASA Headquarters	NNH14ZDA001N-CMS	IHEs	6/17/2014	
43.001	ROSES 2014: Atmospheric Composition: Modeling and Analysis	NASA Headquarters	NNH14ZDA001N-ACMAP	IHEs	7/1/2014	
45.149	Humanities Collections and Reference Resources	National Endowment for the Humanities	20140717-PW	State and local governments, IHEs	7/17/2014	
47.075	Biological Anthropology Program - Doctoral Dissertation Research Improvement Grants	National Science Foundation	14-561	IHEs	7/28/2014	
47.041+	Wireless Innovation between Finland and the US	National Science Foundation	14-563	IHEs	8/1/2014	
47.075	Cultural Anthropology Program - Doctoral Dissertation Research Improvement Grants	National Science Foundation	14-560	IHEs	8/15/2014	
66.039	National Clean Diesel Funding Assistance Program FY 2014 Request for Proposals (RFP)	Environmental Protection Agency	EPA-OAR-OTAQ-14-05	State and local governments, IHEs	6/17/2014	X
66.436	Training Workshop Support Activities for the State Revolving Fund (SRF) Programs	Environmental Protection Agency	EPA-OW-OWM-14-01	State and local governments, IHEs	6/13/2014	

66.469	Integrated Atmospheric Deposition Network	Environmental Protection Agency	EPA-R5-GL2014-1	State and local governments, IHEs	6/17/2014	
81.086	Zero Emission Cargo Transport (ZECT) Demonstration	Department of Energy-National Energy Technology Laboratory	DE-FOA-0001106	Local governments	6/11/2014	X
81.087	Request for Information (RFI): Input on Biofuel Pathways	Golden Field Office	DE-FOA-0001124	Unrestricted	5/30/2014	
81.089	FY2014 FOA - Environmentally Prudent Unconventional Resource Development	National Energy Technology Laboratory	DE-FOA-0001076	Unrestricted	6/27/2014	X
81.119	State Energy Program 2014 Competitive Awards	Golden Field Office	DE-FOA-0001073	State governments	6/30/2014	X
81.135	Methane Observation Networks with Innovative Technology to Obtain Reductions	Headquarters	DE-FOA-0001128	Unrestricted	6/6/2014	X
81.135	Delivering Efficient Local Thermal Amenities	Headquarters	DE-FOA-0001127	Unrestricted	6/13/2014	X
84.184	Project Prevent Grant Program	Department of Education	ED-GRANTS-042914-001	Local Education Agencies (LEAs)	6/30/2014	
84.206	Jacob K. Javits Gifted and Talented Students Education Program	Department of Education	ED-GRANTS-050114-001	State and local governments, IHEs	6/24/2014	
84.305	National Research Center for The Education of Gifted and Talented Children and Youth	Department of Education	ED-GRANTS-043014-001	State educational agencies, IHEs	7/22/2014	
84.358	Small, Rural School Achievement (SRSA) Program	Department of Education	ED-GRANTS-050114-002	Certain LEAs	5/30/2014	
93.048	Senior Medicare Patrol National Resource Center	Department of Health and Human Services-Administration for Community Living	HHS-2014-ACL-AOA-NP-0074	Unrestricted	6/30/2014	
93.095	Assistant Secretary for Preparedness and Response Grants to Support Collaborative Scientific Research Related to Recovery from Hurricane Sandy FY14	Assistant Secretary for Preparedness and Response	EP-HIT-14-001	Limited to applicants funded under ASPR FOA EP-HIT-13-001, CDC FOAs TP13-001 and OH13-002, and NIEHS FOAs RFA-ES-13-008 and NOT-ES-13-003	6/16/2014	
93.103	Data Concepts and Terminology Standards for Clinical Research and Drug Development (U24)	Food & Drug Administration	RFA-FD-14-004	State and local governments, IHEs	6/16/2014	

93.103	Pharmacokinetic/Pharmacodynamic (PK/PD) Studies of Methylphenidate Extended Release Products in Attention Deficit Hyperactivity Disorder (ADHD) Patients (U01)	Food & Drug Administration	RFA-FD-14-015	Unrestricted	6/11/2014	
93.103	Post-market surveillance evaluation of authorized generic drug products (U01)	Food & Drug Administration	RFA-FD-14-013	Unrestricted	6/21/2014	
93.103	Effect of Therapeutic Class on Generic Drug Substitutions (U01)	Food & Drug Administration	RFA-FD-14-014	State and local governments, IHEs	6/21/2014	
93.110	Bridging the Word Gap Research Network	Health Resources & Services Administration	HRSA-14-131	Public agencies and IHEs engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs	7/7/2014	
93.185	Economic Studies of Vaccines and Immunization Policies, Programs, and Practices for Adults	Centers for Disease Control and Prevention	CDC-RFA-IP14-1403	State and local governments, public entities	6/5/2014	
93.226	Disseminating and Implementing Evidence from Patient-Centered Outcomes Research in Clinical Practice Using Mobile Health Technology (R21)	Agency for Health Care Research and Quality	RFA-HS-14-010	State and local governments, IHEs	8/4/2014	
93.273	Unconventional Roles of Ethanol Metabolizing Enzymes, Metabolites, and Cofactors in Health and Disease (R01)	National Institutes of Health	PA-14-198	State and local governments, IHEs	1/7/2015	
93.283	Enhancing Cancer Genomic Best Practices through Education, Surveillance, and Policy	Centers for Disease Control and Prevention	CDC-RFA-DP14-1407	Government organizations, state governments	6/17/2014	
93.283	Enhancing Cancer Registries for Early Case Capture (ECC) of Pediatric and Young Adult Cancer (PYAC) Cases	Centers for Disease Control and Prevention	CDC-RFA-DP14-1402	Government organizations, currently funded DP12-1205 Component 4 Grantees (National Program of Cancer Registries) or their Bona Fide Agent	7/2/2014	
93.846	NIAMS Clinical Trial Implementation Cooperative Agreement (U01)	National Institutes of Health	PAR-14-200	State and local governments, IHEs	3/2/2015	
93.846	NIAMS Clinical Trial Planning Cooperative Agreement (U34)	National Institutes of Health	PAR-14-199	State and local governments, IHEs	3/2/2015	