112th Congress: Final Report

NASHIA Public Policy Committee

William A.B. Ditto, Chair

Rebeccah Wolfkie1
Government Relations Consultant

This report was prepared by

Susan L. Vaughn, Director of Public Policy

February 2013
National Association of State Head Injury Administrators

Lorraine Wargo, RN, Executive Director
Email: execdirector@nashia.org

William A. B. Ditto, Chair of the Public Policy Committee
WilliamABDitto@aol.com

Susan L. Vaughn, Director of Public Policy
publicpolicy@nashia.org

Rebeccah Wolfkiel, Government Relations Consultant
rwolfkiel@ridgepolicygroup.com

Home Office
P.O. Box 878
Waitsfield, VT 05673
Phone: 802-498-3349
Fax: 1-773-945-2341

Washington, D.C.
1140 Connecticut Avenue, NW, Suite 510
Washington, DC 20036

website: www.nashia.org

NASHIA assists state government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families.
Executive Summary

Introduction
This Final Report is a summary of federal legislation passed by the 112th Congress (2011-2012) relating to the priorities of the National Association of State Head Injury Administrators (NASHIA) as outlined in the 112th Congress: Federal Public Policy Platform and adopted by membership during its annual meeting held in October 2010. The report includes key initiatives of the Administration, particularly with regard to implementation of the health care reform bill which passed in 2010, and other policies adopted by the Administration, U.S. Supreme Court, and public bodies that impact federal and State services.

To make the best use of its limited resources, NASHIA lists its priorities under two categories: Primary Support and Secondary Support. NASHIA continued its primary focus on national public policy initiatives that affect State programs and services for individuals with traumatic brain injury (TBI) and their families. To address secondary priority issues NASHIA partners with other disability and health care organizations and coalitions to advocate on behalf of TBI.

During these two years, NASHIA retained the services of Rebeccah Wolfkiel, Ridge Policy Group, LLC, in Washington, D.C., for NASHIA’s Governmental Relations and also contracted with Susan L. Vaughn to serve as the Director of Public Policy. Rebeccah Wolfkiel worked closely with the Congressional Brain Injury Task Force; met with key congressional staff; and represented NASHIA at coalition meetings, Congressional briefings, and meetings with Administration officials. Susan Vaughn staffed the Public Policy Committee and monitored legislation and proposed federal rules, and reported the status through the Capitol News, Washington Weekly, and Action Alerts. She prepared NASHIA’s Public Policy Platform, fact sheets, testimony, and other public policy materials. She also maintains the public policy pages on its website with regard to key issues and activities.

NASHIA is a nonprofit organization that was incorporated in 1994 by State government employees to help States with planning, implementing and administering public programs and services for individuals with brain injury and their families through professional development opportunities, networking, resources and collective representation with regard to public policy issues. Members represent a broad spectrum of State agencies including health, Vocational Rehabilitation, mental health, Medicaid, social services, intellectual and developmental disabilities and education. Associate membership is represented by rehabilitation professionals and agencies, advocates, individuals with brain injury and other interested persons.

Highlights of the 112th Congress
NASHIA public policy consultants worked with sponsors of the TBI Act reauthorization and, subsequently, a bill was introduced in the House (H.R. 4238) by Congressional Brain Injury Task Force Co-chairs, Rep. Bill Pascrell, Jr. (D-NJ) and Rep. Todd Platts (R-PA). Co-sponsors held a press conference announcing the introduction of the reauthorization bill the same day as the Congressional Brain Injury Task Force Awareness Day held on March 21st.

The House Energy and Commerce Committee’s Subcommittee on Health held a hearing to discuss TBI issues on March 19th, 2012. William (Bill) A.B. Ditto, Chair of the NASHIA Public Policy Committee, testified in support of the HRSA Federal TBI Grant Programs. However, the TBI Act reauthorization did not pass.
NASHIA public policy consultants were successful in inserting budget language supporting the Health Resources and Services Administration (HRSA) Federal TBI Program’s efforts to create an interagency working group to promote interagency collaboration; and also inserting budget language in the National Defense Authorization Act supporting collaboration between State TBI public programs and the Department of Defense with regard to TBI rehabilitation and community services.

Congress failed to pass several pieces of legislation supported by NASHIA, as well as most of the FY 2013 appropriations bills to fund federal programs through September, 30, 2013. During its second session, Congress did pass a Continuing Resolution to fund federal government through March 27, 2103. Most programs, including TBI Act programs, were level funded, meaning the same amount as the previous fiscal year.

Congress passed The Budget Control Act of 2011, which was enacted August 2, 2011, to extend the debt ceiling and to set the course for reducing the federal debt. The legislation created a Joint Select Committee on Deficit Reduction, referred to as the “Super Committee”, to make recommendations for increasing revenue and cut spending (at least $1.5 trillion over ten years) in a balanced approach. Failure to do so would result in automatic across-the-board spending cuts or sequestration to discretionary programs on January 2, 2013. Congress again was unable to meet this requirement as January 2 approached, and postponed sequestration until March 1, 2013.

The American Taxpayer Relief Act of 2012 passed on the first day of 2013 and made substantial changes to the tax code, addressing the so called “fiscal cliff”. The bill also repealed the CLASS Act (Community Living Assistance Services and Supports) long-term insurance program contained in the health care reform legislation, the Patient Protection and Affordable Care Act (PPACA) of 2010 or commonly referred to as the Affordable Care Act (ACA).

The 113th Congress is faced with the sequestration mandate, finishing appropriation bills through September 30th to keep federal government operational, extending the debt ceiling, and for addressing spending for FY 2014 that starts October 1, 2013.

U.S. Supreme Court
Following passage of the Affordable Care Act, several States filed lawsuits challenging the constitutionality of the individual mandate and the Medicaid expansion. The U.S. Supreme Court issued its opinion on June 28th, 2012 upholding the constitutionality of the individual mandate. The Court found the Medicaid expansion mandate was unconstitutional in that the federal government could not withhold all of a State’s existing federal Medicaid funds for non-compliance. However, the Medicaid expansion provision as an option was left intact, and is an option for States to consider.

The ACA expanded the Medicaid program’s mandatory coverage groups by requiring that participating States cover nearly all people under age 65 with household incomes at or below 133% FPL ($14,856 per year for an individual and $30,657 per year for a family of four in 2012) beginning in January 2014.

Administration
As the result of the ACA, the U.S. Department of Health and Human Services (HHS) began implementing a number of the provisions in accordance with the time table defined in the legislation. HHS awarded grants to States to expand long-term community services and supports under various provisions of the ACA, and other health care provisions of the law. HHS
proposed rules and regulations regarding a number of the provisions, including the Essential Health Care Benefits, State Exchanges, and employment-wellness programs.

The agency created the Administration for Community Living in 2012 to continue the President’s Community Living Initiative to assist States in rebalancing long term services and supports. The reorganization brought the Administration of Aging (AoA), Administration on Intellectual and Developmental Disabilities (AIDD), Office of Disability, Center for Aging and Disability Policy, and Office of the Administrator together to address the community living service and support needs of both the aging and disability populations.

HHS partnered with the Departments of Transportation, Veterans Affairs, and Housing and Urban Development to coordinate funding and policies to support individuals with disabilities, including veterans, to live in their communities of choice by affording adequate housing, transportation and other support services.

**NASHIA Public Policy Committee**

The NASHIA Public Policy Committee is chaired by Bill Ditto and is composed of both full and associate members administering an array of public and private programs, and individuals with brain injury. The Committee routinely reviews legislation, proposed Administration rules, and regulations, and makes recommendations to appropriate authorities accordingly, and in keeping with the Public Policy Platform and priorities adopted by the membership.

During the past two years, NASHIA supported the Congressional Brain Injury Task Force (CBITF) Brain Injury Awareness Day’s activities, including a Fair featuring national organizations and agencies that provided information on TBI; participated in the Congressional briefing; and co-sponsored the Congressional reception in honor of the Task Force. Bill Ditto moderated the briefing each year, with the 2012 briefing focusing on the programs authorized by the TBI Act. During the CBITF reception, attendees celebrated the 20th anniversary of the National Center for Injury Prevention and Control.

NASHIA representatives and other TBI stakeholders met with key officials in the U.S. Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) to promote visibility of TBI within the agency; to advocate for an interagency committee to promote collaboration among federal programs; and to develop a national plan for TBI. HRSA subsequently convened a federal interagency TBI working group and is in the process of developing strategies for involving stakeholders and the working group in developing a “roadmap” or plan for TBI. NASHIA representatives also met with the new Administration for Community Living within HHS to discuss collaboration and promoting TBI within that agency, and with the National Intrepid Center for Excellence to promote collaboration with regard to military-related TBIs.

NASHIA members, Stefani O’Dea (MD) and William (Bill) A.B. Ditto (NJ) represent NASHIA on the Centers for Medicare and Medicaid Services (CMS) working group comprised of national state directors of brain injury, Medicaid, aging, mental health, intellectual/developmental disabilities, public health and substance abuse programs that meet regularly to discuss Home and Community-based Services (HCBS) waiver programs and CMS initiatives to promote community services and supports. Maria Crowley (AL) represented NASHIA at the Centers for Disease Control and Prevention’s (CDC) meeting on sports-related concussions held October 2012.
NASHIA was a co-sponsoring organization of Roll Call ads to support the CLASS Act provision of the health care reform act, recently repealed by the Tax Relief Act of 2012, and Medicaid long-term community services and supports for individuals with disabilities or who are elderly. NASHIA also was a supporting organization to the FY 2012 and the FY 2013 Independent Budget for the VA prepared by four major authoring veterans' service organizations, including the Paralyzed Veterans Association (PVA). NASHIA was a co-sponsor of the DRRC rehabilitation briefing for members of Congress and also a co-sponsor of the National Presidential Forum on Disability Issues held September 28, 2012.

NASHIA is a member of the Consortium for Citizens with Disabilities (CCD), American Brain Coalition, the Disability and Rehabilitation Research Coalition (DRRC), Injury and Violence Prevention Network, and the Real Warriors Campaign. Through these affiliations and collaborations, NASHIA regularly supports disability and health care policies that promote health and wellness, prevention, research, rehabilitation, community integration, employment, education and other areas of importance to individuals with TBI, including veterans and returning servicemembers, and their families.

---

**Report of the 112th Congress and TBI Priorities**

In general, the 112th Congress is considered to be the least productive Congress since the 1940’s, passing about 220 bills. There are many federal programs affecting individuals with disabilities, including brain injury, that have continued to be funded without reauthorizing legislation. As the result of the Affordable Care Act, which was enacted 2010, the Administration began implementation of the various provisions. Some of these activities are also included in the report.

---

**PRIMARY SUPPORT**

1. **Traumatic Brain Injury (TBI) Act Programs -- Appropriations**

The Traumatic Brain Injury (TBI) Act of 1996, as amended in 2008, authorizes the U.S. Department of Health and Human Services (HHS), Health Resources and Service Administration (HRSA) to award grants to (1) States, American Indian Consortia and Territories to improve access to service delivery and to (2) state Protection and Advocacy (P&A) Systems to expand advocacy services to include individuals with traumatic brain injury. HRSA’s Maternal Child Health (MCH), Children’s Program administers the Federal TBI Grant Program. The TBI Act also authorizes funding to the Centers for Disease and Prevention (CDC) for conducting public education, prevention and surveillance.

**Appropriations**

At the time of this report federal programs, including TBI Act programs, were operating, on FY 2012 funding levels in accordance with a Continuining Resolution (CR) that expires March 27th, 2013. In July 2012, the Senate Appropriations Committee recommended level funding for the HRSA Federal TBI program for FY 2013. The House Appropriations Subcommittee on Labor-Health and Human Services-Education, however, recommended cuts of approximately 19 percent to programs under its jurisdiction, including HHS programs. Failing to pass
appropriations bills resulted in Congress to fund federal government through the Continuing Resolution.

For FY 2012, HRSA Federal TBI Grant Program received level funding, approximately $9.76 for the two grant programs combined. HRSA allocates approximately two thirds of the funds for the State Grant Program and the Technical Assistance Center, with the remaining one third, approximately, allocated for state Protection and Advocacy Systems grants. Rebeccah Wolfkiel was successful in obtaining budget language to support HRSA in its efforts to collaborate and coordinate resources across federal agencies and to develop a national plan for TBI.

Funding for CDC TBI Act programs for FY 2012 was $6.1 million, which is the same as FY 2011.

The Senate Appropriations Committee included language establishing an Office of the Secretary--Traumatic Brain Injury (TBI) within HHS in the Labor-Education-HHS funding bill, which was not passed by the Senate (or House). The Committee noted that TBI is a leading cause of death and disability worldwide, especially in children and young adults ages 1 to 44. Due to the high prevalence of TBI, the Committee believes there is a need for multidisciplinary approaches to rapid evaluation and diagnosis of injured patients who have the potential for the development of TBI, as well as the development of early intervention and treatment protocol for use in preventing TBI and improving patient outcomes. The Secretary is encouraged to support a competitively awarded program of academic centers focused on developing and implementing multidisciplinary approaches to the early diagnosis and innovative treatment models for TBI victims.

**Administration**

NASHIA and other TBI stakeholders met with key officials in the U.S. Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA), which administers the Federal TBI Program, to advocate for a federal interagency committee to coordinate federal programs and policies; and for HHS/HRSA to develop a national plan for TBI with public input. The HRSA Federal TBI Program convened a federal interagency work group to collaborate and coordinate resources which may be available across the agencies, and to develop strategies for developing a national “roadmap” or plan for TBI with stakeholder and public input.

2. **TBI Act Reauthorization**

The primary focus of the public policy staff during the second session (2012) was to develop legislation reauthorizing programs created by the TBI Act of 1996, as amended. Through its public policy staff, NASHIA collaborated with the Brain Injury Association of America (BIAA), the National Disability Rights Network (NDRN), and federal agencies and partners in developing TBI Act reauthorization language. NASHIA and TBI stakeholders also solicited support from national organizations via a sign on letter which was sent to the sponsors of the reauthorization bill; and Rebeccah Wolfkiel and TBI stakeholders assisted the Congressional Brain Injury Task Force co-chairs in soliciting co-sponsors.

Legislation was subsequently introduced in the House (H.R. 4238) by Rep. Bill Pascrell, Jr. (D-NJ) and Rep. Todd Platts (R-PA). The bill extended reauthorization, and amended the CDC and HRSA sections in keeping with recommendations from NASHIA members obtained through the NASHIA Survey; Safe States Alliance and other injury prevention stakeholders; TBI stakeholders; and information derived from federal agencies. A Press Conference was held on March 21st announcing the introduction of H.R. 4238; and Bill Ditto spoke during the Press
Conference on behalf of NASHIA. Rebeccah Wolfkiel also assisted the co-sponsors with the arrangements for the Press Conference.

Bill Ditto testified on behalf of NASHIA during the House Energy and Commerce Committee’s Subcommittee on Health’s hearing on TBI March 19, 2012. In the Senate, Rebeccah and other TBI stakeholders met with staff with Sen. Tom Harkin (D-IA), who is also chair of the Senate HELP Committee, and Sen. Orrin Hatch (R-UR) to secure their support. The primary Senate sponsor was supportive of the legislation, but was concerned about the bill passing in the House, with so many other issues facing the House of Representatives at the time.

Administration
NASHIA and other TBI stakeholders met with key officials in the new Administration for Community Living with regard to collaboration on brain injury issues, and possibly relocating the program to that agency in order to elevate the program within HHS and to maximize resources across programs with similar populations.

3. Returning Troops/Veterans with TBI

The FY 2013 National Defense Authorization Act included language encouraging collaboration between the Department of Defense and State TBI programs. The House Appropriations Committee included language to encourage the Secretary of Defense to support multi-disciplinary research toward translational medicine that may provide better diagnostic tools and treatment outcomes for servicemembers who suffer from TBI, post-traumatic stress disorder, and other neurotrauma. The Committee encouraged the Secretary of Defense to provide the capabilities necessary for researchers, scientists, surgeons, physicians, healthcare professionals, and patients to effectively communicate their findings and outcomes. With proper support, translational research outcomes would be augmented through real-time access to information and its integration between researchers, physicians, hospitals, and patients. The Committee directed the Secretary of Defense to provide a report not later than 90 days after enactment of this Act on possible implementation of this program.

The FY 2012 spending bill contained $32.5 billion - $1.1 billion above FY 2011 level and $283 million above the request - for Defense health programs to provide care for troops and military families. This included critical medical research on combat-related illnesses and injuries, including in areas such as brain trauma, cancer, psychological health, hemorrhage control, and prosthetic research. The bill contained $1.227 appropriation for research and treatment to help soldiers who sustain TBI. This represents a $135.5 million increase in funding over the President's FY 2012 Budget Request.

The President signed H.R. 1627, the Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012 (P.L. 112-154), on August 6, 2012. Among the provisions, the bill amended language relating to rehabilitation for veterans with TBI. Legislation was introduced to establish another Department of Veterans Affair (VA) polytrauma rehabilitation center. The bill did not pass.

Administration
On July 26, 2011, the VA announced nearly $60 million in grants aimed at preventing homelessness among veterans and their families, with particular focus on veterans of the Iraq and Afghanistan conflicts. These first awards were presented through VA's new Supportive Services for Veteran Families (SSVF) program.
VA’s research relating to TBI is wide-ranging. Among its goals: shedding light on the brain changes in TBI; improving screening methods and refining tools for diagnosing the condition; developing drugs to treat brain injury or limit its severity when it first occurs; designing improved methods for assessing treatment effectiveness; helping Veterans with TBI to reintegrate into their communities; and learning the best ways to help family members cope and provide support. In April 2011, the National Football League (NFL) awarded a grant to scientists with VA and the University of California, San Diego, to lead to a better understanding of TBI in combat troops and in athletes. VA is conducting other research regarding depression after TBI; role of environment in healing the brain; and undetected eye injuries as the result of blast-related TBIs.

4. Employment

Senators Harkin (D-IA) and Mike Enzi (R-WY) drafted legislation to reauthorize the Workforce Investment Act (WIA), including the Rehabilitation Act, in 2011, but the bill did not move forward. In the House, Democratic and Republican WIA bills were introduced, and the republican-backed measure (H.R. 4297) was approved by the Education and Workforce Committee in June. The committee did not advance the bill.

In July 2012, Senator Harkin issued a report, “Unfinished Business: Making Employment of People with Disabilities a National Priority”, calling attention to the dismal disability employment situation for individuals with disabilities, and called for opportunities to bring more workers with disabilities into the labor force.

Administration

In keeping with an Executive Order signed by President Obama calling for the hiring of an additional 100,000 federal workers with disabilities by 2015, the U.S. Department of Labor issued a proposed rule in December 2011th, calling on federal contractors to take steps to ensure that at least 7% of their workforces are made up of people with disabilities.

On June 13, 2011, the U.S. Department of Labor’s Employment and Training Administration issued a Training and Employment Guidance Letter to the workforce investment system on increasing enrollment and improving services to youth with disabilities. The TEGL is intended to offer specific strategies and tools to States, workforce investment boards, youth councils, and youth providers within the workforce system to increase the number of youth with disabilities they serve and to support positive education, training and employment outcomes for these youth.

National Governors Association

As chair of the National Governors Association, Delaware Governor Jack Markell announced his new year long initiative, “A Better Bottom Line: Employing People with Disabilities.” The initiative will focus on the employment challenges that affect individuals with intellectual and other significant disabilities and the role that both State government and business can play in facilitating and advancing opportunities for these individuals to be gainfully employed in the competitive labor market. He assumed the chairmanship in July 2012.

5. Dual Diagnosis/Co-Occurring Conditions

No specific legislation was introduced to address TBI and co-occurring conditions. Several pieces of legislation were introduced regarding behavioral or mental health, but none passed. H.R. 751, the Mental Health in Schools Act of 2011, was introduced to revise and extend projects relating to children and violence; and to provide access to school-based comprehensive
mental health programs. H.R. 5989, the Excellence in Mental Health Act, was introduced to increase access to community behavioral health services for all Americans and to improve Medicaid reimbursement for community behavioral health services.

Administration
The Substance Abuse and Mental Health Services Administration’s (SAMHSA) FY 2013 budget requests included $3,151,508,000, which reflects an overall reduction of $195,512,000 below the FY 2012 enacted level. The FY 2013 requests reflects the four Appropriations: Mental Health ($902,856,000), Substance Abuse Prevention ($463,378,000), Substance Abuse Treatment ($1,711,045,000), and Health Surveillance and Program Support ($74,229,000). The SAMHSA request maintains level funding in Budget Authority for both Block Grants providing funding to States, i.e., the Mental Health Block Grant (MHBG) and Substance Abuse Block Grant (SABG).

Consistent with the agency’s top priority, Trauma and Justice Strategic Initiative, funding was also requested for a new program, called Grants for Adult Trauma Screening and Brief Intervention (GATSBI). The purpose of the GATSBI program is to advance the knowledge base to address trauma and interpersonal violence for women in common healthcare settings such as emergency departments, primary care, and OB/GYN offices. SAMHSA has identified eight Strategic Initiatives to focus SAMHSA’s work on: Prevention of Substance Abuse and Mental Illness; Trauma and Justice; Military Families; Recovery Support; Health Reform; Health Information Technology; Data, Outcomes, and Quality; and Public Awareness and Support.

SECONDARY SUPPORT

APPROPRIATIONS AND BUDGET PROCESS

6. Appropriations for Health and Disability Programs; and Public Assistance

In the FY 2013 President’s budget, discretionary spending, which constitutes spending for most disability, education and health care programs (the exception being Medicare and Medicaid, which are entitlement programs) was slashed to $1.264 trillion. The request for military spending was lowered to $1.264 trillion. The request for military spending was lowered to $851 billion. The non-security budget request was cut to only $410 billion. All departments were cut or stayed about the same, except for the Department of Education, which increased to $69.8 billion. The largest departments were cut the most:

- Health and Human Services, reduced more than 10% to $71.7 billion.
- Housing and Urban Development, also reduced 10% to $35.3 billion.
- The Justice Department, which was slashed 33% to $17.9 billion.

For FY 2013 most federal programs are operating under a Continuing Resolution until March 27, 2013, and are funded at FY 2012 levels. In FY 2012, discretionary spending was approved at $1.319 trillion. Congress appropriated a total of $69.7 billion to the U.S. Department of Health and Human Services (HHS), nearly $700 million below the previous year's level and $3.4 billion below the President's budget request. (Most programs were also subject to a 0.189 percent rescission.) The bill included a prohibition on the entire department from activities that advocate or promote gun control - previously this prohibition only applied to CDC.
For FY 2012 HRSA was funded at the program level of $6.5 billion, which was $41 million below FY 2011, and $848 million below the budget request. Within this total, Community Health Centers were funded at $1.6 billion - the same as FY 2011.

The FY 2012 appropriations bill contained $3.9 billion for Centers for Medicare and Medicaid Services (CMS) Program Management, which was $241 million over last year's level and $517 million below the President's request. Congress noted that since 2000, the number of CMS beneficiaries (those receiving Medicare, Medicaid and Children's Health Insurance Program benefits) has increased by 51% - partially due to an aging U.S. population. The bill tried to keep pace with the increase in beneficiaries to ensure those who rely on these important programs get the benefits they need.

**Budget Resolution**

Each year, the U.S. House of Representatives and Senate develop a joint budget resolution which guides the process for developing the spending bills for the coming fiscal year. The budget resolution outlines increases or decreases in spending across the discretionary and mandatory parts of the federal budget. The discretionary parts of the budget are addressed through annual appropriations bills. The mandatory parts of federal spending are handled through reconciliation bills (i.e. Medicaid, Supplemental Security Income (SSI), and Medicare).

Congress passed The Budget Control Act of 2011, which was enacted August 2, 2011, to extend the debt ceiling and to set the course for reducing the federal debt. The legislation created a Joint Select Committee on Deficit Reduction, referred to as the “Super Committee”, to make recommendations for increasing revenue and cut spending (at least $1.5 trillion over ten years) in a balanced approach. Failure to do so would result in automatic across-the-board spending cuts or sequestration to discretionary programs on January 2, 2013. (Congress did provide some exemptions: reductions would apply to Medicare providers, but reductions would not apply to Social Security, Medicaid, civil and military employee pay, or veterans. Medicare benefits would be limited to a 2% reduction.) Unable to come to consensus, Congress postponed sequestration until March 1, 2013.

**DISABILITY -- HEALTH -- EDUCATION RELATED LEGISLATION**

7. **Children and Youth, Including Education**

For FY 2012 the Title V Maternal and Child Health Services Block Grant received a $16 million decrease from the FY 2011 level of $656 million. The FY 2013 President’s budget request of $640,098,000 is an increase of $1,452,000 from the FY 2012 Enacted Level.

State Title V programs use appropriated formula grant funds for: capacity and systems building, public information and education, knowledge development, outreach and program linkage, technical assistance, provider training, evaluation, support for newborn screening and genetic services, lead poisoning and injury prevention, additional support services for children with special health care needs, and promotion of health and safety in child care settings.

For FY 2012 the U.S. Department of Education was funded at $71.3 billion, which is $153 million below FY 2011 and $9.3 billion below the budget request. Special education programs were funded $11.6 billion in the legislation - an increase of $100 million above the FY 2011 level - to help school districts pay for the extra costs of educating all children with disabilities.
For FY 2013 the Senate Appropriations Committee recommended $46,781,000, the same amount as the budget request and fiscal year 2012 level, for technical assistance and dissemination under the Individuals with Disabilities Education Act (IDEA). The Committee recommended $59,905,000, an increase of $10,000,000 over the fiscal year 2012 funding level and the budget request, for research and innovation in special education conducted by the National Center for Special Education Research [NCSER].

Congress did not reauthorize the Elementary and Secondary Education Act (ESEA), referred to as “No Child Left Behind”, nor IDEA. Reauthorization bills were introduced in both legislative bodies, as well as legislation to fully fund IDEA.

Legislation was introduced in the House and the Senate pertaining to the use of restraints and seclusion in school settings. A hearing was held by the Senate Health, Education, Labor and Pensions (HELP) Committee, chaired by Senator Tom Harkin (D-IA), on creating positive learning environments through alternatives to restraint and seclusion in July 2012. Senator Harkin introduced the Senate version of the Keeping All Students Safe Act (S. 2020) and Rep. George Miller (D-CA) introduced H.R. 1381. Neither bill advanced out of committee.

8. EMS and Trauma Care

For FY 2012 the Emergency Medical Services for Children (EMSC) program, which was recommended by the House to be eliminated, was level funded ($21 million) as the result of the support of the Senate. The FY 2013 request was for the same amount.

Rep. Tim Walz (D-MN) introduced H.R. 3144, Field EMS Quality, Innovation, and Cost Effectiveness Improvements Act of 2011, which designated HHS as the primary federal agency for emergency medical services and trauma care. The bill establishes the Office of Emergency Medical Services and Trauma within HHS and gives the Office responsibilities to implement a national EMS strategy, among other duties. The bill did not advance out of committee. While the ACA authorized funding for trauma systems, funding has been difficult to obtain.

Administration

CDC updated the 2009 guidance on the field triage process, “Guidelines for Field Triage of Injured Patients, Recommendations of the National Expert Panel on Field Triage”, published in the Morbidity and Mortality Weekly Report (MMWR). The 2011 Guidelines for the Field Triage of the Injured Patient initiative was developed to give EMS leaders and professionals the tools they need to implement and adopt the 2011 Guidelines.

9. Health Care Reform, Medicare and Medicaid

The House of Representatives introduced and passed several bills aimed at repealing the Affordable Care Act. These attempts failed due to the democratic controlled Senate, which the majority supports the President’s health reform legislation. Congress tried to repeal the CLASS Act, and finally succeeded by inserting a provision in the American Taxpayer Relief Act of 2012, which passed January 1, 2013.

The tax relief bill, passed to avoid the “fiscal cliff”, included several health care provisions, including what has become an annual cancellation of a scheduled reimbursement rate cut for Medicare doctors — often called the “doc fix”. The law also created a commission to provide recommendations on long-term care. The bill included health care provisions intended to
produce savings, including, extending a provision of the health care law that reduces Medicaid payments to “disproportionate share” hospitals; and reducing Medicare reimbursements for multiple therapy procedures when performed on the same day. Medicare bad debt payments were reduced from 70 percent to 65 percent and funding for the Prevention and Public Health Fund was reduced by $5 billion over 10 years.

The Budget Control Act of 2011, which addressed the debt ceiling and set up the process for sequestration, exempted Medicaid from any cuts should sequestration be implemented.

**Administration**

As the result of the health care reform legislation (ACA), HHS began implementing the sections for which it has responsibility for in order to meet the deadlines for certain provisions of the law, and created the:

- **CMS Federal Coordinated Health Care Office**, to more effectively integrate benefits for beneficiaries enrolled in the Medicare and Medicaid programs.

- **Center for Medicare and Medicaid Innovation (Innovation Center)**, for purposes of developing, testing, and—for those that prove successful—expanding innovative models to improve quality of care and reduce costs in Medicare, Medicaid, and the Children’s Health Insurance Program.

On April 14, 2011 the HHS announced four initiatives to help States in the creation of innovative practices for the provision of improved and more coordinated care to Medicare and Medicaid beneficiaries, referred to as dual eligibles. One initiative provided fifteen States up to $1 million each to meet the needs of over 9 million dually eligible beneficiaries, or people that qualify for both Medicare and Medicaid programs, through improvements in access to care and lowering costs through elimination of service duplication.

To help States develop and/or upgrade information technology enrollment systems to assist in the enrollment of individuals in Medicaid or the Children’s Health Insurance Program (CHIP) new rules were also issued on April 14 to provide funding to do so. In accordance with the new rules, CMS will provide 90-percent of the cost for States to develop and upgrade their IT systems to help people enroll in Medicaid or the Children’s Health Insurance Program (CHIP) — and 75-percent of ongoing operational costs. This increase over the previous federal matching rate of 50-percent is to help States prepare for the Medicaid improvements and expansion that will come in 2014 from the Affordable Care Act, when many more Americans will be eligible for these programs, and to coordinate enrollment with the Exchanges.

HHS issued a series of documents to provide information to States and the Territories seeking to establish a Health Insurance Exchange (Exchange) under Section 1311(b) of the Affordable Care Act. HHS, then, issued regulations for public comment in 2011 and on March 12, 2012, HHS published a final rule outlining a framework for State-run health care exchanges. The exchanges are intended to offer private health insurance options that meet government standards and to coordinate the eligibility of low-income individuals for premium tax credits and other assistance. Grants were awarded to many of the States to help them plan for administering an Exchange. The federal government will administer the Exchange should a States choose not to do so.

Starting in 2014, the ACA requires that health insurance coverage provided in the individual and small group markets, including coverage offered through the Exchanges, provide “essential
health benefits.” Essential health benefits include items and services within at least the following 10 categories: (1) ambulatory patient services, (2) emergency services (3) hospitalization, (4) maternity and newborn care, (5) mental health and substance use disorder services, including behavioral health treatment, (6) prescription drugs, (7) rehabilitative and habilitative services and devices, (8) laboratory services, (9) preventive and wellness services and chronic disease management, and (10) pediatric services, including oral and vision care. On December 16, 2011, HHS issued a bulletin which proposed granting the States significant flexibility to establish what constitutes essential health benefits in their States. On November 26, 2012, HHS issued a comprehensive proposed regulation to establish a framework for essential health benefits and actuarial value.

**Supreme Court Upholds ACA**

On June 28, 2012, the United States Supreme Court issued a 5-4 ruling to uphold the constitutionality of the Affordable Care Act (ACA), including its individual mandate that requires Americans to buy health insurance. In addition:

- Young adults can stay on their parents' health plans until they turn 26;
- Seniors will receive preventive care with no deductibles or copayments, and the big gap ("donut hole) in prescription drug coverage will close under Medicare; and
- Moderate- and middle-income families will receive tax credit subsidies so that insurance premiums are affordable.

However, the Court ruled that the mandate requiring States to comply with the new Medicaid expansion requirements for Medicaid or risk losing all of their Medicaid funding is unconstitutional. The Medicaid expansion is constitutional, but not the penalty.

**10. Disability and TBI Research**

The President's FY 2013 proposed budget for National Institute for Disability and Rehabilitation Research's (NIDRR) was less than the previous year for all disability rehabilitation research projects, including rehabilitation research and training centers and model systems for brain injury, spinal cord and burn injury. The Senate Appropriations Committee, however, recommended $108,817,000, the same as the comparable FY 2012 level. The Senate Committee expressed strong support for the mission of NIDRR, which includes research in the interrelated domains of health and function, employment, and participation and community living. It also urged the NIDRR director to focus attention on ensuring that the practical implications of research outcomes are summarized and research activities and findings are made publicly available in a timely manner.

NASHIA and TBI stakeholders requested an increase funding by $1.5 million in FY2012 for NIDRR's TBI Model Systems of Care program, in order to add one new Collaborative Research Project. In addition, stakeholders recommended that the TBI Model Systems of Care should receive “line-item” status within the broader NIDRR budget.

The Senate Committee recognized and supported efforts of the Blue Ribbon Panel on NIH's Medical Rehabilitation Research to identify gaps in rehabilitation research. The Committee believes that the panel’s findings warrant meaningful steps by the Director to enhance the stature of, and emphasis is on, medical rehabilitation and disability research at NIH.

**Administration**
In October 2012, NIDRR awarded grants to 16 TBI Model Systems. Also, in 2012, the Foundation for the National Institutes of Health (FNIH) received $30 million from the National Football League (NFL) to support research on serious medical conditions prominent in athletes and relevant to the general population. With this contribution, the NFL becomes the founding donor to a new Sports and Health Research Program, which will be conducted in collaboration with institutes and centers at the National Institutes of Health (NIH). Specific plans for the research may include: chronic traumatic encephalopathy; concussion; understanding the potential relationship between traumatic brain injury and late life neurodegenerative disorders, especially Alzheimer’s disease; chronic degenerative joint disease; the transition from acute to chronic pain; sudden cardiac arrest in young athletes; and heat and hydration-related illness and injury.

11. Developmental Disabilities (DD) Act Reauthorization

The Developmental Disabilities Assistance and Bill of Rights (DD) Act (Public Law 106-402) has been due for reauthorization since 2007. A reauthorization bill was not introduced.

12. Aging and TBI

Administration on Aging (AoA) was essentially level-funded for FY 2012, with a few exceptions. The appropriations bill did not include the Administration's requests for the Caregiver Initiative, which included increases of $40 million for the National Family Caregiver Support Program, $48 million for Supportive Services and Senior Centers, and $7.5 million for Lifespan Respite Care.

For FY 2013, no discretionary funding was requested for Aging and Disability Resource Centers. This represents a reduction of -$6,457,000 from the FY 2012 Enacted Level. Instead, ADRCs will continue to receive funding using the $10,000,000 in mandatory funding that was appropriated to AoA under the Affordable Care Act (section 2405 of P.L. 111-148) for each year from FY 2010 to 2014 for ADRC activities. AoA intends to use this funding for ADRCs to support States and communities to continue to build the infrastructure needed to support the ongoing integration of the programs efforts into State’s HCBS systems and create greater integration with the health care system. Special emphasis will be given to strengthening the capacity of existing ADRCs to carry-out options counseling, nursing home diversion, and care transitions that help reduce unnecessary hospital readmissions.

ADRCs continue to partner with VA funding to serve clients under the current AoA/Department of Veterans Affairs (VA) partnership. In FY 2008, the VA and AoA began working together to develop the Veterans Directed - Home and Community Based Services Program (VD-HCBS), which is designed to serve Veterans of any age who are at risk of admission to a nursing home by providing them the opportunity to self-direct their care and access services to help them remain in the community.

13. Prevention

The FY 2013 President’s budget request included an increase of $78,210,000 for CDC from the Affordable Care Act Prevention and Public Health Fund for a total of $903,210,000 of the $1,250,000,000 available. The CDC’s National Center on Injury Prevention and Control (NCIPC), celebrated its twentieth anniversary in 2012. New budget lines were also created for the Injury Control Research Centers and older adult falls prevention.
For FY 2012 Congress appropriated $6.1 billion for CDC programs -- an increase of $38 million above FY 2011 level and $269 million below the President's budget request. Within this total, Congress approved $80 million for the Preventive Health and Health Services Block Grant that provides funding to States to address critical public health needs - a program proposed for elimination by the President and the Senate.

**Transportation** -- Bills authorizing funding for highway construction and highway safety programs passed in each session. On March 30, 2012, the President signed H.R. 4281, the Surface Transportation Extension Act of 2012, funding highway safety, motor carrier safety, transit, and other programs (P.L 112-102). On September 16th, 2011, the President signed the Surface and Air Transportation Programs Extension Act of 2011, H.R. 2887 (P.L .112-030).

**Children's Sports Helmets** -- On March 16, 2012, during the Congressional Brain Injury Task Force Awareness Day activities, Senator Tom Udall (D-NM) and Rep. Bill Pascrell, Jr., (D-NJ) announced the introduction of S. 601 and H.R.1127, known as the Children's Sports Athletic Equipment Safety Act, to encourage and ensure that new and reconditioned football helmets for high school and younger players meet safety standards that address concussion risk and the needs of youth athletes. The bill also increased potential penalties for using false injury prevention claims to sell helmets and other sports equipment. Reps. Todd Platts (R-PA), Frank Launtenberg (D-N) and Anthony Weiner (D-NY) were also co-sponsors of H.R. 1127.  NASHIA signed on in support of the legislation.  The bill did not pass.

**VAWA** -- Congress failed to reauthorize the Violence Against Women Act (VAWA). Both bodies passed a version, but were unable to resolve differences.

**Administration**

As the result of funding to the Centers for Disease Control and Prevention (CDC) Foundation by the National Football League, the CDC, Department of Defense, Department of Education, Health Resources and Services Administration, National Athletic Trainers' Association Research and Education Foundation, National Institutes of Health, and National Foundation for the Centers for Disease Control and Prevention (CDC Foundation) embarked on a study of sports-related concussions. The National Academy of Sciences’ Committee on Sports-Related Concussions in Youth is to prepare a report on sports-related concussions in youth, from elementary school through young adulthood, including military personnel and their dependents. The project started October 2012.

In the spring of 2011, CDC initiated development of the Stopping Elderly Accidents, Deaths, and Injuries (STEADI) tool, a comprehensive tool to integrate fall risk reduction into clinical care. STEADI instructs health care providers on how to incorporate falls assessments and proven prevention strategies into older adult clinical care, which is a key step in preventing falls before they happen. Providers following this model will be able to, identify a patient’s risk for falls, assess the scope of a patient’s risk, introduce tailored interventions and provide effective referrals.

**U.N. Decade of Action for Road Safety**

The United Nations General Assembly has proclaimed 2011 to 2020 the Decade of Action for Road Safety, a period of enhanced focus on protecting people on the world’s roads. The campaign was launched May 11, 2011, in more than 100 countries, with one goal: to prevent five million road traffic deaths globally by 2020. Moving from the Global Plan for the Decade to national action, many countries have taken measures towards improving road safety, either by
developing national plans for the Decade (e.g. Australia, Mexico, the Philippines); introducing new laws (e.g. Chile, China, France, Honduras); or increasing enforcement of existing legislation (e.g. Brazil, Cambodia, the Russian Federation), among other concrete actions. T

14. Community Living Assistance Services and Supports

Unfortunately, as part of tax relief bill enacted to avert the “fiscal cliff”, Congress repealed the CLASS, the long-term insurance provision in the Affordable Care Act. Instead, a new long term care commission will be established to come up with recommendations to establish a national policy. Following passage of the ACA HHS established the Office of CLASS within the Administration on Aging to implement the program. On October 14, 2011, HHS halted the implementation process, which Congress had targeted the insurance provision as unsustainable. The office was soon dismantled.

Administration
The ACA contained a number of provisions to help States balance their Medicaid long-term service delivery systems by expanding home and community-based services and options. In keeping with the ACA provisions HHS awarded grants to States in accordance with the new State Balancing Incentives Payments Program (BIP) and Money Follows the Person. The ACA provided the States with a new Medicaid State Plan option for HCBS.

In honor of the one year anniversary of the Year of Community Living and the eleven year anniversary of the Olmstead decision, the Department of Health and Human Services (HHS) announced the Housing Capacity Building Initiative for Community Living -- a partnership between HHS and the Department of Housing and Urban Development. The initiative provides technical assistance to State and local entities to plan and implement effective program options that link housing with long-term care services and supports for people with disabilities and older adults.

In April 2012, HHS finalized the Community First Choice rule, which is a new state plan option under Medicaid that allows States to offer home and community based services to people with disabilities through Medicaid rather than institutional care in nursing homes.

In 2011, CMS released proposed rules relating to Medicaid HCBS waivers by providing States the option to combine the existing three targeted groups (currently, each target group must be addressed by a separate section). The proposed rule also conveyed CMS’ expectations regarding person-centered plans of care and characteristics of settings that constitute home and community-based services. NASHIA signed on to a CCD (Consortium for Citizens with Disabilities) letter commenting on these regulations, and submittrf its own comments as well.

10. Other Legislation and Public Policy Initiatives

Convention on the Rights of Persons with Disabilities
On December 4th, 2012, the Senate failed to ratify the Convention on the Rights of Persons with Disabilities (CRPD), by five votes. Based on the Americans with Disabilities Act, the treaty ensures the rights of individuals with disabilities in all countries. Over 150 countries have ratified the treaty, including Great Britain, France and Greece.