

NACo Legislative Bulletin

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September 16, 2011

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House and Senate Pass Aviation and Highway-Transit Extensions

Based on an agreement between Senate Majority Leader Reid (D-Nev.) and House Speaker Boehner (R-Ohio), the House voted on September 13 to pass a bill to extend the federal aviation and airport program by four months and the federal highway and transit program for six months.

The Senate on September 15 passed the same bill, which now goes to the president for his signature. The programs were scheduled to expire on September 16 and 30 respectively. Without extension legislation highway, transit and airport funding would have stopped flowing to state, counties and cities after those dates and federal aviation and highway fuel taxes would have no longer been collected.

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House Continuing Resolution Unveiled

On September 14, House Appropriations Committee Chairman Harold Rogers (R-Ky.), unveiled a Continuing Resolution (H.J. Res. 79) that will fund the federal government through November 18. The bill will be considered next week since Congress will be going on recess September 23 and will not be coming back until after the new fiscal year begins.

The bill is based on the funding levels agreed as part of debt ceiling extension, which would represent a 1.5 percent reduction from FY 2011 levels, although entitlement programs would still be funded at the 2011 rate.

The measure is not without controversy, however. While it includes \$3.65 billion in disaster relief, it seeks to offset \$1.5 billion from the Department of Energy's Advanced Technology Vehicle program. Senate Majority Leader Harry Reid (D-Nev.) has objected to using offsets for disaster relief.

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Jobs Bill Tax Provisions

On September 12, the Obama Administration submitted to Congress its new jobs proposal, "The American Jobs Act of 2011". Previewed during a joint session of



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Congress, the proposed bill language revealed provisions (some surprising) for local governments. Among them were:

- A cap on the amount of interest from municipal bonds that high-income earners can exclude from taxable income. Additionally, this provision would apply retroactively as well as on new bonds. If enacted, this provision could significantly increase state and local borrowing costs.
- An additional one year delay of the 3 percent withholding requirement. In May, the final regulations from IRS already delayed implementation to January 1, 2013. If the provision in the Jobs Act is passed, implementation would begin January 1, 2014.
- A payroll tax cut from 6.2 percent to 3.1 for employers. Federal, state and local government employers (other than State colleges and universities) are excluded from eligibility for the reduction.
- A payroll tax holiday for employers who increase their payroll from the last quarter of 2011 through 2012. Federal, state and local government employers (other than State colleges and universities) are excluded from eligibility.

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Ways and Means Approves Child Welfare Bill

On September 14, the House approved the Child and Family Services Improvement and Innovation Act (HR 2883). The bipartisan legislation sponsored by Human Resources Subcommittee Chairman Geoff Davis (R-Ky.) and Ranking member Lloyd Doggett (D-Texas) reauthorizes child welfare programs that expire September 30. Senate Finance Committee Chair Max Baucus (D-Mont.) and Ranking Member Orrin Hatch (R-Utah) introduced identical legislation this week. The House is expected to consider the measure on September 20.

The bill authorizes \$325 million a year in discretionary funds for child welfare services and \$545 million a year (\$345 mandatory) for Safe and Stable Families.

It also reauthorizes waiver authority, allowing 10 waivers a year from FY 2012 through 2014. The waivers would be for up to five years and could be extended, but not beyond 2019.

The bill adds new requirements to state plans, including:

- foster youth remain in the same school in each placement whenever possible;
- explain how states will ensure psychotropic medications are used correctly;
- explain how they will reduce the time children under five spend without permanent placement;
- address developmental needs of young children;
- explain how they will minimize emotional trauma; and
- describe data sources used to report maltreatment deaths.

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House Judiciary Committee Begins Mark Up of E-Verify Legislation

On Sept. 15 the House Judiciary Committee began consideration of the Legal Workforce Act (H.R. 2885) with opening statements. The Committee will continue mark up of the legislation on September 21. The Legal Workforce Act amends the Immigration and Nationality Act to make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system, and for other purposes. The legislation contains a provision (Sec. 2) that would require re-verification of all local government employees who were not previously certified under the E-Verify Program. This unfunded mandate would require states and localities to determine the employment eligibility of nearly all workers. The legislation was reintroduced by Rep. Lamar Smith (R-Texas) on Sept. 12.

The committee also plans to mark-up the American Specialty Agriculture Act (H.R. 2847). This bill would replace the current seasonal agriculture visa (H-2A) program with a new temporary program (H-2C) that would make non-seasonal agriculture such as dairies eligible and would provide 500,000 10-month visas a

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year. There is a possibility that H.R. 2847 will be combined with H.R. 2885 because it might give the E-verify bill a better chance of passing the Senate.

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NACo Campaign Meeting Builds Support for Rural Development Programs

On September 16, NACo organized a coalition meeting with Senator Sherrod Brown (D-Ohio) to demonstrate the broad base of support for a strong Rural Development Title in the next Farm Bill. Senator Brown chairs the Senate Agriculture Committee's Subcommittee on Jobs, Rural Economic Growth and Energy Innovation. In this role, he has jurisdiction over the Rural Development Title of the Farm Bill. He also serves on the Senate Agriculture Appropriations Subcommittee, which has jurisdiction over rural development programs. The Senator thanked NACo Executive Director Larry Naake and other members of the Campaign for their commitment to rural development and pledged to collaborate with NACo and the Campaign to strengthen federal rural development programs in the next Farm Bill.

The Campaign for a Renewed Rural Development is a collaboration of 32 national organizations with a strong interest in the future of small town and rural America. NACo chairs the campaign and is working with these coalition partners to raise awareness in the Farm Bill debate about the critical need for rural development resources and program flexibility to help our nation's rural communities and regions compete in today's global marketplace and improve the quality of life for local citizens and businesses.

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NACo Testifies Before House Subcommittee on Housing Counseling

On September 14, DuPage County, IL Board Member Debra Olson testified on behalf of NACo before the House Financial Services Subcommittee on Insurance, Housing and Community Opportunity regarding Housing Counseling Programs. House Subcommittee Chair Judy Biggert (R-Ill.) held the hearing to discuss the value, and oversight of HUD's Housing Counseling programs, as well as funding restorations.

Olson, currently serves as the volunteer Interim Executive Director of the DuPage Homeownership Center (DHOC), a HUD-certified housing counseling agency providing comprehensive counseling services to county residents. Olson testified that in FY 2011, DHOC provided services to over 2,500 families, and helped 279 families prevent foreclosure saving taxpayers over \$20 million. She noted the cost-effectiveness of foreclosure prevention counseling, creating more educated and responsible homeowners and renters.

The FY 2011 Continuing Resolution (CR) for HUD Appropriations, housing counseling services funding was zeroed out, a loss of \$88 million. The House FY 2012 Appropriations Subcommittee passed mark did not restore funding for housing counseling programs. Congressional members were supportive of the program, and several requested that HUD's Acting Deputy Assistant Secretary for Single Family Housing, Deborah Holston who testified, provide more national data showing the program's success.

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D-Block to Public Safety in American Jobs Act

- The plan follows the model in the bipartisan legislation from Senators Rockefeller and Hutchison in including an investment to develop and deploy a nationwide, interoperable wireless network for public safety. The plan includes reallocating the D Block for public safety (costing \$3 billion) and \$7 billion to support the deployment of this network and technological development to tailor the network to meet public safety requirements. This is part of a broader deficit-reducing wireless initiative that would free up public and private spectrum to enable the private sector to deploy high-speed wireless services to at least 98 percent of Americans, even those living in remote rural and farming communities.
- In addition, freeing up spectrum from the private sector through voluntary incentive auctions that were included in both the Rockefeller-Hutchison bill and the House-passed Budget would raise money to pay for these investments in public safety and also reduce the deficit.
- Public Safety Broadband Corporation would be license holder
- \$50M in initial funding and permission to charge users to pay for ongoing operations

- Provides \$7B through 2016 to build and operate the network
 - o \$6.5B for network construction,
 - o \$200M for state and local planning grants
 - o \$300M to NIST for research on public safety communications R&D
- Preserves broad authority for use of current narrowband public safety uses

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Fight Over Disaster Aid Continues

With two weeks left in FY2011 and funding rapidly running out in federal emergency disaster aid, Congress continues to debate how to provide critical funds for the Federal Emergency Management Agency's (FEMA) Disaster Relief Funding (DRF) account. Since late August, the DRF has been operating on an "immediate needs" basis, forcing delays in longer-term recovery projects around the nation. Adding to the urgency, the agency currently has less than \$351 million left in the fund as a result of paying out more than \$400 million since Hurricane Irene.

Since 2005, Congress has readily enacted nine emergency supplemental appropriations to provide additional funds to the DRF, but several Members of Congress in both the House and Senate are hesitant about adding additional resources to the DRF without an offset. The Administration has indicated that \$5.1 billion is needed for disaster relief efforts, \$500 million immediately and \$4.6 billion for the 2012 fiscal year.

On September 15, a DRF spending package narrowly won Senate passage by a 62-37 vote. The legislation provides for \$5.1 billion in funding for the DRF, and \$500 million would be available immediately. The remaining funds include \$4.6 billion for FY2012, and for disaster and recovery assistance for other departments and agencies that have seen their accounts dwindle because of the prevalence of disasters throughout the year. Prior to final passage, the Senate rejected two GOP amendments that would have offset the cost of the disaster spending package.

In the House, Members recently unveiled a proposal that includes \$3.65 billion in disaster relief funds attached to a continuing resolution bill that will be debated next week. \$1 billion would be available immediately to cover pending needs and \$2.65 billion would be provided for the 2012 fiscal year.

The House and Senate are far apart on agreeing to a final number for funding for the DRF in 2011 and 2012. Nonetheless, time is running out and DRF funding to recover and rebuild from numerous past and present natural disasters is nearly gone. Average monthly expenditures for the DRF are \$383 million (or \$4.6 billion annually), and current projections indicate that the fund will be depleted by the end of September.

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Senate Unveils Department of Homeland Security Authorization Bill

During the week, the Senate Homeland Security and Government Affairs Committee began consideration of S. 1546, the Department of Homeland Security (DHS) Authorization Act of 2011. The legislation authorizes certain programs of the Department of Homeland Security, and is the Senate's first major attempt to enact a DHS appropriation bill since the Department was established in 2003.

Highlights in the legislation include:

- Consolidating all youth preparedness educational programs within DHS;
- Establishing an office for International Affairs within DHS;
- Eliminating the Office for Domestic Preparedness, and DHS' Emergency Operation Centers (EOC) and Regional Catastrophic Grant Programs;
- Changing the Office for State and Local Government Coordination into the Office of Intergovernmental Affairs;
- Designating separate DHS officials and offices to coordinate efforts to counter violent extremism in the United States and catastrophic incident planning;

- Designating a FEMA official to coordinate individual and community preparedness; and
- Creation of a federal Disaster Reserve Workforce.

Additionally, the legislation authorizes FEMA's Port Security and Intercity Bus/Transit Security Grant programs at \$250 million apiece for FY2012 only, and proposes \$55 million a year for FEMA's Operation Stonegarden program until FY2017. The legislation also authorizes \$4 million annually for the Emergency Management Assistance Compact until FY2016, and approves the Metropolitan Medical Response System at \$41 million yearly until FY2014.

Given increased Congressional scrutiny of DHS State and Local Grant Programs, the legislation again instructs DHS to "develop and implement performance metrics" to ensure States, high-risk urban areas, and other grant recipients use grants administered by DHS effectively. Also, the legislation instructs DHS to submit to the Senate and House a report "on the suitability, feasibility, and efficiency of consolidating grant programs administered by the Department."

The Senate will resume mark up of the legislation on September 21, and the House is expected to unveil a separate DHS Authorization bill before the end of the year. NACo, the International Association of Emergency Managers and others will be supporting an amendment to strike language from the legislation that eliminates the EOC Grant Program. This amendment proposed by Senator Mary Landrieu (D-La.) and numerous others amendments that have yet to be seen will be debated in earnest next week when the Markup resumes.

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Senate Commerce, Justice, Science Appropriations Bill Slashes Funding Important to Improving Local Criminal Justice Systems

The Senate Appropriations Committee approved the FY2012 Commerce, Justice, and Science (CJS) Appropriation Bill by a vote of 29-1. The legislation would provide \$52.7 billion in discretionary spending for the Department of Commerce, Department of Justice (DOJ), and other related agencies, and is a reduction of \$626 million below the current year, but \$2.7 billion more than the June 2011 House passed version of the bill (H.R. 2596).

State and local law enforcement programs face some of the legislation's steepest spending cuts at 17 percent less than current funding. However, the House version would slash these programs by roughly 38 percent.

The bill proposes only \$1 billion for DOJ's State and Local Law Enforcement account, and is a \$54 million reduction compared to the current year, or \$110 million below the President's FY12 budget request. Funding in this account is used to support a wide variety of programs and technical assistance important to local courts, corrections, law enforcement, juvenile justice, and other assorted agencies that work to safely lower jail populations, fight recidivism, reduce criminal justice spending, and decrease crime and improve public safety through alternatives to incarceration, prevention and treatment.

Bryne Memorial Justice Assistance/JAG grants are proposed to be funded at \$395 million (\$431 million in FY11; \$357 million in House bill), and DOJ's Drug Court Discretionary Grant Program is funded at \$35 million (\$37 million in FY11; \$40 million in House bill). Additionally, the legislation proposes \$273 million for the State Criminal Alien Assistance Program (\$274 million in FY11), \$200 million for Community Oriented Policing Services Hiring Grants (\$274 million in FY11), and \$33 million for DOJ's Juvenile Justice Title V Incentive Grants for Local Delinquency Prevention Program, which were all eliminated in the House version of the legislation. Sadly, the legislation includes no funding for the Second Chance Act, Prison Rape Prevention and Prosecution funding, Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) program funding, and Bryne Competitive Grants.

During deliberation, many Senators sharply criticized the many proposed reductions in state and local law enforcement and federal criminal justice reform initiatives. The legislation will now head to the full Senate for action and NACo members should anticipate numerous amendments to restore some of the cuts in funding that is critical to counties nationwide.

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House Passes NLRB Bill

The House passed legislation on September 15 to limit the authority of the National Labor Relations Board. The measure (HR 2587), endorsed 238-186, would prohibit the NLRB from ordering an employer to restore, shut down or relocate business operations. The bill's progress is likely to stall in the Senate, although GOP senators have urged Majority Leader Harry Reid to take up the measure.

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About NACO

National Association of Counties (NACO) is the only national organization that represents county governments in the U. S. NACO provides essential services to the nation's 3,068 counties. NACO advances issues with a unified voice before the federal government, improves the public's understanding of county government, assists counties in finding and sharing innovative solutions through education and research and provides value-added services to save counties and taxpayers money.

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