



The National Association of Towns and Townships'

WASHINGTON REPORT

A MONTHLY REPORT ON THE ISSUES AFFECTING THE NATION'S SMALL COMMUNITIES

NOVEMBER 2, 2011

The "NATaT Washington Report" is an email newsletter that provides timely information to town and township officials on the legislative, regulatory, funding, and policy decisions in Washington that could affect your communities. The Washington Report focuses on federal issues that affect local governments, including towns and townships. The Washington Report is produced by NATaT's federal representative in Washington, The Ferguson Group. For more information on the legislation described in this report, see <http://thomas.loc.gov/> or contact NATaT Federal Director Jennifer Imo at 1.866.830.0008 or jimo@tfgnet.com.

THE OCTOBER 2011 WASHINGTON REPORT CONTAINS SUMMARIES OF THE FOLLOWING ISSUES:

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- Senate to Vote on Transportation Portion of American Jobs Act
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- Potential EPA Farm Dust Regulation

CONGRESSIONAL SCHEDULE

With a focus on jobs, Congress approved reauthorization of the Trade Adjustment Act programs in conjunction with the trade agreements for South Korea, Columbia and Panama. These are the most significant expansion of trade relations in nearly two decades and action had been stalled for nearly four years. Trade Adjustment Act programs provide job retraining and temporary income support to workers who lose their jobs as a result of free-trade pacts.

The Senate failed to consider the President's \$447 billion American Jobs Act or a separate bill to provide \$35 billion to states and local governments to hire teachers and first responders.

Congress heads into November with a final chance to reach several bipartisan compromises that could stabilize the fiscal environment and provide a boost to a struggling economy before the holidays. Lawmakers must finalize the FY 2012 appropriations bills and the Super Committee must craft a debt reduction package for the next ten years. The deadline for the Super Committee to report a package is November 23.

BUDGET, APPROPRIATIONS & FISCAL POLICY

Status of FY 2012 Appropriations

While the House of Representatives and Senate have continued to work on individual FY 2012 appropriations bills, none have been completed. In order to keep the federal government operating, Congress approved a Continuing Resolution which is funding government agencies until November 18. It is expected that another Continuing Resolution will be enacted through mid-December.

During the week of October 17, the Senate began consideration of a "minibus" spending bill that includes three of the twelve annual appropriations bills: Agriculture; Commerce, Justice, Science; and Transportation/Housing and Urban Development. Senators were given the opportunity to offer several dozen amendments to the combined bills, including a successful amendment offered by Senator Tom Coburn (R-OK) to discontinue certain farm subsidies for people who make more than a million dollars in adjusted gross income. The Senate also agreed to vote on final passage of the bill when it returns to work from a week long recess on October 31. This minibus may carry another Continuing Resolution to keep the federal government operating past November 18 to allow for continued negotiations.

The process for completing work on the remaining FY 2012 appropriations bills remains unclear at this point. Even though the legislation raising the debt ceiling that was signed by the President in August included a top-line spending number figure for FY 2012, Congress is struggling to process the appropriations bills. One option being considered is the passage of additional "minibus" spending bills that would each package three or four of the individual appropriations bills. The next package may incorporate Energy and Water, Financial Services and General Government and possibly Foreign Operations. If that fails, Congress may have to resort to a catch-all measure combining all remaining bills. On October 19, the Office of Management and Budget Director Jack Lew sent a letter to House and Senate appropriations leaders outlining the Administration's priorities urging Congress to stay within previously agreed upon spending limits and omit policy directives targeted to halting federal agency rulemaking.

Debt Reduction Super Committee Meets

The Super Committee heard testimony from the nonpartisan Congressional Budget Office (CBO) Director Douglas Elmendorf to assess the timeframe CBO will need to score a potential deficit cutting plan ahead of the November 23 deadline to submit such a plan to Congress.

Both Democrats and Republicans have formally presented tax packages to the Joint Select Committee on Deficit Reduction charged with finding \$1.2 trillion in savings over a ten year period. Some are calling for a more broad \$3 trillion plan. If Congress fails to pass the recommended plan by December 23, mandatory cuts to discretionary domestic and defense spending would be triggered, starting in FY 2013. To date, no fundamental framework which would include new revenues and significant new entitlement savings has been adopted.

REINS Act Markup

On October 25, the House Judiciary Committee approved H.R. 10, the “Regulations from the Executive In Need of Scrutiny” or REINS Act. The bill would require that federal agency rules and regulations determined to have an economic impact of \$100 million or more would have to be approved by Congress before they can be implemented.

Proponents of the legislation argue that Congress needs to take back authority it had delegated to the executive branch, while opponents say the bill is a punitive attack on the Obama Administration’s regulatory activities under existing laws passed by Congress. Currently, federal agency rulemaking takes effect unless Congress passes and the President signs a joint resolution disapproving the rule. The bill would require federal agencies to submit to Congress a report with the proposed rule, and Congress would then have to pass a joint resolution of approval within 70 legislative days of receiving the report.

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| ECONOMIC DEVELOPMENT |
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3% Withholding Repeal Passes House with Strong Bipartisan Support

Legislation to repeal the 3% tax withholding mandate has seen major progress in the past month. Following successful consideration by the House Ways and Means Committee, the full House of Representatives passed H.R. 674 on October 27 by a vote of 405 to 16. The White House has endorsed this version of the bill and, if passed by the Senate, full repeal of this burdensome mandate will quickly be signed into law. In mid-October, the Senate considered a similar measure, which narrowly failed on a procedural vote. Objecting Senators and the White House cited offsets, or the way the Senate intended to pay for the repeal, as the sticking point. The House bill utilizes a modification to how eligibility for certain healthcare programs is calculated to produce the offset which is still objectionable to some Democratic Senators.

This mandate is of particular concern to local governments because some companies are expected to pass some of the 3% withholding costs through to its customers, local governments. Therefore, contractor bids to local governments will be higher, and local governments will be forced to pay more. It has also been estimated that the projected \$215 million per year of additional federal revenue due to increased tax compliance will be less than the additional costs of implementing and administering the withholding requirement for governments and businesses.

Threat to Rural Development Programs Thwarted

When the Senate returned on October 31, it resumed debate on amendments to H.R. 2112, the minibus spending bill that includes the FY 2012 Transportation, Housing and Urban Development, Commerce, Justice, Science and Agriculture Appropriations bills. Among the amendments considered prior to a final vote was one offered by Senator Tom Coburn (R-OK), Amendment No. 800, which would have cut U.S. Department of Agriculture's (USDA) rural development programs by \$1 billion, representing a draconian 40 percent cut. Senator Coburn argued that many of these programs are duplicative to programs in other federal agencies that are also available to rural America.

On November 1, that amendment failed with a vote of 13 ayes and 85 nos. NATaT signed onto two industry letters opposing these cuts and also distributed an alert for NATaT members to call your Senators and urge them to vote against this amendment.

Parks and Recreation

Transportation Enhancements

One of the most popular, federally-funded programs used for the creation of bicycle and pedestrian facilities is Transportation Enhancements (TE). Currently a state is required to spend ten percent of its federal highway allocation on TE. As Capitol Hill continues battles over budget priorities and how to best balance transportation priorities with the currently unsustainable Highway Trust Fund, Transportation Enhancements take center stage in the debate.

Senator Tom Coburn (R-OK) offered an amendment to prohibit the use of these funds for certain projects during Senate floor debate on the Continuing Resolution. Senator Rand Paul (R-KY) plans to offer an amendment to the FY 2012 Transportation-HUD Appropriations bill that would eliminate the TE program and set ten percent aside for the bridge program instead. On the other side of the Capitol, House Transportation and Infrastructure Chairman John Mica (R-FL) has pledged to eliminate TE in his committee's reauthorization of the surface transportation bill and House Majority Leader Eric Cantor (R-VA) has repeatedly singled out TE as funding that should go to more pressing infrastructure needs. Others who oppose continuing the program ask why states should be mandated to spend federal dollars on bike trails and streetscaping when the nation is in a transportation crisis with crumbling roadways and collapsing bridges.

Conversely, Department of Transportation Secretary Ray LaHood, a former Republican House Member, has cited on his blog the benefits of bicycle infrastructure, noting studies that argue pedestrian and bicycle projects create more jobs than road upgrades or resurfacing and the Centers for Disease Control's (CDC) report that 67% of Americans support street design that increases physical activity. He went on to say that these investments increase mobility and generate economic growth.

EDUCATION

Extra Funding for Teachers and First Responders

Days after the President's American Jobs Act legislation was blocked from consideration in the Senate, a single bill authorizing \$35 billion to states and local governments to hire teachers and

first responders also failed. All Republican Senators opposed bringing the bill to the floor, arguing that temporary stimulus dollars would do little to bolster the private sector and opposed the 0.5 percent surtax on millionaires to pay for the aid.

Under the rules of the Senate, 60 votes are needed to consider the bill on the floor. Two Democratic Senators, Senator Ben Nelson (D-NE) and Senator Mark Pryor (D-AR), and Senator Joe Lieberman ((I-CT) joined all 47 Republican Senators to oppose the bill.

The measure included \$30 billion for public schools to hire teachers, \$4 billion for the COPs Hiring program to support police officers and \$1 billion for the SAFER hiring program for firefighter hiring and retention.

PUBLIC SAFETY and HOMELAND SECURITY

FEMA Administrator Touts Improved Response

Federal Emergency Management Agency (FEMA) Administrator Craig Fugate told the House Homeland Security Committee that the Post-Katrina Emergency Management Act has definitively strengthened the nation's response system, leading to faster deployment of resources and decision making at the federal level. Fugate argued that the Management Act and no longer the Stafford Act is the enabling legislation. Because of the Management Act, FEMA no longer has to wait until a disaster declaration request is made by the Governor. They can begin disaster preparations prior to a known imminent disaster. He cited how during the recent Hurricane Irene that FEMA was able to stage response resources up and down the East Coast prior to the storm's arrival in the mid-Atlantic.

TRANSPORTATION

Senate Debates FY 2012 Transportation/HUD Appropriations Bill

On November 1, the Senate passed the first "minibus" appropriations bill for FY 2012, containing the Agriculture, Commerce/Justice/ Science and Transportation/HUD Appropriations bills. Highlights of the transportation portion of the bill include: \$41.1 billion for the federal-aid Highway program; \$550 million for the TIGER grant program; \$3.5 billion for capital investments at airports; \$8.3 billion for the Federal Transit Administration (FTA) Formula and Bus and Bus Facilities program; \$1.9 billion for the New Starts program; and \$25 million for the TIGGER grant program.

The Senate tabled an amendment by Senator John McCain (R-AZ) which would have prohibited funding for scenic or historic highway programs, landscaping, scenic beautification, historic preservation, historic transportation buildings or structures, outdoor advertising control, archeology, or the establishment of transportation museums.

The House Transportation/HUD Appropriations Subcommittee approved its version of the bill on September 8. The conferees will work to resolve differences and enact the final version before November 18 when the current Continuing Resolution expires.

Senate to Vote on Transportation Portion of American Jobs Act

On October 21, Senate Majority Leader Harry Reid (D-NV) announced his intention to move forward with separate legislation in the Senate on the infrastructure elements of the Administration's American Jobs Act, which would provide \$50 billion in transportation investment and another \$10 billion for a National Infrastructure Bank designed to assist a broader range of infrastructure projects.

Of the \$50 billion investment, \$27 billion would be provided to highway programs; \$4 billion for passenger-rail upgrades, including some high-speed rail projects; \$2 billion for Amtrak to upgrade and replace equipment and infrastructure; \$3 billion to capitalize public transit projects, with another \$6 billion for fixed guideway light rail and electric trolley buses, as well as bus systems; \$2 billion for airport development grants, plus \$1 billion for the Federal Aviation Administration to advance its NextGen air traffic control system upgrade; and \$5 billion for TIGER grants and TIFIA funding. The \$60 billion package would be offset by a 0.7 percent surcharge on income exceeding \$1 million.

Senate Announces November 9 Markup of SAFETEA-LU Reauthorization

On October 20, the bipartisan leadership of the Senate Environment and Public Works Committee announced that they will markup a two-year surface transportation reauthorization bill on November 9. The bill, known as the “Moving Ahead for Progress in the 21st Century” (MAP-21) bill, is a bipartisan effort which would reauthorize surface transportation programs currently authorized by the SAFETEA-LU legislation. The Committee had been delaying the consideration of the bill while they vetted proposals to provide offsets for the \$12 billion that Senator Barbara Boxer (D-CA) needs to complete the financing of the MAP-21 bill. It is expected that the Committee will release the MAP-21 legislative language in the next week. In July, Senator Boxer and Senator James Inhofe (R-OK) [released an outline for MAP-21](#).

WATER AND NATURAL RESOURCES

Potential EPA Farm Dust Regulation

The Energy and Power Subcommittee of the House Energy and Commerce Committee heard testimony from Environmental Protection Agency (EPA) Assistant Administrator Gina McCarthy on the potential for EPA to regulate under the Clean Air Act the dust created from farming activities. The October 25 hearing focused on H.R. 1633 sponsored by Representative Kristi Noem (R-SD), which would ban federal regulation of farm dust. EPA announced last week that the agency will not propose such regulation under its standard for soot pollution. A companion bill, S. 1528, has been introduced by Senator Mike Johanns (R-NE).