

JANUARY 5, 2009

The “NATaT Washington Report” is a monthly 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 The Ferguson Group. Contact NATaT Federal Director Jennifer Imo at 1.866.830.0008 or jimo@tfgnet.com for more information.

**THE DECEMBER 2009 WASHINGTON REPORT CONTAINS SUMMARIES OF
THE FOLLOWING ISSUES:**

CONGRESSIONAL SCHEDULE

BUDGET AND APPROPRIATIONS

- **Status of FY 2010 Appropriations Bills**
- **American Recovery and Reinvestment Act**

ECONOMIC DEVELOPMENT

- **Direct Federal Funding to Local Governments**
- **Second Stimulus Bill /Jobs for Main Street Act**

ENVIRONMENT, WATER AND ENERGY

- **Davis-Bacon Guidance for Water Projects**
- **Water Infrastructure Funding**

HEALTH CARE

- **Senate Approves Health Care Legislation**

TAX

- **Local Officials Tax Relief Act**

TELECOMMUNICATIONS

- **ARRA Broadband Awards Announcement**

TRANSPORTATION

- **Transportation Authorization, Highway Trust Fund Extensions**
- **Congress Approves \$600 Million for Additional TIGER Grants**

CONGRESSIONAL SCHEDULE

The Senate adjourned on December 24, after the passage of the health care reform legislation. The House of Representatives returns from recess on January 12 and the Senate returns on January 19.

Importantly, congressional leaders finished all FY 2010 appropriations bills, some individually and the remaining ones combined into a mini-bus appropriations bill. The last Continuing Resolution expired December 18 and the final Defense Appropriations bill was signed by President Obama on December 21.

BUDGET and APPROPRIATIONS

Status of FY 2010 Appropriations Bills

All FY 2010 appropriations bills have been completed and signed by President Obama. Prior to Thanksgiving, the President signed into law five of the 12 annual appropriations bills for FY 2010: Legislative Branch; Agriculture; Energy and Water Development; Homeland Security; and Interior and Environment. The Interior and Environment bill also contained an extension to the previously enacted Continuing Resolution to keep the remaining federal agencies operating at the FY 2009 level through December 18.

In order to complete work, Congress combined the remaining bills, minus the Defense Appropriations Bill, into a single mini-bus which was signed by the President on December 16. The mini-bus bill included the Commerce/Justice/Science, Financial Services, Labor/HHS/Education, Military Construction/Veterans Affairs, State Department/Foreign Operations, and Transportation/HUD Appropriations bills. In total, the bill provides \$446.8 billion in discretionary funding for the six bills. That compares to \$397.1 billion provided in FY 2009 for these bills, not including emergency funding. Increased funding is provided for Veterans (\$3.2 billion), the Census (\$4.2 billion), infrastructure investments (\$10.8 billion), health (\$6.3 billion), education (\$5.6 billion) and for foreign operations and military construction to cover war costs funded in previous years by supplemental appropriations bills (\$14.8 billion). The remainder of the bill provides a one percent increase over FY 2009 levels. The bill also included about 5,000 congressional earmarks.

A conference agreement on the remaining FY 2010 Defense Appropriations bill was passed by the House on December 16 and the Senate on December 19. The President signed it into law on December 21.

In addition to funding for the Defense Department, the bill includes the following additional items:

Small Business Loans: Allows the Small Business Administration (SBA) to continue two temporary enhancements to its loan guarantee program through February 28, 2010 to make loans more attractive to borrowers and lenders and to free up capital, with one raising the percentage of loan amounts that the SBA can guarantee to 90% and the other allowing SBA to waive or reduce loan fees. Small businesses represent a major engine for the U.S. economy, but many small business owners have had a difficult time securing needed loans in these tight economic times. The extension is fully offset.

Patriot Act: Extends authorizations through February 28, 2010.

Flood Insurance: Extends the National Flood Insurance Program through February 28, 2010.

Medicare Physician Payments Extension: Delays, through February 28, 2010, a scheduled 21.2% cut in Medicare physician payments. The delay is fully offset.

Surface Transportation Authorization Extension: Extends the authorization for the highway, transit, highway safety and motor carrier safety programs of the Department of Transportation until February 28, 2010.

Unemployment Insurance: Extends expanded unemployment benefits, including increased payouts and longer duration of benefits, through February 28, 2010.

Health Insurance for Unemployed Workers (COBRA): Extends from nine to 15 months the 65% COBRA health insurance subsidy for individuals who have lost their jobs. The job lost eligibility date is extended in the provision to February 28, 2010. Approximately seven million people benefited from the premium subsidy provided in the American Recovery and Reinvestment Act.

Satellite Television Extension and Localism: Extends the compulsory copyright license used by satellite television providers, which expires on December 31, 2009, through February 28, 2010. The extension is fully offset.

Nutrition Assistance: Includes language ensuring the Supplemental Nutrition Assistance Program (SNAP) will have sufficient funding to meet the growing demand for nutrition assistance from modest-income families and provides \$400 million in additional funding for state administrative expenses to speed up processing of applications. SNAP participation increased 18% in the last year to over 37 million people.

Assistance Eligibility: Maintains Department of Health and Human Services (HHS) poverty guidelines at 2009 levels through February 28, 2010 in order to prevent a reduction in eligibility for certain means-tested programs, including Medicaid, Supplemental Nutrition Assistance Program (SNAP) and child nutrition.

American Recovery and Reinvestment Act

Federal agencies continue to publish guidelines and announce the availability of funding provided in the \$787 billion American Recovery and Reinvestment Act (ARRA) approved by Congress in February. Please visit http://www.fergusongroup.us/stimulus_update.htm for regular stimulus updates.

ECONOMIC DEVELOPMENT

Direct Federal Funding to Local Governments

On June 23, 2009, Congressman Paul Kanjorski (D-PA) introduced H.R. 3007, the Local Fiscal Assistance Act. H.R. 3007 would establish a Local Fiscal Assistance Trust Fund and make direct payments to units of local government in support of priority community needs. The bill would provide local governments with a direct, flexible source of federal assistance to provide essential services, create jobs and improve infrastructure in their communities. H.R. 3007 is modeled after the successful General Revenue Sharing program established in the early 1970s that ended in the 1980s. This legislation would provide three years of funding support to localities (for a total of \$90 billion). The funds would come from the Department of Treasury's general fund of collections of federal individual income taxes that are not otherwise appropriated. Any money the Treasury Secretary determines is not needed for local governments would be transferred back to the general fund.

These funds could be used for priority community needs including maintenance, operating and capital expenditures for public safety such as law enforcement, fire protection and building code enforcement; environmental protection including sewage disposal, sanitation and pollution abatement; public transportation including transit systems and streets and roads; health; recreation; libraries; social services for the poor or aged; and financial administration.

The bill would establish several formulas to determine the funding allocations for different communities. The formulas would take into account a community's population, tax revenues and income.

NATaT needs your help! H.R. 3007 currently has three cosponsors: Rep. Marcy Kaptur (D-OH), Rep. Eric Massa (D-NY), and Rep. Janice Schakowski (D-IL). We are working with the offices of Senator Debbie Stabenow (D-MI) and Senator Charles Schumer (D-NY) to get this measure introduced in the Senate. In the meantime, we need cosponsors for the House bill. ***Please call your Member of Congress in the House of Representatives and ask that they co-sponsor this important legislation.*** (All Members received a "Dear Colleague" letter from Congressman Kanjorski on September 9, 2009, asking that they co-sponsor this bill.)

The proposal NATaT submitted to the House for the second stimulus, or jobs bill, listed the inclusion of H.R. 3007 as the organization's top priority. The House version of the bill did not include this provision but our work is not done. NATaT will now submit a proposal to Senate leadership to ensure that Local Fiscal Assistance is included in the Senate jobs bill. NATaT is also working to secure a meeting with the White House Office of Legislative Affairs to push inclusion of this measure in a second stimulus bill.

Second Stimulus Bill /Jobs for Main Street Act

On December 16, the House of Representatives passed a new jobs-creation bill, H.R. 2847, totaling \$154 billion. The bill passed by a vote of 217 to 212. The Senate is not scheduled to consider its jobs- stimulus proposal until January at the earliest.

The House jobs bill has two major components: a section aimed at creating and preserving jobs and a section intended to help the unemployed while they seek work. The bill contains \$75 billion for creating and preserving jobs, with \$48.3 billion set aside for infrastructure projects. That amount includes \$35 billion for highways and transit, and \$2 billion each for clean-water infrastructure and affordable housing improvements. Also included is \$26.7 billion set aside to prevent public sector employees, such as teachers and police officers, from being laid off. That figure includes \$23 billion for an Education Jobs Fund for states to fund jobs that provide educational services or renovate public school facilities; \$1.18 billion to support 5,500 law enforcement positions; and \$500 million for the retention of firefighters. The remaining funds will assist those that are currently unemployed, namely through a six-month extension of unemployment, health benefit programs, and federal investments in Medicaid. The bill also contains an extension through September 30, 2010 of SAFETEA-LU, which authorizes all highway and transit projects.

The passage of this bill is a huge success for NATaT, as we submitted a proposal to Congressional leadership detailing the programs that should be included in a second stimulus bill - programs that will provide the greatest benefit to local governments. In addition to NATaT Board support, more than 100 local leaders have signed a petition to Congress supporting this proposal. We are excited to report that many of the programs included in the House bill are those that were proposed by NATaT, such as COPS Hiring, SAFER, and Highway Infrastructure. However, our work is not done. We are submitting our proposal to Senate leadership to ensure that more programs that benefit local governments are included in the final bill. Programs such as HUD's Community Development Block Grant, EDA's Public Works and Economic Development and Economic Adjustment Assistance programs, and the Local Fiscal Assistance Trust Fund should be included in a new jobs bill.

ENVIRONMENT, WATER and ENERGY

Davis-Bacon Guidance for Water Projects

The Davis-Bacon Act requires that federal government construction contracts, and most contracts for federally assisted construction over \$2,000, include provisions for paying workers on-site no less than the locally prevailing wages and benefits paid on similar projects. Until recently, water infrastructure projects funded with State Revolving Funds (SRF) were exempt from the Davis Bacon Act requirements. Enactment of the Fiscal Year 2010 Department of the Interior and Environment Appropriations Act (P.L. 111-88) amended this exemption. The bill now requires that builders and contractors pay prevailing wages on infrastructure projects that use federal revolving loan funds.

On November 30, 2009, the Environmental Protection Agency issued guidance for regional offices and state agencies on how to implement required prevailing wage provisions for clean water and drinking water projects. The memo notes that the law requires states to include in all assistance agreements a provision requiring the application of the Davis-Bacon Act for the

entirety of the construction activities financed by the assistance through completion of construction, no matter when construction begins. The notice is found online at www.gpoaccess.gov/fr/index.html by searching on December 8 for EPA and Davis Bacon.

Water Infrastructure Funding

There were few pieces of water legislation introduced or moving in Congress in December. However, as the second jobs-stimulus bill was being crafted in the House, many water utility and non-profit groups fought hard to secure funding for water infrastructure projects. The House bill, passed in December, included \$1 billion each for EPA's Drinking Water and Clean Water State Revolving Loan funds. These funds would be distributed in the same manner as the last jobs bill – moving through state agencies with 20% of all funding to be put towards green infrastructure projects. The Senate has not completed their version of the second jobs bill.

HEALTH CARE

Senate Approves Health Care Legislation

After three weeks of difficult negotiations and debate, the Senate passed its health care reform bill, H.R. 3590, on the morning of Christmas Eve with a vote of 60-39. The Senate bill, which the CBO scored at \$871 billion over 10 years, would expand coverage to an additional 31 million Americans by creating state-based insurance exchanges, by barring insurers from excluding people with pre-existing conditions dropping them as policy holders, and expands delivery system and payment reforms. The Senate bill would let states opt out of including plans with abortion coverage on the exchanges and would require anyone with abortion coverage to write two separate premium checks, one for the abortion coverage and one for the rest.

On November 7, the House of Representatives voted 220-215 for passage of its health care reform legislation, H.R. 3962. The House bill, which the CBO scored at \$898 billion, would expand coverage to an estimated 36 million additional Americans by creating an insurance exchange that offers private plans, including a public insurance option, provides premium subsidies to help individuals and families purchase coverage, broadens the Medicaid program and implements a series of insurance market reforms. The House bill ensures that no federal funds would pay for abortions and no services would be available to illegal immigrants. The House abortion prohibition would also apply to private plans offered through an exchange in which individuals can purchase coverage in part using federal subsidies.

The differences in the House and Senate bills will now have to be reconciled. Congressional Democratic leaders are hoping to produce a compromise bill that can be signed by President Obama by late January, prior to the State of the Union. The President, who has endorsed both the Senate and House bills, said he will try to help the two chambers work out their differences.

TAX

Local Officials Tax Relief Act

For a number of years NATaT has worked to secure support for the Local Officials Tax Relief Act (S. 492). The measure as introduced in the House on December 2, 2009 (H.R. 4185) and has one cosponsor – Rep. Stephanie Herseth-Sandlin (D-SD). This legislation would amend the

Internal Revenue Code (IRC) to exempt small payments to public officials from FICA tax withholding and reporting requirements. Currently, election workers who are compensated less than \$1,500 a year are excluded from the IRC's definition of "employment" for income and FICA tax purposes. H.R. 4185/S. 492 would expand that exclusion to include local public officials who are compensated less than \$1,500 a year. Local governments would still be required to provide the minimally compensated public officials with a 1099 tax form, but would avoid the burdensome and expensive FICA withholding and reporting requirements. Individuals that receive payment for their public service capacity will still be required to report this income for federal tax purposes.

NATaT is currently working with Senator Tim Johnson's (D-SD) office to draft and send a letter to Commissioner of the Internal Revenue Service from supporting Senators asking that the IRS make this change administratively – avoiding the legislative process altogether. With the precedent from the poll workers exemption, both Senate staff and NATaT staff hope that the IRS will agree to this change.

TELECOMMUNICATIONS

ARRA Broadband Awards Announcement

On December 17, Vice President Joe Biden announced the first round of the American Recovery and Reinvestment Act (ARRA) funded broadband projects with a focus on support for anchor institution networks, rural last mile projects and urban computer centers. A federal investment of \$182 million supported by a private capital match of more than \$46 million will be provided for eighteen projects that will benefit seventeen states. Most of the projects that received awards were structured as public-private partnerships. The White House classified four types of project intended to build and improve connections to communities lacking sufficient broadband access; Last Mile Awards to connect end users like homes, hospitals and schools to their community's broadband infrastructure (the middle mile); Public Computing to expand computer center capacity for public use in libraries, community colleges and other public venues; and, Sustainable Adoption to fund innovative projects that promote broadband demand. The Obama Administration is expected to provide over \$2 billion in economic stimulus funded grants and loans within the next 75 days and more than \$7 billion over the next year to support grants to develop middle-mile infrastructure to underserved communities.

Congress included \$7.2 billion for broadband projects in the ARRA to create jobs and bring new economic opportunities to parts of the country left behind in today's digital age. That includes \$4.7 billion to be awarded by the National Telecommunications and Information Administration, an arm of the Commerce Department, and \$2.5 billion to be awarded by the Rural Utilities Service, part of the Agriculture Department. Demand for the broadband money has been intense, far outstripping the amount of federal dollars available. The Commerce and Agriculture Departments received nearly 2,200 applications submitted by local governments, inner-city community groups, rural cooperatives.

TRANSPORTATION

Transportation Authorization, Highway Trust Fund Extensions

Included in a \$150 billion jobs/stimulus bill, approved by the House of Representatives on December 16, is language which would extend the programs contained in the SAFETEA-LU transportation authorization law at roughly FY 2009 levels through September 30, 2010. This bill will not be voted on until next year by the Senate. Concurrently, Congress extended the solvency of the Highway Trust Fund through February 28, 2010, as part of the FY 2010 Defense Appropriations Act, which was signed by the President on December 21.

Congress Approves \$600 Million for Additional TIGER Grants

On December 16, the President signed the FY 2010 Transportation/HUD Appropriations bill which provides \$600 million for additional grants under the Transportation Investment Generating Economic Recovery (TIGER) program. The program is similar but not identical to the first round of TIGER grants. The new money requires that \$140 million be set aside for rural projects and lowers the minimum grant size from \$10 million to \$1 million for rural projects.