



New Jersey State League  
of Municipalities

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*RE: A Special Edition of the Federal  
Relations Update*

Dear Mayor:

**This Special Edition of the Federal Relations Update provides a summary of key federal legislative activities affecting local governments in the 1<sup>st</sup> Session of the 110th Congress. The 2nd Session commences on January 15, 2008.**

**The summary is organized by issue area.**

#### **Federal Funding for Local Activities**

Although the House and Senate supported individual spending bills that reflected modest increases or level funding for programs important to cities and towns, Congress eventually acquiesced to the President's budgetary cap and passed an omnibus spending bill that reflected the President's overall spending goal of \$933 billion. Although Congress was forced to find \$22 billion in cuts to meet the President's request, funding for many programs important to cities and towns was not cut back to the President's proposed spending.

#### **Housing and Community Development**

In the area of housing and community development, the omnibus bill included \$3.6 billion for the Community Development Block Grant program, which is \$100 million less than the program received in last year's budget but \$600 million more than the President requested. In earlier versions of spending bills passed during the session, the House and the Senate approved \$4 billion for this important program. In a continued show of support for the HOPE VI program, which is vital to local government efforts to preserve the stock of quality public housing units, Congress ignored the President's request to eliminate this program and instead funded it with \$100 million, \$1 million above the FY 2007 level.

#### **Transportation and Infrastructure**

Recognizing the need to replace aging infrastructure, the omnibus bill includes funding at the authorized level for the highway program at \$40.2 billion, which is \$631 million more than the President proposed. The bill also includes \$3.5 billion for airport improvement grants, and an additional \$1 billion for bridge repairs and inspections. Federal transit programs would receive \$9.5 billion, more than last year's amount but less than the original conference report adopted by the House and Senate. Amtrak would receive \$1.3 billion, the same as last year but substantially above the President's request of \$800 million.

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### **Public Safety and Crime Prevention**

In response to reports that showed an increase in violent crime across the country, the House and the Senate had earlier rejected the President's proposed 94 percent decrease for the popular Community Oriented Policing Services (COPS) program. The omnibus bill includes \$587 million for the COPS program, which is \$35 million more than the FY 2007 level. However, this spending level falls short of the \$725 million for the COPS program that the House approved earlier in the session.

### **Immigration Reform**

In June, the Senate voted 46-53 not to limit debate on bi-partisan comprehensive immigration legislation (S. 1639). This doomed the bill and the issue for the remainder of the 110th Congress. Although Congress was unable to reach agreement on a comprehensive measure, lawmakers did defeat attempts to restrict local government authority to enact immigration-related measures. The rejected provisions included efforts to prevent the use of federal funds by cities that have adopted policies involving privacy restrictions related to immigration status, restricting the use of English-only provisions, or providing rental housing for illegal immigrants. In the omnibus spending legislation, Congress did provide a nearly \$2 billion increase in funding for border security and enforcement of immigration laws.

### **Housing Finance System Reforms Receive Priority Attention**

Congress and the Administration have considered several proposals to address the crisis in the housing market; so far, one bill has become law. On Dec. 20, the President signed into law H.R. 3648, the Mortgage Forgiveness Debt Relief Act. Under current law, if the value of your house declines and your bank or lender forgives a portion of your mortgage, the tax code treats the amount forgiven as money that can be taxed as income, which can make a difficult situation even worse. This bill creates a three-year window for homeowners to refinance their mortgage and pay no taxes on the debt forgiven as a part of the transaction. Other federal initiatives to address the housing market crisis are pending and will continue to be debated in 2008. Those include:

### **Mortgage Reform and Anti-Predatory Lending**

Congress and the Administration have offered separate, and in some ways competing, responses to predatory lending and unsound investment practices central to the current home foreclosure crisis. This crisis and the resulting credit crunch are spreading well beyond the housing market and are now impacting the cost of credit for local government borrowing, as well as local property tax revenues. The House passed legislation, H.R. 3915, would prohibit certain predatory lending practices and make it easier for consumers to renegotiate predatory mortgage loans. The Senate introduced similar legislation late last year (S. 2452). Leadership in both chambers reached out to NLC for support and assistance to enact or advance their respective bills. Both chambers are expected to continue to focus efforts on this issue and the legislation in 2008. Meanwhile, the Administration proposed new lending rules, under the existing authority of the Federal Reserve, similar to key consumer protection provisions contained in the pending legislation. However, Democratic leaders have attacked the Administration's efforts as not going far enough to help as many homeowners as possible. NLC will review the proposed rules and submit comments regarding them in the first quarter of 2008.

### **Foreclosure Mitigation Assistance**

In addition to legislation that would fix the mortgage system prospectively, the House and Senate are also considering measures that would help homeowners currently facing foreclosure either keep their homes or reduce the financial penalties in the event of a foreclosure. Federal Housing Administration (FHA) modernization legislation, which passed both chambers (H.R. 1852/S. 2338), would help a larger number of homeowners refinance out from high-interest sub-prime loans and into federally-insured lower-rate conventional loans, especially in high-cost housing areas. Legislation to reform the Government Sponsored

Enterprises (GSEs), Fannie Mae and Freddie Mac (H.R. 1427) also would increase the refinancing options for struggling homeowners. Although both bills enjoy varying levels of support, significant differences remain between Congressional leaders and the Administration on the level of assistance they should provide.

### **Affordable Housing Trust Fund Legislation Passes the House**

Last October, the House passed the National Affordable Housing Trust Fund Act (AHTF), by a vote of 264 to 148. The bill would provide more than \$1 billion in new resources annually for the production, preservation, and rehabilitation of 1.5 million affordable homes over ten years. Sixty percent of the funds would go to cities and towns, and 40 percent would go to states. Funds could be used for construction, rehabilitation, acquisition, and preservation of affordable housing. Funding for the trust fund would come from non-budgetary sources, including the Government Sponsored Entities (GSEs), Fannie Mae and Freddie Mac, as well as interest earnings generated by the Federal Housing Administration (FHA), ensuring that AHTF funds will not be affected by the annual appropriations process and will not compete for funds with other programs, such as CDBG and HOME. The Administration opposes the legislation out of concern that it would, among other things, create an undue and counterproductive reliance on the FHA and the GSEs. In late December, Sen. John Kerry (D-MA) introduced a companion proposal in the Senate, S. 2523.

### **Eminent Domain Amendment Defeated**

In December, NLC successfully lobbied against eminent domain legislation being considered in the Senate as an amendment to the Farm Bill, H.R. 2419. Introduced by Sen. Larry Craig (R-ID), the provision would have preempted state and local land use laws by prohibiting any state or local government from exercising eminent domain authority over any "farmland or grazing land for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista or similar purpose." With opposition from NLC, state municipal leagues, elected officials, and other local government groups, the amendment failed to get the 60 votes needed to continue consideration of the amendment, and Sen. Craig withdrew it.

### **Permanent Ban on Internet Taxes Defeated**

Faced with the expiration of the Internet Tax Freedom Act (ITFA), members of Congress introduced several bills that would have made the ITFA permanent. The ITFA, or "Internet Tax Moratorium," prohibits state and local governments from taxing "Internet access" charges. As an alternative to legislation that was gaining momentum, NLC and several of its state and local partners pushed for a temporary extension of the ITFA, rather than the permanent one favored by many in the business community. Congress and the President eventually rejected a permanent moratorium and enacted the Internet Tax Freedom Act Amendments Act of 2007, H.R. 3678, which extended the ITFA for seven years, clarified the definition of Internet access and retained the grandfather protections for states and local governments that taxed "Internet access" prior to 1998.

### **Repeal of the Three Percent Withholding Requirement Still Possible**

NLC lobbied in support of two efforts by Congress to delay from 2011 to 2012 the implementation of a new unfunded mandate that requires federal, state, and local governments, who spend more than \$100 million on goods and services, to withhold three percent of all payments to contractors and vendors and to remit those monies to the Internal Revenue Service (IRS). Although the legislation did not pass, House leaders continue to support the delay and are likely to move this legislation in 2008. NLC will continue to lobby for the repeal of this onerous requirement that would force local governments to become collection agents for the IRS.

### **Oral Arguments in Video Franchise Lawsuit Scheduled for February**

After NLC successfully defeated attempts in the 109th Congress to pass a national cable franchise law, the Federal Communications Commission (FCC) stepped in to fill the void. In 2007, the FCC issued its First Order preempting local government's jurisdiction over the franchising process with respect to new entrants in a local

cable market. NLC and several partner organizations are challenging the decision in a lawsuit that is pending in the Sixth Circuit Court of Appeals. The case has been fully briefed with the Court, and oral arguments are scheduled for February 2008 with a decision expected no later than June 2008. In November 2008, the FCC issued a Second Order to address the franchising process with respect to incumbent cable providers. NLC also opposed this order for similar reasons as the First Order and has asked the FCC to reconsider its decision and to block implementation of the Second Order; that request is pending.

### **Energy Legislation Becomes Law**

Congress and the President enacted historic comprehensive energy reform legislation aimed at moving the U.S. toward greater energy independence and security, increasing the production of clean renewable fuels, and increasing the energy efficiency of products, buildings and vehicles. The Energy Independence and Security Act (H.R. 6) authorizes a new \$10 billion Energy Efficiency and Conservation Block Grant program to provide grants to cities, counties and states for innovative practices to achieve greater energy efficiency and lower energy usage. The legislation also raises the Corporate Average Fuel Economy (CAFE) standards for cars, light trucks, and SUVs sold in the United States for the first time in 32 years to a fleet average of 35 miles per gallon.

### **Climate Change Proposals Receive Attention in the Senate**

Congress considered several similar climate change bills last year. America's Climate and Security Act (S. 2191), which passed the Senate Environment and Public Works Committee last year, would limit greenhouse gas emissions from power plants, manufacturers, petroleum refiners, and other sectors of the economy. The bill also would reduce total domestic emissions by 18 to 25 percent below 2005 levels by 2020, and by 62 to 66 percent by 2050. The Global Change Research Improvement Act of 2007 (S. 2307) is aimed at helping federal, state, and local officials adapt to the possible consequences of global warming. The bill, which passed the Senate Commerce, Science and Technology Committee in December, would establish a "national climate service" within the National Oceanic and Atmospheric Administration to assess the impacts of climate change at state and local levels. Both climate change bills could see action on the Senate floor early next year.

### **Federal Aviation Administration Reauthorization**

Congress was unable to reach agreement on a reauthorization of federal airport programs in time for the September 2007 expiration of the program. However, Congress currently extended the program, as well as the taxes that support it, in the omnibus appropriations bill. The Administration had sought major changes in the program, including a change in the tax structure supported by commercial airlines, reduction of general revenues for airport programs, and elimination of programs for small airports. Congress rejected most of the changes in the reauthorization bills but was unsuccessful in reaching agreement on the imposition of new fees on private jets. The reauthorization bill approved by the House did include an increase in the ceiling for passenger facility charges from the current \$4.50 to \$7.00, an increase supported by NLC. The Senate has yet to reach agreement on a proposal.

### **Amtrak Reauthorization Passes the Senate**

The Passenger Rail Investment and Improvement Act of 2007 (PRIIA), which passed the Senate in November, would reauthorize Amtrak through 2012 and provide \$11.4 billion for the rail system over the next six years. This six-year authorization, which NLC supports, would provide Amtrak, whose last authorization expired in 2002, with stability and allow for long-term planning. The bill proposes \$3.3 billion for operation subsidies and \$4.9 billion for capital improvements, plus \$1.4 billion for upgrades of other urban rail systems. Over the life of the bill, Amtrak's operating subsidy would be reduced by 40 percent through cost cutting, restructuring, and reform, while capital funding to Amtrak and the states for intercity passenger rail projects would be increased. The bill features a new funding source, the Intercity Passenger Rail Grant Program. The purpose of the grant

program is to grow Amtrak rider-ship while allowing states to take a more active role in designing their own specific rail solutions and bearing a greater share of the cost. The House will likely introduce a bill early next year that builds upon the Senate version.

### **Surface Transportation Reauthorization**

Aging infrastructure and congested highways will continue to keep transportation funding on the Congressional agenda as debate on the future of the federal surface transportation program gets underway. Concern over shortfalls in revenue from the Highway Trust Fund, the inadequacy of current financing methods to keep up with demand, and the bridge collapse in Minneapolis has renewed attention on the safety of crumbling roads, bridges and tunnels. While Congress has maintained spending on roads, highways, bridges, and transit programs, the calls for an updated national vision for transportation that includes the connection between transportation and energy will begin with the release of the National Surface Transportation Revenue Study Commission findings early in the second session of the 110th Congress. Congress remains skeptical of the administration's reliance on public private partnerships as the answer to national surface transportation needs, and the debate will intensify as the September 2009 expiration date for the current surface transportation program approaches.

### **State Children's Health Insurance Program Expansion Defeated**

Congress twice sent legislation to reauthorize the State Children's Health Insurance Program (SCHIP) to the President for signature, and twice he vetoed it. Both bills would increase funding substantially for this program and provide health insurance for 10 million currently uninsured children. The President's objections to both measures include: (1) the overall cost of the program, (2) eligibility standards, (3) access to insurance by children of undocumented workers, and (4) adult enrollment in the program. Before concluding the session, Congress extended the current authorization until March 2009, and increased funding slightly to ensure that all children currently eligible would continue to receive SCHIP benefits.

### **One-Year Alternative Minimum Tax Fix Approved**

After House and Senate wrangling over solutions to the alternative minimum tax (AMT), the House adopted the Senate version of a one year fix that would provide relief for up to 21 million taxpayers who would have otherwise been subject to this tax. House Democrats initially resisted the Senate's removal of revenue-raising offsets, but gave in when it became clear that the President would not support the House bill. When Congress considers retroactive relief for some expiring tax credits and deductions in 2008, it is expected that House Democrats will revive the AMT one-year patch debate and again propose offsets for this \$50 billion tax-relief measure.

### **Terrorism Risk Insurance Act Extended**

On behalf of NLC-RISC, NLC lobbied in support of an extension of the Terrorism Risk Insurance Act (TRIA). TRIA provides insurance coverage for terrorism events, which private policies widely exclude from coverage. The bill which became law, the Terrorism Risk Insurance Program Reauthorization Act of 2007, H.R. 4299, includes a seven-year extension of the program and retains the current \$100 million trigger for coverage.

### **Streamlined Sales Tax Proposals Introduced**

The Sales Tax Fairness and Simplification Act (S. 34/H.R. 3396) would grant states that have complied with the Streamlined Sales and Use Tax Agreement (SSUTA) the authority to require out-of-state sellers to collect sales tax on remote sales. While NLC supports simplification of the sales and use tax system, we have serious concerns that the bills require states to administer and collect local telecommunication taxes and fees. It is unlikely that these bills will gain momentum in 2008, as collection of sales taxes on Internet purchases would

be viewed by many citizens as a tax increase, a perception that neither political party would want to be associated with during a presidential campaign year.

#### **Education Legislation Stalled in House and Senate**

Despite efforts by committee chairs in both the House and Senate to reauthorize No Child Left Behind (NCLB), both the House and Senate failed to make any headway. The House held hearings on draft reauthorization language, and the Senate had listening sessions. But neither the House nor the Senate committee chairs formally introduced legislation, and efforts to address NCLB reauthorization are not likely to be considered until after the presidential election.

#### **Workforce Investment Act Reauthorization**

Efforts to reauthorize the Workforce Investment Act (WIA) stalled completely due to demands from organized labor to substantially alter the governance structure and redirect the program away from dislocated workers toward economically disadvantaged youth and adults. While reauthorization bills that would retain the governance structure have support in the House and Senate, action is unlikely until after the presidential election.

#### **Authorization for Water Projects Becomes Law Over President's Veto**

Congress overrode the President's veto of the Water Resources Development Act (H.R. 1495). This bill authorizes more than \$23 billion for Army Corps of Engineers water projects, including over 900 projects for navigation, environmental restoration, and hurricane, flood or storm damage reduction in 23 states.

We will resume our regular updates after the House and Senate return to Washington next week. If you have any questions or comments on this, contact Jon Moran at 609-695-3481, ext. 121.

Very truly yours,

  
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