NACo National Association of Counties
The Voice of America's Counties

IMLA
Legislative Talking Points

Jacqueline Byers
Director of Research and Outreach
National Association of Counties

Each year, NACo's Rural Action Caucus identifies the most pressing issues facing rural America and brings them to the attention of key administration officials and members of Congress. This year's priorities include:

- oppose unfunded federal mandates and preemptions, especially the "waters of the U.S." guidance expected to be issued soon by EPA
- support for making rural development a priority within the Farm Bill reauthorization and level funding for USDA Rural Development Programs
- support for a multi-year reauthorization of the highway and bridges bill, MAP-21
- support for an extension of the Secure Rural Schools and Community Self-Determination Act (SRS) and continued mandatory funding for Payment in Lieu of Taxes (PILT), and
- support for health care services in rural America, especially Medicaid.

RAC members emphasized rural surface transportation reauthorization priorities with the U.S. Department of Transportation (DOT) and obstacles to rural health care service delivery in rural areas with the U.S. Department of Health and Human Services (HHS). RAC members also met with the Federal Emergency Management Agency (FEMA) to discuss floodplain-mapping issues and with the EPA and U.S. Army Corps of Engineers in which the focus was NACo's opposition to the upcoming "waters of the U.S." guidance. RAC members met with senior officials at the U.S. Postal Service to discuss NACo's policy that seeks to limit the closure of postal facilities.

Rights of Way Management Issues

Since NACo has been working with member governments of IMLA, NATOA, and NLC on the Notice of Inquiry on Rights of Way management and fees, we were able to generate scores of individual comments to the FCC on the intricacies of such management. The FCC was very impressed with the nuances, and we have successfully convinced them they shouldn't do anything on rights of way.

Social Services Block Grant

The House Ways and Means Committee mark-up its budget reconciliation package last Wednesday, April 18 and it completely eliminated the Social Services Block Grant (SSBG) for

savings as proposed in the House Budget resolution. SSBG is a capped entitlement to states currently funded at $1.7 billion. SSBG is the only source of federal funds for Adult Protective Services at this moment.

Transportation

On March 29, the House of Representatives passed H.R. 4281, a "clean" 90 day extension of Highway Trust Fund taxes, spending authority and program funding by a vote of 266 to 158. This band-aid extension will expire on June 30. The House has until June 30 to pass its version of a multi-year authorization but conventional wisdom is that another extension through the end of the fiscal year is more likely. However, President Obama has stated that he will not sign the extension to October if it contains Keystone Pipeline authorization. The House passed a bill a week ago, just to go to conference with the senate over its bill that was passed a month ago. That bill contained very little about the reauthorization of the Surface Transportation Act but was largely a vehicle to get the Keystone Pipeline back on the table.

Census Budget

Census Issues -- HR 931
Submitted by Rep. Poe of Texas March 2011

To make participation in the American Community Survey voluntary, except with respect to certain basic questions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTICIPATION IN AMERICAN COMMUNITY SURVEY TO BE VOLUNTARY.

(a) In General- Except as provided in subsection (b), no criminal penalty shall apply, under section 221 of title 13, United States Code, or any other provision of law, for refusing or willfully neglecting to answer questions in connection with the survey, conducted by the Secretary of Commerce, which is commonly referred to as the `American Community Survey'.

(b) Exceptions- Nothing in subsection (a) shall--

(1) apply in the case of a question that elicits only 1 or more of the items of information described in subsection (c); or

(2) be considered to waive any penalty imposed by reason of conduct described in section 221(b) of title 13, United States Code.

(c) Information Described- The items of information described in this subsection are as follows:

(1) The name of the respondent.

(2) Contact information for the respondent.

(3) The date of the response.

(4) The number of people living or staying at the same address.

The President's request for FY2013 for the Census Bureau was a modest three (3) percent increase over FY2012. The total FY13 House mark for the Bureau is $91.3M below the request.

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Reauthorization of the Federal Surface Transportation Program

Issue: SAFETEA-LU, the federal program that funds a substantial number of county highway, bridge and transit projects, expired on September 30, 2009. Congress did not act prior to that date and there have been a series of short term extensions in order to keep the program running, the latest of which goes through March 4, 2011. Meanwhile, the new Congress will be reviewing the program and considering long-term options to improve the highway and transit programs. A major challenge is addressing how to increase funding for these programs at a time when many Members of Congress and the Obama Administration are reluctant to support an increase in the federal fuel tax.

NACo policy: The following are the critical issues that need to be addressed in the reauthorization:

- County governments own about 1.77 million miles of highways -- 45 percent of the nation's 4 million mile highway and roadway network.
- County governments own 256,000 bridges, 44 percent of all bridges.
- County governments own/operate about one-third of the nation's transit systems, including rail, bus, and van service.

1. **Funding** - NACo supports increased funding for the federal highway and transit program, including consideration of an increase or the indexing of the federal gasoline tax and the reinvestment of accrued interest generated by the Highway Trust Fund. Alternative sources of funding should be examined through pilot projects and research.

2. **Surface Transportation Program** - The STP program should be increased and all funds should be distributed based on population.

3. **Metro Congestion** –A new federal program should be created to reduce urban and suburban congestion in metro regions and each existing federal-aid highway program should have a component that reduces congestion.

4. **High Risk Rural Road Program** – This program should be expanded dramatically and be funded at $1 billion annually with substantial input by local officials on project funding decisions.

5. **Bridge Program** – Retain the off-system bridge program at no less than current funding and increase overall investment in the federal bridge program to address the issue of the substantial backlog of deficient bridges.

6. **Planning** - Planning funds for MPOs should be increased and MPOs in small-urbanized areas should have the same authority as large MPOs. Regional or rural planning organizations should be created and funded.

7. **Transit** - Substantially increase funding for public transportation to continue to develop and maintain a balanced transportation system in the United States that provides a variety of transportation options to our citizens. Congress should retain the current level of federal commitment to transit projects by maintaining existing federal – local matching requirements.

8. **Incident Management** - A new Incident Management Grant Program should be created to address accidents and broken down vehicles that are one of the main causes of congestion.

9. **Local Technical Assistance Program**-This program that provides training and technical transfer of best practices to county officials should be gradually increased to $20 million annually.

10. **Streamline Project Delivery** - Implement reforms that will result in more timely and efficient delivery of projects while protecting the environment and citizen participation.

Action needed: County officials should contact their members of Congress to let them know how important reauthorizing the federal surface transportation program is to improving county highway, bridge and transit systems and begin exploring legislative changes that could assist counties in benefiting even more from the program.

Background: The multi-year reauthorization for the federal highway and transit programs expired on September 30, 2009 without any Congressional action. Since then, there have been six short term extensions to keep funding flowing, the latest of which expires on March 4, 2011. The current law, SAFETEA-LU, has provided about $286 billion in funding for highway, transit and safety programs over the past five year period. In the House, the Transportation and Infrastructure Committee will consider both the highway and transit programs.

With the change of control in the House, the new chair of the committee is Representative John Mica(R-Fla.). He is less enthusiastic about a large increase in the highway and transit programs than his predecessor former Representative James Oberstar (D-Minn.) but nonetheless is a strong proponent for reforming the existing program. It is unclear how these reforms will impact county governments. Of concern to NACo was an earlier proposal to eliminate the federal bridge program, including the 15 percent set aside for off-system bridges.

In the Senate, the Environment and Public Works Committee, chaired by Senator Barbara Boxer (D-Calif.) is responsible for the highway program and the Banking Committee, chaired by Senator Tim Johnson (D-S.D.) is responsible for the transit program. The Senate committees have moved slowly, though there may be a draft of the highway section of the bill available in the next several months. In the meantime, the Obama Administration has announced its surface transportation proposal, which changes the existing program dramatically. They recommend a funding level of $556 billion over six years, including $336 billion for highways and bridges; $119 billion for transit; $53 billion for high-speed rail; and $30 billion for a national infrastructure bank. The current Highway Trust Fund is expanded into a Transportation Trust Fund, which will include the existing highway and transit accounts and two new accounts for passenger rail and a national infrastructure bank. However, no new revenue sources are proposed for any of the program expansions.

For further information, contact: Bob Fogel 202/942-4217 or bfogel@naco.org
February 2011

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Rural Development Appropriations

Issue: Appropriations for NACo supported rural development programs.

NACo policy: NACo policy supports strengthening rural communities and their economies.

Action needed: Ask your members of Congress to restore funding for USDA Rural Development programs in the FY 2013 appropriations process.

Background: USDA Rural Development funds a broad range of programs that are critical to rural counties. These programs include funding for water/wastewater infrastructure, community facilities, broadband, electric, telephone, housing, renewable energy and business development.

USDA Rural Development programs create jobs and enhance economic prosperity in rural communities. Recent cuts should be restored and at a minimum, these programs must be maintained at level funding; especially grant funding in order for rural communities to overcome impediments to economic development. The FY 2012 enacted level for USDA Rural Development programs provided $2.2 billion in budget authority that will provide loans, grants and other assistance. This represents a cut of $732 million or 25 percent in budget authority from the FY 2010 enacted level. These drastic cuts over the past two years decrease the agency's ability to partner with local governments, businesses and rural people to create rural jobs.

NACo calls on Congress to:

- Restore USDA Rural Development program funding levels in FY 2013 to the FY 2010 enacted level of $2.933 billion and resist efforts to cut these critical rural programs further. This agency has been cut by 25 percent over the last two years. Further cuts will continue to weaken critical economic development opportunities in rural counties.

- Support grant funding for USDA rural water infrastructure and community facilities programs, which are especially critical to economic development efforts in rural communities. NACo supports $469 million for Rural Water and Waste Program Grants and $20.37 million in funding for Community Facility Grants.

- Support rural business programs which leverage public and private sector resources to create new jobs. NACo supports $97.11 million in budget authority for the Rural Business Program Account, which includes the Rural Business Enterprise Grants ($38.72 million), Rural Business Opportunity Grants ($2.48 million), and Business and Industry Loans ($52.92 million). NACo also supports funding the Intermediary Relending Program at $8.46 million, the Rural Microenterprise Assistance Program at $2.5 million, the Value Added Producer Grants at $20.36 million, and the Rural Energy for America Program at $19.67 million.

- Support Regional Innovation and Flexibility. The FY 2012 Agriculture Appropriations bill that was wrapped into the Minibus, P.L. 112 – 55, included language supporting the Regional Innovation Initiative. NACo urges continued support of this initiative which is designed to give USDA Rural Development the flexibility to focus some agency support on innovative locally-driven projects. The initiative will target 5 percent of several existing rural development programs to economic development projects that represent regional priorities.

For further information, contact: Erik Johnston 202/942-4230 or ejohnston@naco.org
March 2012

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Farm Bill Reauthorization

Issue: Reauthorization of the Farm Bill.

NACo policy: NACo supports full funding of all titles in the 2012 reauthorization of the Farm Bill and calls on Congress and the Administration to place particular emphasis on crafting a bill that provides enhanced resources to rural development programs and strategies that promote rural prosperity.

Action needed: Ask your members of Congress and the Administration to support a robust farm bill reauthorization that makes rural development programs a priority and targets rural development funding towards regional strategies that are based on local priorities and assets.

Background: The 2008 Farm Bill expires on September 30, 2012. Election year politics will make it difficult to finish the bill in 2012, but the House and Senate Agriculture Committees will hold hearings and adopt their versions of the legislation by spring or summer of 2012. The Farm Bill is a massive piece of legislation which authorizes a broad range of programs that are critical to counties. These programs assist counties in the development of rural water/wastewater infrastructure, community facilities, broadband expansion, nutrition assistance, renewable energy, local and regional food systems, support for new farmers, and business development initiatives. All titles of the 2012 farm bill are important to the vitality of our nation; therefore NACo supports full funding of all titles.

NACo supports four key Farm Bill reauthorization priorities that will help rural counties revitalize their economies and quality of life.

1) NACo supports an enhanced commitment to USDA Rural Development programs in the next farm bill, especially key infrastructure and business development programs that support the agricultural sector and the retention and creation of businesses.
2) NACo supports rural development strategies which focus on making USDA's investments more efficient and effective by rewarding strategic regional approaches to rural development that allow counties and their regional partners to focus on their local economic assets, priorities and goals.
3) NACo supports enhanced funding for renewable energy development, especially programs that assist local governments in their efforts to develop renewable energy and increase energy efficiency.
4) NACo supports policies that ensure all programs recognize that youth play a vital role in sustaining American agriculture and rural communities. New programs and updates to ongoing programs are needed so that it is possible for young and beginning farmers to survive and thrive in the modern agricultural economy.

For further information, contact: Erik Johnston 202/942-4230 or ejohnston@naco.org
March 2012

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Repeal the "Inmate Exception" for Federal Health Benefits

Issue: "Inmate exception" for federal health benefits for individuals in custody in public institutions pending disposition of charges.

NACo policy: NACo supports changes in current federal law or regulation that will allow an otherwise eligible person, who is in custody but not convicted, to continue to receive federal health benefits until such time as they may be convicted and sentenced to an institution.

Action needed: Ask your Member of the House of Representatives to support reintroduction of the *Restoring the Partnership for County Health Care Costs Act* (H.R. 2209) introduced in the 111th Congress by Congressmen Alcee Hastings (D-Fla.), Rush Holt (D-N.J.) and Michael Burgess (R-Texas). This bill would restore federal health benefits to otherwise eligible persons in custody pending final disposition of charges. Ask your Senator to introduce companion legislation in the Senate.

Background: Currently a person incarcerated in a county jail or juvenile detention center may not receive federal Medicaid benefits once they enter the facility. Section 1905(a)(A) of the Social Security Act, which governs the Medicaid program, excludes Federal Financial Participation (FFP) for medical care for "inmates of a public institution". As a consequence, the cost of medical care for these inmates becomes a county responsibility upon arrest and detention. The cost to counties for persons who would otherwise be receiving federal entitlement payments is significant based on county estimates. Most states maintain that they are unable to assure the federal share of providing medical services to eligible persons and to terminate eligibility.

If the individual has been terminated from these programs, it may take months for these benefits to be restored once they leave the institution. What is clear is that the immediate cessation of benefits occurs prior to the issuance of formal charges or conviction when the individual is presumed innocent.

Many people awaiting trial, who are charged with crimes, are released upon posting of bond, released on their own recognizance, released under house arrest or other alternative means of detention. These accused people continue to be eligible for federal matching payments under Medicaid while awaiting trial. Some individuals who are charged with crimes and incarcerated in county jails are ultimately acquitted of the crime or the charges may be dropped and the individual released. All individuals who are eligible for federal payment of medical benefits prior to arrest should continue to be eligible until such time as they have been convicted of a crime and become a ward of the state or county.

Medicare, Children's Health Insurance Program (CHIP) and Veterans benefits are similarly limited.

NACo succeeded in having a provision included in the Affordable Care Act that, beginning in 2014, will require plans offered on the new state based health insurance exchanges to cover persons in custody pending disposition of charges.

For further information, contact: Paul Beddoe 202/942-4230 or pbeddoe@naco.org
February 2011