



Legislative Bulletin

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NOTE: Due to the August Congressional recess period from August 6 through September 3 there will be no Legislative Bulletin at the end of the week. On Monday August 6 we will be sending a 110th Congress 1st Session Legislative Update.

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Entire Nation to Use Next-Generation Voting Equipment Under Revised Bill – Action Needed!

The New York Times reported over the weekend that Majority Leader Steny Hoyer, D-Maryland, has reached an agreement with Representative Rush Holt, D-New Jersey, to bring his legislation to amend the Help America Vote Act to the floor of the House of Representatives this week.

As reported in the press, the compromise would require counties in 18 states that currently use voting equipment without a voter verifiable paper audit trail or VVPAT to replace or retrofit their equipment before the presidential election in 2008. Even more dramatically, however, it would require the entire nation to switch to next-generation voting equipment before the presidential election in 2012. Language requiring paper ballots be scanned into an audio format for accessibility for the visually impaired has been expanded to make this process "hands-free" - which would appear to make all existing electronic voting equipment obsolete. The Election Assistance Commission would be required to issue an annual report on vendor development of this new product each year from 2009 to 2011; the compliance deadline would be 2012.

In addition, the bill would require the use of pre-printed paper ballots at every polling site, even at early voting and vote center locations. These ballots would have to be available in case of voting system failure in 2008, and be offered to every voter beginning in 2010. There has been no change in the audit requirements of the underlying legislation, which would strip authority for conducting audits

from county election officials and require that all recounts be conducted by human hand and eye rather than by using electronic ballot counters.

County officials must contact your member of Congress by Wednesday, August 1 and urge them to oppose H.R. 811. This applies even to cosponsors of the original legislation; it has been revised significantly since it was introduced and several of its requirements have become more, not less, onerous in the process.

County officials should send a copy of all correspondence on this issue to Alysoun McLaughlin with NACo via facsimile at 202/942-4281. (Contact: Alysoun McLaughlin 202/942-4254 or amclaughlin@naco.org) [[Top of Page](#)]

Farm Bill Passes the House

The House approved a \$286 billion, five-year farm bill on a 231-191 vote last week. The bill was controversial due to the House leadership's decision to fund a \$4 billion increase in the food stamp program by taxing royalties, interest and other payments that U.S. foreign-owned companies make to foreign affiliates. House Agriculture ranking member Bob Goodlatte (R-Va.) supported the bill in committee when a financing plan had not been decided. He and the White House opposed the Democratic solution and the White House is threatening to veto the bill as passed. The House rejected a more liberal alternative that would have reduced farm subsidies in support of other programs by defeating 309-117 an amendment offered by Reps. Ron Kind (D-Wis.) and Jeff Flake (R-Ariz.). The bill preserves the existing system of farm subsidies and provides additional assistance for conservation nutrition and agricultural sectors as well as increasing assistance for preservation of grasslands and wildlife habitat.

Rural development funding, a NACo priority funding issue, only received level funding. NACo is working with the Campaign for a Renewed Rural Development, Chaired by Immediate Past President Colleen Landkamer, to increase funding for RD in the Senate bill. Food stamp updates include indexing benefits to inflation, increasing the minimum benefit and raising the standard deduction. Beginning in October of next year country of origin labeling would be required for imported meat including hamburger made from multiple animals. The House also approved by voice vote an amendment offered by Financial Services Chairman Frank to remove a provision that would have allowed Farm Credit System banks to make loans in areas forbidden to them by law. Peterson said he and Frank would hold joint hearings on the availability of credit to farmers and farm-related businesses, particularly ethanol plants. The Senate Agriculture Committee is expected to take up a farm bill in early September. Please contact your members of Congress, especially in the Senate and urge their support for at least \$2 billion in assistance for rural development activities. (Contact: Ed Rosado 202/942-4271 or erosado@naco.org) [[Top of Page](#)]

Senate Introduces Waters of the U.S. Bill

On July 25, Senator Russ Feingold (Wis.) introduced S. 1870, the Water Resources Restoration Act. This is a companion bill to H.R. 2421, the Clean Water Restoration Act, sponsored by House Transportation Chairman James Oberstar (Minn.). Both bills propose to remove the word "navigable" from the "waters of the United States" definition within the Clean Water Act (CWA). NACo opposes any efforts to remove the word "navigable" from the definition of CWA.

Both bills attempt to address the regulatory uncertainty that currently exists under the 1972 Clean Water Act's Section 404, also known as the dredge and fill permit. In the past several years, counties have been struggling with federal definitions of wetlands or bodies of water. Take "ditches" for example. NACo members have voiced concern regarding officials at local Army Corps of Engineers offices deciding to regulate man-made ditches as jurisdictional waters under the CWA. Ditches are pervasive in counties across the nation and, until recently, were never considered to be jurisdictional by the Corps. While some Corps offices regulate ditches, other offices have continued the existing policy of not regulating them. This expansive and inconsistent application of the law frustrates many counties' ability to provide and conduct vital projects for the public.

However, both bills go beyond just addressing the uncertainties in the 404 program. The "waters" definition is crucial in defining federal/state water responsibilities under the Clean Water Act. According to Senator Feingold, this "definition is the linchpin for state water quality standards under section 302 and section 303, national performance standards under section 306, toxic and pretreatment standards under section 307, oil and hazardous substance liability under section 311, aquaculture standards under section 318, State water quality certifications under section 401, national pollution discharge permitting requirements under section 402 and dredge and fill permits under section 404."

To change the definition will have a huge impact on counties from both an unfunded mandate and a land use preemption standpoint, affecting every program within the CWA. This is especially important to counties who both are the regulator and regulated under the CWA.

The following Senators have signed onto S. 1870 as original cosponsors. They are: Senator Barbara Boxer (CA), Senator Sherrod Brown (Ohio), Senator Benjamin Cardin (MD), Senator Thomas Carper (Del.), Senator Christopher Dodd (Conn.), Senator Richard Durbin (Ill.), Senator Herb Kohl (Wis.), Senator Frank Lautenberg (N.J.), Senator Patrick Leahy (Vt.), Senator Carl Levin (Mich.), Senator Joseph Lieberman (Conn.), Senator Robert Menendez (N.J.), Senator Jack Reed (R.I.), Senator Bernard Sanders (Vt.), Senator Charles Schumer (N.Y.), Senator Debbie Stabenow (Mich.), Senator Sheldon Whitehouse (R.I.), and Senator Ron Wyden (Ore.).

Please call your congressional members and urge them to oppose any efforts to remove the word "navigable" from the "waters of the U.S." definition in the Clean Water Act. (Contact: Julie Ufner 202/942-4269 or jufner@naco.org) [[Top of Page](#)]

House Passes FY 2008 HUD Spending Bill

The U.S. House of Representative passed HR 3074, the Transportation and Housing and Urban Development and Related Agencies appropriations bill, late on July 25. The bill passed on a 268 – 153 vote. In a victory for NACo and other local government groups, the bill rejects the Administration's proposed \$1 billion cut to the CDBG program. The bill provides \$3.929 billion for CDBG formula grants, up from last year's \$3.7 billion. HR 3074 provides \$160 million for economic development special purpose grants, which received no funding last year. The HOME Investment Partnerships Program received \$1.75 billion, level funding from FY 07. The bill provides no new money for the American Dream Downpayment Assistance Program (ADDI), which received \$25 million in FY 07. Homeless Assistance Grants received \$1.56 billion, up from \$1.5 billion in FY 07. Additionally, the House allocated \$120 million to the HOPE VI Program, which was zeroed out in the Administration's budget proposal. HOPE VI received \$99 million in FY 07. The HUD brownfields program received \$10 million, which was zeroed out by the Administration and received \$10 million last year. The Office of Rural Housing & Economic Development received \$16.8 million, which had also been targeted for elimination by the Administration. This amount is level funding from FY 07. Overall, the bill is above the Administration's requested level on many programs, thus there is speculation that the President will veto this legislation if the final version contains these program funding levels. (Contact: Cassandra Duahney 202/942-4204 or cduahney@naco.org) [[Top of Page](#)]

House Amendment Increases SCAAP Funding

A NACo backed amendment offered by Rep. Zoe Lofgren (D-Calif.) with strong bi-partisan support increased SCAAP funding in the House by \$55 million. The program in FY 2007 is funded at \$405 million. The SCAAP program for FY 2008 was originally marked at \$375 million in both chambers but on the House floor the Lofgren amendment was adopted 388-39. The President's budget had called for the elimination of the program. (Contact: Donald Murray 202/942-4239 or dmuurray@naco.org) [[Top of Page](#)]

House Passes FY2008 Transportation Funding Bill

On July 24, the full House approved its FY2008 bill by a 268-153 margin. Many of the programs that NACo supports did well. The bill fully funds the federal highway program at a \$40.2 billion level, a figure that corresponds to the SAFETEA-LU guaranteed level and is about \$900 million above current

spending. Similarly, transit is funded at the guaranteed level of \$9.73 billion. Even though the federal aviation reauthorization bill has not passed, the Airport Improvement Program gets \$3.6 billion, a slight increase over the current year and \$850 million more than the Bush administration had requested. Essential Air Service is continued at the \$109 million level. The Small Community Air Service Program gets \$10 million in funding. Amtrak funding, which has generated substantial controversy over the last several years, was funded at \$1.45 billion, \$104 million over FY2007 levels and about \$500 more than the administration had requested. Several amendments were offered to cut Amtrak funding but were soundly defeated. The House also defeated a Mica (R-Flo.) amendment that sought to strike a provision in the bill that requires states to distribute rescissions to the highway program proportionately as opposed to subjecting certain program to deeper cuts, like CMAQ and Enhancements programs. NACo opposed the Mica amendment, which would have impacted federal highway programs of importance to counties. The Senate Appropriations Committee has passed its bill with levels of many transportation programs at or close to House levels. The full Senate is not likely to consider its bill before September. (Contact: Bob Fogel 202/942-4217 or bfogel@naco.org)
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Senate Approves FY08 Department of Homeland Security Spending Bill

On July 26, the U.S. Senate approved S. 1644, the FY08 spending bill for the Department of Homeland Security (DHS). The bill proposes a total of \$40.6 billion for operations and activities that DHS manages in FY08, and provides \$177 million more in discretionary spending than the House version of the legislation (H.R. 2638) approved in mid June. Significantly, the legislation exceeds the President's budget request by \$2.3 billion, and the White House has consistently threatened to veto the bill characterizing the total price tag as "excessive."

S. 1644 provides around \$142 million less in funds to programs important to state and local first responders compared to its House counterpart. Some of these programs include DHS' State Homeland Security Grant Program, DHS' Law Enforcement Terrorism Prevention Grant Program, the FIRE Grant Program, Citizen Corp and the Metropolitan Medical Response System.

S. 1644 is the first spending bill to pass the Senate this year, and is on course to be the first appropriation bill passed by both chambers and signed by the President. Nevertheless, there remain several potential battles that could slow final passage. This includes different funding levels between the Senate and House passed bills; and the fact that both bills exceed the President's 08 budget request. (Contact: Dalen Harris 202/942-4236 or dharris@naco.org) [Top of Page]

House SCHIP Reauthorization Bugged Down in House

The House Ways and Means Committee and Energy and Commerce Committee planned to mark up their portions of their bill to reauthorize the State Children's Health Insurance Program (H.R. 3162) on Thursday but ran into procedural and budget complications which remain to be resolved.

A Congressional Budget Office preliminary analysis revealed that the offsets identified in the \$50 billion plan unveiled by Democratic leaders a week ago would not be adequate to pay for the increased spending. Democratic aides have been quoted indicating that the Majority is committed to living within the "pay/go" rules and fixing the numbers.

Republicans on both committees also objected to dispensing with the reading of the bill – over 400 pages long – complaining of having been excluded from drafting the legislation.

The Ways and Means Committee was finally able to report its part of the bill out early Friday morning, but at press time the Energy and Commerce Committee was still struggling through the bill.

Meanwhile, Health and Human Services Secretary Mike Leavitt issued a statement saying that if the bill were sent to the President as it currently stands he would veto it. The administration had earlier issued a veto threat against the more modest \$35 billion Senate SCHIP bill.

The Senate plans to take up the bill on Monday afternoon, while House Leadership hope to take it up

by the middle of the week. (Contact: Paul V. Beddoe 202/942-4234 or pbeddoe@naco.org) [[Top of Page](#)]

President Slated to Approve 9/11 Commission Bill

After several months of stalled negotiations, the President is finally scheduled to enact legislation to implement many of 9/11 Commission's unfinished recommendations. On Thursday, the Senate approved the conference report to H.R. 1, and the House of Representatives are expected to approve the report on Friday.

One of the first measures enacted by both chambers at the start of 110th Congress, HR 1 revises the distribution of key Department of Homeland Security (DHS) grants to state and local governments; creates a new interoperable communications grant program for state and local governments; requires 100 percent screening of cargo transported on ships and planes; strengthens privacy and civil liberties oversight of executive branch programs; expands existing nuclear nonproliferation programs; and implements policy changes for improving U.S. diplomacy efforts.

Since February, the legislation has been stalled due to White House objections to several provisions in the bill, and various differences between House and Senate versions of the bill. However, the House and Senate Conferees were able to finally reach a compromise on a number of controversial provisions, and the White House is no longer indicating it will veto the bill. As a result, the President is likely to sign the legislation as early as next week. For a copy of the final legislation, please visit <http://thomas.loc.gov/cgi-bin/query/R?r110:FLD001:H08497> (Contact: Dalen Harris 202/942-4236 or dharris@naco.org) [[Top of Page](#)]

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