

Update Memo from NLC regarding the transportation portion of the federal stimulus package

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Sent: Friday, January 23, 2009 2:27 PM
To: fedleg@sml.nlc.org
Subject: Transportation Update

Good morning –

I know many of you are receiving questions and hearing concerns on the transportation provisions in the stimulus package.

The House Appropriations Committee marked up the bill on Wednesday and made some changes including addressing some concerns on the transportation language. The concerns over the sub-allocation formula to areas under 200,000 in population remain but the committee did provide more time for metropolitan planning organizations to spend the money.

The House Appropriations adopted the following changes to the original language which had been of concern to many areas.

MPOs were given more time to spending down 50% of their funds, from 90 to 150 days. In addition, language was added to specify when the clock starts. Here is the language from the National Association of Regional Councils: the change conforms the definition in the legislation of “obligated” to what is codified in federal law (23 CFR 630 106(c). The state and local government clock will begin not on contracting the work out, but on the time the project agreement is executed. According to NARC and the Association of Metropolitan Planning Organizations, that helps solve the local problem on the pressure to get projects started quickly.

While the stimulus package provides a direct sub allocation to areas over 200,00 in population, it still does not help smaller communities, as many of you have pointed out during discussion over the stimulus package. Although the current law contained in SAFETEA-LU, the transportation authorization legislation up for renewal this year, specifies that a certain amount of funding be spent in local areas, those projects do not have to be the ones identified as priorities by the local governments themselves. This will be a key part of our transportation authorization strategy.

Many of you have indicated that you are speaking with the state already, but if you have not, we encourage you to sit down now with your state colleagues to work out an agreement on how to spend these dollars. Once money is released, states will be under enormous pressure to get projects obligated immediately. Governors (except in Illinois where it will be the state legislature) will have to approve these plans according to new accountability and transparency guidelines and states will want to move quickly.

As you can imagine, the federal transportation laws are very complicated and we keep hearing additional concerns over specifics of the language in the stimulus bill and how it could be interpreted by the US Department of Transportation. We (NLC, USCM & NACo) are working with NARC and AMPO to try to correct some of these issues now. Many of you are hearing the same things from your members and we appreciate you forwarding these concerns to us, so we have as few surprises as possible when the bill is signed!

The following summarizes the transportation provisions (thanks to NARC for the specifics of the current law):

45% of state funds will be sub allocated via the Surface Transportation Program in SAFETEA-LU (Title 23, Sec.133(d))

Priority will be given to projects that can award contracts within 120 days (this definition is different than current law)

Projects included in approved STIP and/or TIP

Can be completed within a 3 yr timeframe

Are located in economically distressed areas.

Federal share = 100%.

50% of sub allocated funds must be awarded to contracts in 90 days in order to receive full funding

if less than 50% is awarded to contracts within 150 days, the remaining money will be redistributed to the state.(updated language from Appropriations markup on Wednesday)

Any funds not obligated/awarded contracts by August 1, 2010 shall be redistributed to states able to obligate funding

\$300 million Capital Assistance to States—Intercity Passenger Rail Service

Preference to rehabilitation, repair, upgrade or purchase of rail assets or infrastructure within 180 days

Preference for the development of intercity high speed rail service

Federal share = 100%

\$6 billion Transit Capital Assistance

Funds will be distributed through the existing urban and rural transit formulas.

\$5.4 billion urban communities and \$600 million to rural communities

To purchase buses and equipment needed and make improvements to intermodal and transit facilities

The Committee also amended the bill to require contractors to comply with Davis-Bacon laws and require public works projects to use iron and steel produced in the US unless the department in charge of the project decided it did not meet certain criteria.

House Committees Approve Economic Recovery Proposal (from the upcoming NCW)

Within a week of unveiling the details of the House economic stimulus package, the proposal passed 2 key committee votes. On Wednesday, the House Appropriations Committee passed the American Recovery and Reinvestment Act (H.R. 1) by a vote of 35 to 22, and on Thursday, the House Ways and Means Committee passed the tax portion of that Act (H.R. 598) by a vote of 24-13. Taken together, the \$825 billion package of emergency spending and tax cuts could create and save as many as 3 to 4 million new jobs.

The package calls for \$550 billion in new funding and \$275 billion in tax cuts. According to House Appropriations Chairman David Obey (D-WI), who assembled the spending portion of the bill, approximately \$318 billion would be directed to states, local governments, and nonprofits. The proposal includes all of the economic recovery priorities highlighted in NLC's Call to Action on Economic Recovery introduced during the Congress of Cities Conference last November: (1) investment in infrastructure, (2) emergency assistance to support vulnerable individuals and families, and (3) efforts to insure that credit is flowing in the financial markets.

Among other things, the House proposal calls for \$30 billion for highway construction, \$10 billion for mass transit and rail, \$19 billion for wastewater, flood control, and environmental restoration projects, \$1 billion for the Community Development Block Grant program, \$3.5 billion for the Energy Efficiency and Conservation Block Grant program, \$20 billion for food stamps, and \$36 billion for unemployment benefits. The House proposal also contains a second round of \$4.2 billion in Neighborhood Stabilization Program funds to help communities reclaim vacant and foreclosed abandoned properties.

The Appropriations Committee accepted a number of amendments, some of which will have repercussions on local expenditures. One amendment accepted by the Committee would require all contractors to pay workers the prevailing wage under Davis-Bacon laws. Another would require any public works or public buildings projects funded under the bill to use iron and steel produced in the United States unless the department in charge of the project decided it did not meet certain criteria. The Committee rejected several amendments that generally sought to reduce the funding available under the bill.

The Committee rejected a vote to withhold funding until the affected federal agencies submitted spending plans for their share of the money and defeated an amendment to bar states from using the aid to supplant existing funding for programs. Lawmakers approved an amendment to block Illinois Governor Rod Blagojevich from receiving funds under the stimulus, instead directing them to the state legislature for redistribution among local governments. The Committee also adopted an amendment to require transportation funding to be spent within 180 days, rather than the 120 days specified in the bill.

Metropolitan Planning Organizations would have 150 days to spend down half of their funds, an increase from the 90 days specified in the initial legislation. Additionally the time clock would begin when a project agreement is executed rather than contracted out.

The tax portion of the bill, assembled by House Ways and Means Chairman Charles Rangel (D-NY), includes a section on "Recovery for State and Local Governments" that could both reduce the cost of issuing municipal debt, and stimulate new investors, including community banks, in the municipal bond market.

The tax provisions of package will be added to H.R. 1, the American Recovery and Reinvestment Act, when it is considered by full House the week of January 26. Upon passage, the bill will be sent to the Senate, with the ultimate goal of sending a finished bill to President Obama sometime mid-February.

The Senate confirmed the new Secretary of Transportation, Ray LaHood, last night. The following is an article from Time Magazine on our new DOT Secretary.

In plucking his Transportation Secretary from the ranks of the GOP, Barack Obama wasn't breaking tradition but extending it. In 2000, George W. Bush tapped Democrat Norman Mineta for the post—the lone cross-aisle appointment of his Administration. There's reason to believe LaHood — a veteran Illinois pol who counts Obama's chief of staff, Rahm Emanuel, as a close friend — will play far more than a token role in the incoming Democratic regime. At Transportation, LaHood will shepherd the massive public works program Obama announced on Dec. 6 as the centerpiece of a plan to jumpstart the economy by creating millions of jobs. He's also a litmus test for Obama's post-partisan campaign pledges. LaHood, a downstate Republican, is the President-elect's first full Republican appointee — Defense Secretary Robert Gates, a Bush Administration holdover, is a registered Independent who has traditionally served Republican presidents — but has earned plaudits for his ability to work with Democrats. "Ray's appointment reflects that bipartisan spirit — a spirit we need to reclaim in this country to make progress for the American people," Obama said.

Fast Facts:

- LaHood has a wife, Kathy, and four children
- Graduated from Bradley University in 1971 with bachelor's degrees in education and sociology. Before entering politics in 1977 as an administrative assistant to Illinois Congressman Tom RAILSBACK, LaHood taught junior high school social studies
- Served in the Illinois House of Representatives from 1982 to 1994
- Has represented Illinois' 18th district, which includes Peoria, since being swept into office during the GOP's congressional landslide in 1994
- LaHood's grandfather was a Lebanese immigrant. His family is Roman Catholic
- Presided over Bill Clinton's 1998 impeachment trial in the House of Representatives. LaHood drew positive reviews for his handling of the tricky task
- Spearheaded statewide initiatives to improve transportation and infrastructure, including shoring up local highways and airports

Quotes about:

- "The last place you need ideology is transportation. LaHood has a great reputation and track record of working across party lines. It's very encouraging."

— Roger Cohen, president of the Regional Airline Association in Washington, D.C., *Bloomberg*, Dec. 19, 2008

- "More than once the entire House stood up and applauded how he comported himself in the chair."

— Rep. Anna Eshoo (D-Cal.), on LaHood's agile handling of the 1998 House impeachment trial of then President Bill Clinton, *Bloomberg*, Dec. 19, 2008

- "I can't point to any specific legislation he authored. He was a team player all the way through...It's going to be the temperament that Mr. LaHood brings."

— Rep. James Oberstar (D-Minn.), who called LaHood an "excellent" choice, on the skills he brings to the role, *Wall Street Journal*, Dec. 19, 2008

- "He has always fought for the best interests of our nation—recognizing that bipartisan compromises often provide the best solutions to the problems facing our country." — Sen. John McCain, praising LaHood's appointment and urging the Senate to quickly confirm him, *MSNBC*, Dec. 18, 2008

Quotes by:

- "We trash each other and end up making the institution look bad. That's why Congress's approval ratings are so low."

— on the pitfalls of Congressional squabbling, *FOX News*, Dec. 7, 2007

- "We have a task before us to rebuild America. As a nation, we need to continue to be the world leader in infrastructure development. We cannot stand by while our infrastructure ages and crumbles."

— during his introduction as Transportation Secretary-designate, *Peoria Journal Star*, Dec. 19, 2008

- "To get things done on Capitol Hill, one must work in a bipartisan manner."

— *Associated Press*, Dec. 18, 2008

- "This idea that Rahm is a guy who can't get along with Republicans is just not true. The truth is in politics, you can count your friends on one or two hands, but he's been a true friend."

-on his relationship with incoming White House Chief of Staff Rahm Emanuel, *Bloomberg*, Nov, 6, 2008

- "I don't like being in the minority. It's not that much fun, and the prospects for the future don't look that good."

-on his planned retire from Congress after finishing the present term, *Seattle Times*, Oct. 16, 2007

State Officials Say They Would Spend Economic Stimulus Funds Quickly

By Colby Itkowitz, CQ Staff

State officials reiterated Thursday that contrary to claims by the Congressional Budget Office they would be able to spend large sums quickly on infrastructure projects.

Lawmakers on the House Transportation and Infrastructure Committee have expressed disappointment that the \$825 billion economic recovery package (HR 598) — once touted as a public works spending measure — now provides only \$64 billion for transportation related projects.

The panel held a day-long hearing to accumulate evidence to disprove a CBO report that states could not handle the huge influx of funding in the 90-day timeframe that Chairman James L. Oberstar has proposed for states to have their transportation projects started.

“If you write me a check today, I’ll be spending the money tomorrow,” Carole Brown, chairwoman of the Chicago Transit Authority Board.

Witnesses from Wisconsin, New York, Chicago and Florida confirmed that they had enough contractors in need of work to bid on the new projects.

Jim Doyle, the governor of Wisconsin, said because many of the “shovel-ready” projects are maintenance work meeting the 90-day guideline would not be a problem.

Doyle did say, however, that he was pleased with a provision that allows states to use half the money they receive from the federal government on larger scale projects that would take longer than 90 days.

Bill Shuster, R-Pa., said he was concerned not with whether the states had enough ready-to-go projects, but whether they had the manpower to get out the bids. He said he has heard concerns that the states themselves won’t be able to handle the paperwork.

Astrid Glynn, the commissioner of the New York State Transportation Department, said in many cases they’ll be working from existing contracts.

But Shuster wasn’t convinced, especially because a clause in Oberstar’s plan says that if states have not used the money within 90 days it will be redistributed.

“I believe in 90 days we’ll see billions going away from this state and to that state,” Shuster said. He said he fears lawsuits and upset communities.

At the Appropriations Committee markup of the stimulus bill on Wednesday, CBO’s analysis of transportation spending came up in an amendment. The panel approved the bill Wednesday.

CBO said the “use it or lose it” plan to reclaim the money would actually slow down spending since most states could not obligate that much in that timeframe and the process of reclaiming and redistributing funding to other states would delay the process.

To address this concern the committee adopted an amendment by voice vote changing that timeframe to 180 days.

“I happen to think CBO’s estimate is off the wall, we are trying to deal with it nonetheless” said Appropriations Chairman David R. Obey, D-Wis.

The Obama administration responded to the CBO report:

“CBO is conservative about spendout rates and does not reflect the extraordinary actions the administration, state and local governments will all take to combat the worst economic crisis of our lifetimes. For a substantial portion of the package, up-front investments will start immediately after this bill is passed.”

The House Ways and Means Committee approved Thursday its portion of the economic stimulus bill, 24-13, as amended.

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