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Federal Advocacy Update

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Dear Mayor:

Thanks to the staff of the National League of Cities (NLC) in Washington, we are able to share with you this update on recent developments important to New Jersey municipalities.

I. House Transportation Committee Advances Highway Bill

The House Committee on Transportation and Infrastructure passed the [Surface Transportation Reauthorization and Reform \(STRR\) Act of 2015](#) (H.R. 3763) last week, clearing the way for a vote on the six-year, \$325 billion surface transportation reauthorization. The National League of Cities sent a [letter](#) to committee Chairman Rep. Bill Shuster and Ranking Member Peter DeFazio, urging the committee to quickly advance the STRR Act to conference with the Senate, which [passed the DRIVE Act in July](#).

"With funding for the Highway Trust Fund expiring in less than a week, it's time to finally pass a long-term surface transportation program that enables more local authority to choose the transportation projects that best suit the needs of individual communities," said National League of Cities President Ralph Becker, mayor, Salt Lake City. "As I [told the House Committee on Transportation](#) in March, continuously passing short term extensions to the highway bill is unacceptable; local governments need a long-term bill that restores certainty and stability to the transportation planning process at the local and regional level."

The STRR Act would advance several important local transportation priorities. Among them:

- The bill would provide incremental annual increases in direct funding to urbanized and local areas under the Surface Transportation Program (STP). The increases would make up for funding losses to local areas enacted under the previous transportation authorization, MAP-21.
- The bill would fund a new set-aside that preserves the core elements of the TAP program to support multi-modal systems including pedestrian and bike traffic.
- The bill would expand federal funding eligibility to all locally-owned bridges on the Federal-Aid-System. Under MAP-21, federal funding eligibility was restricted to the much smaller inventory of bridges on the National Highway System.
- The bill would restore the Federal Transit Administration's bus discretionary grant program which was eliminated under MAP-21.

- The bill makes changes to safety and design standards that would benefit cities that have adopted a "complete streets" transportation plan.

Some areas of concern remain, however, and revenue is chief among them. Like the Senate DRIVE Act, the House STRR Act does not identify funding for all six years of the authorization. The STRR Act would authorize approximately \$325 billion over six years but gas tax estimates amount to only \$245 billion during that period, meaning the burden of raising revenues for the final years of the bill would fall on a future Congress.

NLC has long advocated that the next long-term transportation bill needs to be future-oriented to meet the challenge of a rapidly changing transportation marketplace; flexible enough for municipalities to choose the best mix of transportation options to fit regional needs; and fiscally responsible to local governments that collectively own and operate 78 percent of the nation's road miles, 43 percent of the nation's federal-aid highway miles, and 50 percent of the nation's bridge inventory.

II. House Legislation Would Include Municipal Securities As HQLA

The House Financial Services Committee held a hearing earlier this week on legislation that would require regulators to classify all investment grade municipal securities - including municipal bonds- as High Quality Liquid Assets (HQLA), [H.R. 2209](#), which NLC supports.

The legislation follows an agreement reached earlier this year by the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to new liquidity standards designed to strengthen the banking system through clarifying credit and liquidity standards for banks' capital requirements. However, in the agreement, they failed to include a very strong and stable investment category with deep funding markets - municipal securities.

NLC has long argued that failure to classify municipal securities as High Quality Liquid Asset (HQLA) not only overlooks an investment category that contributes to greater market stability, but that this omission would have negative effects on the municipal securities market and communities across the country by significantly reducing the appeal of municipal securities, resulting in increased borrowing costs for state and local governments to finance desperately needed infrastructure projects.

In the hearing, witnesses testified in support of the bill, arguing that if municipal securities satisfy the same standards of liquidity, marketability and investment grade as other investment categories, federal banking agencies should also be required to classify them as high-quality level 2A liquid assets. The Committee is expected to include H.R. 2209 in their markup during the first week of November.

III. Senate Blocks Sanctuary City Mandate

Last week, the Senate blocked S. 2146, the Stop Sanctuary Policies and Protect Americans Act. This legislation, which NLC opposes, would withhold federal assistance, including Community Development Block Grants (CDBG), from local governments that have policies in place to protect local law enforcement officers from a mandate requiring them to act as immigration

enforcement agents for the federal government. The legislation, which could harm low and moderate income residents in our communities who are the primary beneficiaries of the CDBG program, was defeated when it failed to get the 60 votes needed for further consideration.

NLC acknowledged in the letter that, while local law enforcement officers have a responsibility to cooperate with the federal government to apprehend specific persons identified as having committed a crime and violated U.S. immigration laws, this should not include responsibility for enforcing federal immigration laws or the ongoing detention of individuals merely suspected of violating those laws. Attempts like this by the federal government to shift the federal responsibility of enforcing civil immigration law to local governments diverts critical resources from their law enforcement agencies, compromises public safety, and impedes local law enforcement's ability to work with immigrant communities in preventing and solving crimes. Instead of punitive measures like S. 2146, NLC continues to call on Congress to fix the nation's broken immigration system by passing comprehensive immigration reform.

IV. EPA Announces Tougher Ozone Standard

The U.S. Environmental Protection Agency (EPA) has reduced both the primary and secondary [National Ambient Air Quality Standards \(NAAQS\) for ground-level ozone](#) to 70 parts per billion (ppb), down from the current standard of 75 ppb, which was set in 2008.

The more stringent NAAQS for ozone will dramatically increase the number of regions classified as non-attainment. By EPA's own [analysis](#), using the most recent monitoring data (2012-2014), 241 counties and their cities currently have measured ozone above 70 ppb.

EPA will make attainment/nonattainment designations for the new standard by October 2017 based on 2014-2016 air quality data. States with nonattainment areas have until 2020 to 2037 to meet the primary standard, with attainment dates varying based on the ozone level in the area.

EPA projects that a variety of existing and proposed federal rules will help states meet the ozone standard and that by 2025 the vast majority of counties will meet the updated standard without additional action to reduce emissions.

NLC's [comment letter](#) on the proposed ozone rule raised concerns about how a new ozone standard would impact the transportation conformity compliance process. We have since learned that the March 2015 final rule to implement the 2008 ozone standard revoked the 1997 ozone standard for all purposes, including transportation conformity. The only ozone standard for which areas must currently determine conformity is the 2008 ozone standard.

V. NLC Asks Congress to Strip CSO Prohibition from Appropriations Act

Earlier this month, NLC [sent a letter](#) to House and Senate water infrastructure appropriators and authorizers asking that a provision that would prohibit all combined sewer overflow (CSOs) discharges, as well as blending, in the Great Lakes region to be removed from a final appropriations bill.

The proposed provision, sponsored by Sen. Mark Kirk, expressly contradicts and undermines the 1994 Combined Sewer Overflow Control Policy that Congress codified in 2001 by requiring

communities to revise their Long Term Control Plans to achieve a goal of zero overflows. Additionally, the proposed provision would prohibit communities from discharging blended effluent that otherwise meets standards established by the National Pollution Discharge Elimination System permit program during peak wet weather events.

While the proposed CSO provision would only apply to the seven Great Lakes states, NLC is concerned about the national implications and precedent-setting nature of the language for all communities addressing CSO issues and negotiating compliance levels with the U.S. Environmental Protection Agency.

VI. Guide to Federal Broadband Funding Released

Earlier this year, the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce launched [BroadbandUSA](#), a resource which provides communities with technical and strategic advice on how to expand broadband access and adoption.

As part of this new initiative, NTIA released their [Guide to Federal Broadband Funding](#), a comprehensive manual of federal broadband funding opportunities and information about state and local funding sources for broadband. The guide details a wide range of opportunities. While the guide is not meant to provide an exhaustive list of all federal funding opportunities, it can serve as a starting point for communities to explore potential federal financing options. More information about this manual can be found on the NTIA [blog](#).

VII. ACA “Excise Tax” Would Burden Local Governments

Earlier this Month, as part of an on-going rulemaking process, NLC on behalf of cities and towns and NLC-RISC, filed comments in response to IRS Notice 2015-52 and in support of the development of regulatory guidance regarding the Excise Tax on High Cost Employer-Sponsored Health Coverage ("excise tax"). The excise tax, which will take effect in 2018, imposes a 40 percent excise tax on employer sponsored health coverage that exceeds certain minimum thresholds.

In the comments, NLC highlights the undue financial and administrative burdens on local government employers across the country the excise tax will have. Local governments are already experiencing the immediate impact on collective bargaining and budget planning of state and local governments even though it does not take effect until 2018 with the greatest impact on municipal union contracts for fire, police and school district personnel, many of which will expire between now and the end of 2017.

Besides collective bargaining and budget planning, the excise tax will also impact local governments in states with statutorily mandated benefits for public sector retirees and their dependents. These types of benefits make it very difficult for local government employers to make benefit changes that would allow them to fall below the threshold, thereby avoiding the tax.

Additionally, local governments of all sizes are administratively burdened with the complexity of implementing and reporting the proposed regulations, but the hardest hit are those of less than 50 employees who do not have dedicated human resource staff.

To view the comments, [click here](#).

If you have any questions on any of these matters, contact Jon Moran at jmoran@njslom.org or 609-695-3481, ext. 121.

Very truly yours,

Brian C. Wahler, President,
NJLM and Mayor,
Piscataway Township