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INTERGOVERNMENTAL AFFAIRS STAFF
Eddy Labrador
Marty Cassini
Nick Matthews
Daphnee Sainvil

113th Congress Convenes

On September 19, 2012, the U.S. House of Representatives approved H.R. 2903, the FEMA Reauthorization Act of 2012, appropriating $3.1 billion for the Department of Homeland Security's Federal Emergency Management Agency (FEMA). The National Association of Counties actively supported multiple provisions of the bill including sections authorizing the Integrated Public Alert and Warning System, FEMA Debris Removal Pilot Program, FEMA Public Assistance Pilot Program and the Urban Search and Rescue Response System, the National Dam Safety Program, and the Emergency Management Assistance Compact Grants. Despite no action taken in the Senate before Congress recessed, there is optimism for passage during the lame duck session.

First Installment of Hurricane Sandy Relief Passes Congress

On January 4, 2013, Congress passed the first stage of Hurricane Sandy Relief. H.R. 41 – Hurricane Sandy Relief will give the National Flood Insurance Program (NFIP) the ability to borrow $9.7 billion to address claims from damages associated with Hurricane Sandy. The NFIP is administered by the Federal Emergency Management Agency (FEMA). FEMA officials alerted Congress that it could run out of funds in January covering claims filed by over 120,000 policy holders in the affected region. The measure passed with a 354-67 vote in the House and unanimous passage in the Senate.

Legislation providing an additional $51 billion in hurricane relief is expected to go before Congress on January 15th.

Violence Against Women Act Fails to Pass in 112th Congress

The 112th Congress expired on January 3, 2013 without reauthorizing the

Violence Against Women Act (VAWA). In April of 2012, the Senate passed a reauthorization bill but the House of Representatives failed to follow. VAWA was first enacted in 1994. It strengthened penalties for sex offenders, provided that victims of rape don't have to pay for their rape exams and supported law enforcement efforts to curb violence against women. The 112th is the first Congress to fail reauthorizing VAWA.

Congress Reaches "Fiscal Cliff" Deal

On New Year's Day, Congress approved legislation, H.R. 8 or the "American Taxpayer Relief Act of 2012" to address the year-end tax increases and spending cuts known as the "fiscal cliff." The measure passed the U.S. House of Representatives late on January 1 after the U.S. Senate had overwhelmingly approved it earlier that same day.

H.R. 8 addressed $607 billion in taxes and spending that expired on December 31, 2012.

Issues agreed to in the bill include:

- **Higher taxes on individuals earning $400,000 and families making $450,000 or more.** Under that threshold, the Bush-era tax cuts will be permanent for all but the highest earning households.

- **Higher tax rates on capital gains and dividends for higher earning households.** Taxes on capital gains and dividends will be held at their current levels of 15 percent for individuals making less than $400,000 and households with income of less than $450,000. The capital gains tax rate increases to 20 percent for individual taxpayers and households above those thresholds.

- **Deduction of state and local sales taxes extended.** At the end of 2011, the ability to deduct state and local sales taxes in lieu of state income taxes expired. The deduction for state and local sales taxes is one of the so-called tax extenders that Congress must revisit every so often and is a provision that is mostly pertinent to residents in states that levy no individual income tax. The cliff deal revives the provision, extending it for two years until the end of 2013.

- **Personal exemptions phased out for individuals making over $250,000.** Personal exemptions will be phased out and itemized deductions will be limited for taxpayers making over $250,000 and families earning more than $300,000. Of interest to counties, the limitation on itemized deductions does not apply to tax-exempt municipal bond interest.

- **40 percent estate tax.** The current estate tax exemption amount, $5 million and indexed for inflation for years after 2011, is permanently

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extended by the measure. Additionally, the maximum rate will rise to 40 percent from its current 35 percent level. Democrats had earlier sought a higher increase to 45 percent and a lower exemption of $3.5 million.

- **Permanent fix to the Alternative Minimum Tax.** The alternative minimum tax was levied to ensure the wealthiest Americans paid a fair share of taxes. As part of the fiscal deal, the AMT will be permanently indexed to inflation.

- **Tax breaks for working families.** The bill includes five-year extensions of the American Opportunity Tax Credit, which can be claimed for college-related expenses, the Child Tax Credit, and the Earned Income Tax Credit, which is a refundable income-tax credit for low- to moderate income working Americans.

- **Business tax breaks.** The bill includes tax breaks for research and development, extension of the "new markets tax credit" program which is provided to businesses that make certain investments in community development entities, and a maximum annual amount of $3.5 billion in qualified investments for 2012 and 2013. The measure also extends for one year through end of 2014, the temporary minimum low-income housing tax credit rate of nine percent for non-federally subsidized new buildings.

- **Work Opportunity Tax Credit Extended.** The measure extends the Work Opportunity Tax Credit for qualified wages paid to members of targeted groups, as well as an employer wage credit for activated military reservists.

- **Automatic spending cuts delayed for two months.** The "sequester," which would impose steep, across-the-board cuts to domestic and defense programs, will be delayed until March 1, 2013. As part of the compromise to delay sequestration, the legislation reduces to $85 billion the required sequester of discretionary and mandatory spending for FY2013.

- **Medicare Doctors' pay cut delayed one year, hospitals absorb the cost.** The measure will put off scheduled cuts in physician payments under Medicare. In the absence of an agreement, the payments were going to be reduced by 27 percent in January 2013. The CBO estimates the cost of a one year "doc fix" at $25.2 billion over ten years, which is offset, in part, by $4.2 billion from Medicaid disproportionate share hospital (DSH) payments.

  Public hospitals use DSH payments to help cover the cost of caring for uninsured and underinsured patients as well as those covered by

Medicaid, with its very low reimbursement rates. The Patient Protection and Affordable Care Act (ACA) imposed cuts to DSH beginning in 2014, which would have expired at the end of 2019, sending payments back up to current levels. However, Congress “re-based” the formula to help pay for last year’s “doc fix” and H.R. 8 does the same through 2022.

- **Low-Income and Rural Health Programs Extended for One Year.** The following programs were extended: Qualified Individual (QI) program, which enables Medicaid to pay the Medicare Part B premium for certain low income beneficiaries ($800 million/ten years); the Transitional Medical Assistance (TMA) Program which provides up to 12 months of medical coverage for families who lose Medicaid eligibility due to increased earnings or child support; Medicare ground ambulance reimbursement rates for “super rural” areas ($100 million/ten years); the Medicare-Dependent Hospital and Low Volume Hospital programs for certain small rural hospitals ($400 million/ten years); and Medicare Advantage Special Needs Plans for beneficiaries with severe or disabling chronic conditions, who are living in an institution like a nursing home, or who are eligible both for Medicare and Medicaid ($300 million/ten years).

- **Repeals ACA’s CLASS Act; Establishes commission on long term care.** The bill repeals the ACA’s Community Living Assistance Services and Supports (CLASS) program which was designed to provide a cash benefit for persons with disabilities to pay for services to allow beneficiaries to stay at home. In late 2011, the Administration notified Congress that the program would not be actuarially sound and would be implemented.

  Recognizing the need to address the cost of long term care – currently about half of all health care spending – the bill calls for a Commission on Long Term Care to develop a plan “for the establishment, implementation and financing of a comprehensive, coordinated, and high-quality system that ensures the availability of long-term services and supports for individuals in need of such services and supports,” including the elderly and disabled – and those who want to plan for their future long-term care needs.

- **Parity for employer-provided mass transit and parking benefits.** H.R. 8 includes a provision that restores benefits for one year for transit riders and vanpool users who may now receive up to $240 in benefits monthly from an employer, the same as the parking benefit. The transit benefit had been reduced to $125 in 2012 while the parking benefit remained at the $240 level in 2012. This change benefits counties that operate transit systems as it is likely to encourage greater transit ridership and also benefits transit users who are likely to see a decrease in their overall transportation costs.

- **One-year Extension of Unemployment Insurance (UI) Benefits.** The measure extends for one year, long term federal UI benefits for laid- off workers.

- **Farm Bill Extension.** The fiscal cliff deal extends through the end of FY2013 most provisions of farm policy as they were in effect on September 30, 2012, under the 2008 Farm Bill (P.L. 110-246), but fails to extend mandatory funding for programs for renewable energy, rural development, drought disaster assistance and beginning farmers and ranchers. The Farm Bill extension does include a five-year reauthorization of the nutritional education program and a nine-month extension of the Supplemental Nutrition Assistance Program (SNAP) program.

  The extension discontinues mandatory funding for the Rural Development Program for nine months. This program received $150 million in funding in the 2008 Farm Bill for the Rural Microenterprise Assistance Program (RMAP – at $15 million), Value-Added Producer Grant Program (VAPG – at $15 million) and Water/Wastewater Backlog ($120 million). RMAP, utilized by counties for microlending programs, will effectively end without mandatory funding. However, the Farm Bill's Renewable Energy Programs, which received $1 billion in mandatory funding in the 2008 Farm Bill and have limited appropriations, will be hamstrung by the extension. These programs include the Rural Energy for America Program, Biorefinery Assistance, Repowering Assistance and other bioenergy and bio product development programs critical to rural counties. The innovative Beginning Farmer and Rancher Development Program will also end as the extension does not continue mandatory funding.

The President's 2014 Budget Plan Expected to be Late

All indications are that the President's proposed budget for fiscal year 2014, which begins Oct. 1, 2013, will arrive at Capitol Hill late. By law, the Administration's spending proposal is due on the first Monday of February. The White House and the Office of Management and Budget have not announced a date to expect the proposed budget.