

Appropriations

Page 1-4

Payroll Tax

Transportation Bills

Page 4-5

*House Hearing on EPA
Integrated Planning*

Page 5-6

Senate Water

Infrastructure Hearing

Page 6-7

Transportation Grant

Senate Hearings

House Hearings

Page 7



Congress Completes Work on FY 2012 Appropriations

An 11th-hour deal between Senate and House leadership on a \$1 trillion spending package averted a federal government shut down that would have taken place at midnight on December 16. The House of Representatives approved the bill on Friday by a vote of 296-121. It is unclear if the Senate will be able to bring the bill to the floor for a vote on Friday, however, while technically beyond the deadline, a scheduled Senate vote Saturday on the spending measure has been accepted by the Administration and will not interrupt funding to federal agencies.

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The Military Construction and Veterans Affairs, and Related Agencies Appropriations Act of 2012 ([H.R. 2055](#)) serves as the vehicle for a \$1.043 trillion conference report that consolidates the remaining nine unfinished FY 2012 spending bills. This conference report contains appropriations for Defense, Energy and Water, Financial Services, Homeland Security, Interior/Environment, Labor/Health and Human Services/Education, the Legislative Branch, Military Construction/Veterans Affairs, and State/Foreign Operations.

The final agreement also contains two additional measures, the first provides \$8.1 billion in disaster funding (H.R. 3672) and the second (H. Con.Res94) offsets the funding with a 1.83 percent across-the-board cut to all discretionary spending outside of Defense and Veterans Affairs.

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APPROPRIATIONS BREAKDOWN:

Energy and Water: \$32 billion in discretionary funding, \$328 million increase over FY11, \$4.5 less than the Administration request

- Provides \$5 billion for Army Corps of Engineers
- Provides \$39.6 million for the California Bay-Delta Restoration program
- Conference agreement does not include a provision proposed by the House permanently rescinding mandatory funds from the San Joaquin River Restoration Fund
- Provides \$12 million for WaterSMART grants, and
- \$19.3 million for Bureau of Reclamation Title XVI projects
- Provides \$10 million for research & development for science and technology and \$2 million for desalination
- Directs Army Corps of Engineers to maintain existing Principles and Guidelines

Department of Energy: \$25.7b for science, energy, environment, nuclear non-proliferation and national security programs

- \$1.825 billion in new budget authority for Energy Efficiency and Renewable Energy
- \$30 million is provided for algae biofuels
- Provides \$59 million for Water Power, of which \$34 million is for marine and hydrokinetic technology research, development and demonstration, and \$25,000,000 is for conventional hydropower research, development and demonstration
- Provides \$534 million in new budget authority for Fossil Energy Research and Development
- Provides \$275 million for the Advanced Research Projects Agency Energy (ARPA-E)

Labor/Health and Human Services/Education: \$156.3 billion in discretionary funding, \$1.1 billion below last year's level and \$24.5 billion below the Administration's request

Interior/Environment: \$29.2 billion for Interior/Environment agencies and programs, \$384 million below the FY11 and \$2.1 billion below the Administration's request

- Directs agencies involved in consultant on the Santa Ana Sucker Critical Habitat to recognize costs of local water supply development and imported water costs



- Includes \$4m for Quagga-Zebra Mussel, Asian carp and other aquatic invasive species monitoring and eradication
- Bill provides \$61.421 million for State and Tribal Wildlife Grants, of which \$51.405 million is for State formula grants, \$5.741 million is for State competitive grants, and \$4.275 million is for tribal competitive grants
- \$113 million for research study into shale gas recovery of which \$8.5 million is reserved for green infrastructure technologies

Environmental Protection Agency: \$8.4 billion, \$233 million below FY11 enacted level and \$524 million below the Administration's request

- \$1.468 billion for Clean Water State Revolving Funds, not less than 10% available for green infrastructure
- \$919 million for Drinking Water State Revolving Funds
- Safe and Sustainable Water Resources - provides \$113.654 million. Within the amount provided, the hydraulic fracturing study is funded at the requested amount, and \$8.5 million is provided for green infrastructure research
- Encourages the Agency to work with its university partners to research the potential for producing biocrude from wastewater treatment plants that allow the production of renewable fuels through traditional petroleum refining techniques
- Provides \$95 million for the Brownfields Program
- \$15 million for a competitive grant program to provide rural and urban communities with technical assistance to improve water quality and provide safe drinking water
- \$57.4 million for Chesapeake Bay program, \$8 million of which is for nutrient & sediment removal
- Provides \$48.257 million for Water: Ecosystems, within this amount the bill provides the requested amount for the National Estuary Program and Section 320 grants
- Requires EPA to report back to Congress within 180 days regarding arsenic

U.S. Forest Service: \$4.6 billion in discretionary funding, \$91 million below FY11. Forest Service Wildland Fire Management fully funded at \$1.7 billion.

Homeland Security: \$39.6 billion in discretionary funding, \$2 billion less than FY11 and \$4 billion below the Administration's request.

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Federal Emergency Management Agency: \$4.7 billion in discretionary funding, a decrease of \$2.9 billion from FY11. The bill fully funds Emergency Management Performance Grants at \$350 million and provides \$675 million for firefighting grants. \$2.4 billion is provided for FEMA First Responder Grants, \$1 billion below last year's level and \$1.5 billion below the Administration's request.

Unfinished Business - Payroll Tax Negotiations Continue

Congress is still negotiating over how to fund a one-year extension of the payroll tax reduction and may consider a two-month extension as a fallback option. House Leader John Boehner has remained adamant that he will not back down from including a controversial provision related to the Keystone XL oil pipeline project that is contained in the House-passed measure.

The portion of the payroll tax that finances Social Security was cut last year from 6.2% to 4.2% to boost the economy, but would revert back after December 31 to the higher level if Congress fails to act. The payroll tax bill is also expected to include provisions extending unemployment benefits and blocking a scheduled cut in Medicare payments to doctors.

Senate Commerce Committee Marks Up Transportation Bills

This week, the Senate Committee on Commerce, Science, and Transportation approved several surface transportation safety bills that will now be incorporated into to the MAP-21 reauthorization bill. The following bills were approved:

- S. 1950, the Commercial Motor Vehicle Safety Enhancement Act of 2011
Reauthorizes the Federal Motor Carrier Safety Administration and also includes the "FREIGHT Act" to create a national, multi-modal freight program.



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- S. 1952, the Hazardous Materials Transportation Safety Improvement Act of 2011. Reauthorizes the Office of Hazardous Materials Safety at the Pipeline and Hazardous Materials Safety Administration.
- S. 1953, the Research and Innovative Technology Administration Reauthorization Act of 2011
- S. 1449, the Motor Vehicle and Highway Safety Improvement Act of 2011 (Mariah's Act)

House Hearing on EPA Integrated Planning

On December 14, the House Committee on Transportation, Subcommittee on Water Resources and Environment held a hearing "to review EPA's proposed integrated planning and permitting regulatory prioritization effort under the Federal Water Pollution Control Act." Chairman Bob Gibbs (R-OH) opened the hearing by expressing concern regarding the cost of Environmental Protection Agency (EPA) regulatory actions. He singled out the "stovepipe" nature of regulations and burden placed by the federal government, in the form of unfunded mandates, upon local government. Chairman Gibbs called for an integrated clean water strategy that would provide greater flexibility for states and municipalities to address local priorities.

Ranking Member Timothy Bishop (D-NY) highlighted the lack of proper wastewater infrastructure funding to adequately address documented needs. He also called for a future hearing on alternative funding options, as contained in the Water Quality Protection and Job Creation Act (HR 3145). This bill proposes two initiatives for the long-term financing of wastewater infrastructure through the establishment of direct loan and loan guarantee programs and a Clean Water Infrastructure Trust Fund.

Nancy Stoner, Acting Assistant Administrator for Water - Environmental Protection Agency (EPA), testified they are actively supporting the advancement of integrated approaches to managing municipal storm water and wastewater that will allow communities to evaluate all of their Clean Water Act stormwater and wastewater obligations and prioritize their investments in a manner that maximizes water quality gains. Stoner announced that EPA would be conducting a series of public meetings next spring to discuss a draft integrated planning framework ([Achieving Water Quality Through Municipal Stormwater and Wastewater](#)) and to gather feedback from states, municipalities, and other stakeholders.

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Local government officials focused their testimony on the tremendous costs associated with complying with federal water quality consent decrees. In addition, they expressed support for greater integrated planning and an increase of green technologies. David Williams, Director of Wastewater - East Bay Municipal Utility District (CA) testified that “an integrated planning approach would seek to balance the regulatory requirements on our communities to ensure that there is a prioritization which results in achieving the highest net environmental benefits as quickly as possible recognizing the financial constraint of the communities.”

Testifying at the hearing were: Mayor Jim Suttle, City of Omaha (Conference of Mayors); Mayor Joe Reardon, Mayor/CEO – Unified Government of Wyandotte County and Kansas City, Kansas (National League of Cities); Mr. Todd Portune, Commissioner, Hamilton County, Ohio Board of Commissioners; Mr. Walt Baker, Director, Division of Water Quality - UT Dept. of Environmental Quality (Association of Clean Water Administrators); Mr. Carter H. Strickland, Jr., Commissioner - NYC Environmental Protection; Mr. David Williams, (National Association of Clean Water Agencies); Ms. Katherine Baer, Senior Director, Clean Water Program - American Rivers; Nancy Stoner, Acting Assistant Administrator for Water, US EPA; and Cynthia Giles, Assistant Administrator for the Office of Enforcement and Compliance Assurance, US EPA.

A copy of written testimony and member statements can be viewed at:
transportation.house.gov/hearings/hearingdetail.aspx?NewsID=1474

Senate Hearing On Water Infrastructure Needs

On December 13, the Senate Committee on Environment and Public Works, Subcommittee on Water and Wildlife convened a hearing “Our Nation’s Water Infrastructure: Challenges and Opportunities.” The hearing was slated to address the ways in which federal water infrastructure can be structured within the context of the fiscal pressures at all levels of government. Members of the subcommittee focused their questions and comments on the current condition of water infrastructure, level of flexibility for states, and innovative funding mechanisms.

Testifying at the hearing were: [Mr. James A. Hanlon](#), Director, Office of Wastewater Management, U.S. Environmental Protection Agency; [Mr. Greg DiLoreto](#), President-Elect, American Society of Civil Engineers (ASCE); [Mr. Joe Freeman](#), Chief, Financial Assistance Division State of Oklahoma

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Water Resources Board, [Mr. Theodore E. Scott](#), Executive Vice President and Founder Stormwater Maintenance; and [Mr. Van L. Richey](#), President & Chief Executive Officer, American Cast Iron Pipe Company. Formal testimony and a replay of the hearing can be reviewed [here](#).

Subcommittee Chairman Ben Cardin (D-Md) opened the hearing expressing the concern over the sub par condition of water infrastructure and gave the example of water main failures in his district. Ranking Member Jeff Sessions (R-AL) agreed with this concern in general. But he differed on how the federal government, “who do not have primary responsibility,” can assist with remedying the challenges. Senator John Barrasso (R-WY) focused his statement on water infrastructure for agriculture and the need to remove burdensome federal regulations.

Testifying on behalf of USEPA, Jim Hanlon Director, Office of Wastewater Management, stated that new tools and techniques are needed to develop meaningful solutions into the future. He cited a USEPA study that documented infrastructure needs shortfalls of \$335 billion for drinking water and \$300 billion for wastewater infrastructure. Hanlon testified that the agency strongly supports local-state identification of needs and priorities. He suggested that one way to address the funding gap was through utilization of asset management and best practices.

Transportation Infrastructure Grants Announced

The U.S. Department of Transportation announced the awarding of \$511 million in TIGER program grants to 46 projects in 33 states and Puerto Rico. The vastly oversubscribed program received 848 project applications totaling \$14.29 billion. A complete list of grant recipients can be viewed [here](#).

Hearings Senate*

House*

**in recess for the remainder of the year*

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