

Highway Trust Fund

Fracking

EPA Budget

Page 1-3

CFATS

Surface Transportation

Reauthorization

Page 3-5

Transportation Provisions in

H.R. 7

Page 6-7

New Reports

Page 7-8

Senate Hearings

House Hearings

Page 8-9



New Budget Projections Include Dire Forecast for Highway Trust Fund

Each January, the Congressional Budget Office (CBO) prepares “baseline” budget assumptions spanning the next 10 years. According to the report, the budget deficit will shrink in 2012 to \$1.1 trillion, down from last year’s \$1.3 trillion. [CBO’s forecast](#) includes the following assumptions:

- The unemployment rate remains above 8 percent both this year and next, a consequence of continued weakness in demand for goods and services. As economic growth picks up after 2013, the unemployment rate will gradually decline to around 7 percent by the end of 2015, before dropping to near 5½ percent by the end of 2017.
- Expects that the economy will continue to recover slowly, with real GDP growing by 2.0 percent this year and 1.1 percent next year. Projected spending in CBO’s baseline averages 21.9 percent of GDP over the 2013–2022 period. That figure is less than the 23.2 percent CBO estimates for 2012, but it remains elevated by historical standards.
- Without legislative action, three trust funds are projected to be exhausted during that period (2013-2022): Social Security’s Disability Insurance Trust Fund, Medicare’s Hospital Insurance Trust Fund, and the Highway Trust Fund.

⇒ **Highway Trust Fund** - The trust fund has two accounts: one that funds highways and highway programs, and one that pays for transit. CBO finds that sometime during 2013, the highway account will no

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longer be able to meet its obligations. The same will happen to the transit account in 2014. CBO based its assumptions that future transportation spending will equal 2012 levels, accounting for inflation.

- ⇒ Without legislative action, three trust funds are projected to be exhausted during that period (2013-2022): Social Security's Disability Insurance Trust Fund, Medicare's Hospital Insurance Trust Fund, and the Highway Trust Fund.

House Hearing on EPA involvement in Wyoming Fracking Investigation

On February 1, the House Committee on Science, Space, and Technology, Subcommittee on Energy and Environment of Committee held a hearing on the Environmental Protection Agency's (EPA) approach to ground water research in Pavillion, Wyoming. According to committee documents, although EPA has no jurisdiction to regulate the water quality of privately owned wells; they initiated an investigation under its authority over Superfund due to citizen complaints regarding the taste and odor of their water. The result of this inquiry was a report, entitled "Draft Research Report: Investigation of Ground Water Contamination near Pavillion, Wyoming", published in the Federal Register in December 2011. EPA has extended the public subsequently extended this comment period until March 12, 2012.

Testifying at the hearing were: Mr. James B. Martin, Regional Administrator, Region 8, U.S. Environmental Protection Agency; Mr. Tom Doll, State Oil & Gas Supervisor, Wyoming Oil & Gas Conservation Commission; Ms. Kathleen Sgamma, Vice President, Government & Public Affairs, Western Energy Alliance; and Dr. Bernard Goldstein, Professor and Dean Emeritus, Graduate School of Public Health, University of Pittsburgh.

EPA Budget Figures Highlighted

President Obama is expected to propose cutting EPA's budget to \$8.3 billion in fiscal year 2013 a decrease of roughly \$100 million from the \$8.4 billion enacted in FY12. Any further cuts to EPA's budget or staffing could prompt the ire of environmentalists, some states and EPA union officials, who have warned that reduced EPA funding will harm core programs such as enforcement of

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environmental laws including the Clean Water Act and Clean Air Act, and also the quality of rules and guidance created by the agency.

A smaller EPA budget also increases chances that the agency might try to trim its grants accounts that provide states assistance for air, water, and waste management even as states say that existing federal funding is not keeping pace with the staff and budget burdens states face in implementing EPA regulations.

Oversight Needed for Chemical Facility Anti-Terrorism Standards Program

On February 3, the House Committee on Energy and Commerce, Subcommittee on Environment and the Economy held a hearing entitled "Evaluating Internal Operation and Implementation of the Chemical Facility Anti-Terrorism Standards Program (CFATS) by the Department of Homeland Security (DHS)." The purpose of the hearing was to receive DHS testimony on efforts to address a major modeling failure that resulted in computer assessments that incorrectly assigned facilities to high-tiered risk designation. At a prior hearing, DHS officials admitted that CFATS officials consciously chose not to tell anyone about the improper designations. According to committee documents, "148 facilities were tiered at a lower risk tier, 99 facilities were found not to need a tier designation and no longer became subject to CFATS regulation, 41 facilities have either data errors that still need correction or have their redetermination under review, and 175 facilities remain in the same level but will have the risk levels for their chemicals of interest decrease." The hearing also examined the outcome of an internal DHS review of the CFATS program and recommendations for addressing numerous identified problems.

Testifying at the hearing were: Rand Beers, Under Secretary for the National Protection and Programs Directorate, Department of Homeland Security; and Penny J. Anderson, Director, Infrastructure Security Compliance Division, Office of Infrastructure Protection, Department of Homeland Security.

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Surface Transportation Reauthorization - Hazardous Road Ahead

On January 31, House Committee Transportation and Infrastructure Chairman John Mica (R-FL) and Republican Members of the Committee unveiled the American Energy & Infrastructure Jobs Act (H.R.7). The five-year, \$260 billion proposal would reauthorize surface transportation programs and proposes additional revenue derived from increased domestic energy production. The introduction of the bill was followed by a raucous mark up in the House Committee on Transportation and Infrastructure that exposed the depth of partisan discord over the content of the legislation. House Democrats were incensed regarding their perceived exclusion from the drafting process, having less than two days to review the bill and the coupling of the funding to controversial energy extraction measures.

The lengthy mark-up in the Committee on Transportation & Infrastructure, from 9:00 a.m. Thursday until almost 3:00 a.m. Friday, included spirited debate over numerous amendments offered by Democrats (80) and by Republicans (11). A complete list of amendments has not been published, the bill was finally approved on a 29-24 partisan vote.

Finance Provisions of House Transportation Reauthorization Approved - On February 3, the House Committee on Ways and Means marked-up the "American Energy and Infrastructure Jobs Financing Act of 2012" (H.R. 3864). The bill would reauthorize through September 30, 2016 expenditure authority for the Highway Trust Fund (HTF) and extend through September 30, 2018 the current Federal excise taxes that fund the Highway Trust Fund. The bill would restructure the funding sources for the Highway Account and Mass Transit Account that comprise the Trust Fund, and deposit certain non-tax revenues into the Highway Trust Fund from certain onshore and offshore domestic energy leasing and production to the Highway Trust Fund (HR 3407, HR 3408, HR 3410). Details on potential revenue from these new sources was not provided, the Committee report stated, this information would "be provided by the Congressional Budget Office." The U.S. Chamber of Commerce, American Public Transportation Association and the International Brotherhood of Teamsters have all expressed opposition to the shifting of mass transit funds.

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Natural Resources Committee Approves Energy Provision - On February 1, the House marked-up three energy exploration bills in the Committee on Natural Resources. The bills are intended to generate revenue to pay for projects in the surface transportation reauthorization bill.

- [HR 3407](#) (Hastings), to direct the Secretary of the Interior to establish and implement a competitive oil and gas leasing program for the exploration, development, and production of the oil and gas resources of the Coastal Plain of Alaska, to ensure secure energy supplies for the continental Pacific Coast of the United States, lower prices, and reduce imports, and for other purposes. "Alaskan Energy for American Jobs Act"
- [HR 3408](#) (Lamborn), to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes. "Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act"
- [HR 3410](#) (Stivers), to require the Secretary of the Interior to conduct certain offshore oil and gas lease sales, to provide fair and equitable revenue sharing for all coastal States, to formulate future offshore energy development plans in areas with the most potential, to generate revenue for American infrastructure, and for other purposes. "Energy Security and Transportation Jobs Act"

According to published reports, during a House Republican meeting, Speaker Boehner reiterated that language approving the Keystone XL oil pipeline would be part of the bill, "It would be silly to do an energy and jobs bill that doesn't include it." In addition, Speaker Boehner stated that "Everything will be paid for," although he acknowledged that revenue from increased energy production alone is not enough to pay for the bill.

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Summary of Key Transportation Provisions in the American Energy & Infrastructure Jobs Act (H.R.7)

The bill:

- Consolidates or eliminates approximately 70 programs
- Funds the Transportation Infrastructure Finance and Innovation Act (TIFIA) program for low interest loans at \$1 billion per year
- Expands the list of activities that qualify for Categorical Exclusions
- Would allow use of trucks as heavy as 97,000 pounds on interstate highways, up from the current 80,000-pound limit. (This provision was removed by amendment)
- Highway Trust Fund extended through October 1, 2016, Gas tax and other transportation-related taxes/fees extended through October 1, 2018
- All proceeds from proposed expanded energy exploration leases to be deposited in the Highway Trust Fund
- The roughly 80/20 split of funding to highways/transit is maintained in the bill

Alternative Transportation Account - The House bill renames the current Mass Transit Account and creates a new "Alternative Transportation Account (ATA) and be funded with \$40 billion from General Fund. Currently, 2.86 cents per gallon of motor fuel taxes goes into the Mass Transit Account, which is a subaccount within the Highway Trust Fund.

Transit, Congestion Mitigation and Air Quality, Ferry Boats & Terminals, and Federal Highways research programs (e.g., ITS, University Research) would all be shifted into the new account. Since the \$40 billion identified is a General Fund expenditure and therefore must be offset by savings from other programs in the federal budget.

Environmental Streamlining - The bill contains numerous provisions attempting to streamline the environmental review process:

- Would require federal agencies conducting environmental reviews to make a final determination for the project under review within 30 days of the final environmental impact statement or other assessment being made available. Projects would be automatically approved if that determination were not made within the required 30 days.

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- ⇒ Would include an expedited review process for any transportation infrastructure project “determined by the president to enhance the economic competitiveness of the United States.” States would be able to nominate projects for the expedited review to the Transportation Department, which would forward the applications to the president. The president would then have 30 days to either approve or reject the project. Projects would be automatically approved if the president did not make a determination within those 30 days.
- ⇒ Would allow states to repair any road or bridge damaged during a declared emergency and rebuilt in the same location at the same capacity without environmental review.
- ⇒ Would grant states broader authority under 40 C.F.R. 1508.4 to determine which construction projects do not have a significant impact on the environment and would not require an environmental assessment or impact statement

Status of Senate MAP-21 – At the close of last year, the Senate Committee on Environment and Public Works approved the highway component of the MAP-21 reauthorization bill and the Committee on Commerce, Science, and Transportation approved traffic safety and research provisions.

This week, the Senate Committee on Banking, Housing, and Urban Affairs approved the transit section, named the Federal Public Transportation Act of 2012 [[PDF](#)], which authorizes \$21 billion in transit funding. The bill continues funding for the Job Access and Reverse Commute (JARC) program, creates a new pilot program to support transit-oriented development with planning grants, streamlines the New Starts program and expands the Rail Modernization program to include “high-intensity bus” networks, renaming it the State of Good Repair Grant program.

New Reports and Studies

[Army Water Security Strategy - AEPI - US Army](#)

[Nuclear Power Plants Threaten Drinking Water for 49 Million Americans](#)

The drinking water for 49 million Americans could be at risk of radioactive contamination from a leak or accident at a local nuclear power plant, according to a new study released today by

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Environment America Research & Policy Center and the US Public Interest Research Group Education Fund.

Federal Aid to Roads and Highways Since the 18th Century: A Legislative History Report by the Congressional Research Service

The federal government has provided aid for roads and highways since the establishment of the United States in 1789. This report comprises a brief history of such aid, detailing some precedent setters and more recent funding through the Highway Trust Fund, which was created in 1956.

Brownfields - The National Association of Local Government Environmental Professionals has released a [primer](#) that provides advice and information to help local governments understand the economic issues involved in determining whether a particular renewable energy project is feasible on brownfield and other contaminated sites.

Hearings

Senate

Date: February 15, Time: TBA
Committee: Agriculture, Nutrition & Forestry
Hearing: Energy and Economic Growth for Rural America

Date: February 16, Time: 9:30 am
Committee: Energy and Natural Resources
Hearing: Fiscal 2013 Budget: Energy

Date: February 28, Time: 10:00 am
Committee: Energy and Natural Resources
Hearing: Fiscal 2013 Budget: Interior

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House

Date: February 7, Time: 10:00 am
Committee: Natural Resources
Hearing: Water Surface Storage Infrastructure

Date: February 8, Time: 10:00 am
Committee: Energy & Commerce
Hearing: American Energy Initiative

Date: February 15, Time: 10:00 am
Committee: Appropriations
Hearing: Fiscal 2013 Appropriations: Department of Homeland Security

Date: February 16, Time: 1:30 pm
Committee: Appropriations
Hearing: Fiscal 2013 Appropriations: Interior Department

Date: February 17, Time: 9:30 am
Committee: Appropriations
Hearing: Fiscal 2013 Appropriations: U.S. Forest Service

Date: February 28, Time: 1:00 pm
Committee: Appropriations
Hearing: Fiscal 2013 Appropriations: Bureau of Indian Affairs

Date: February 29, Time: 1:00 pm
Committee: Appropriations
Hearing: Fiscal 2013 Appropriations: Environmental Protection Agency

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