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Congress Readies Strategies for End of Session as Approval Rating Sinks to 9%

The past week in Washington D.C. witnessed the resolution of the payroll tax holiday extension, not with a bang, but barely a crackle. The House and Senate negotiators avoided a “Groundhog Day” scenario of throwing into doubt the extension, as took place last December. However, the resolution is certain to impose new stresses within Congress, since the agreement was essentially not paid for with budget reductions or tax increase offsets.

The first order of business when Congress returns from its President’s Day recess will be the development of a congressional budget resolution to set spending priorities. However, even this action should be uneventful since last year’s deficit reduction agreement provided the overall spending targets that will serve as the foundation of the fiscal year 2013 budget. So, the next real legislative action of consequence will be action on spending bills.

The one constant in this effort is the likely prospect that no final spending bill will be agreed to and brought to the House or Senate floors until after the November elections. House and Senate spending committees will approve most, if not all, twelve agency budget bills by September, allowing Members to campaign in October. But any agreement on a final budget will become ensnared in larger policy debates such as the expiration of the Bush-era tax rates and increasing the debt-ceiling limit by at least three trillion dollars. Throw into this basket of policy issues the potential for substantial changes in the

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composition of the House and Senate and the prospect for a long, contentious post-election Lame Duck Session looms large.

Because congressional elections tend to color the legislative agenda, we anticipate political theater of the highest magnitude as each party seeks to gain leverage. For this reason, expect that the next several months will be focused on setting the stage for the Lame Duck Session. This may involve developing approaches to address energy, water and transportation infrastructure needs, imposing new Buy America mandates on federally financed projects, and enhancing energy independence through tax credits and other measures to promote alternative energy supplies. The prospect that the U.S. Supreme Court will rule on a series of issues impacting the authority of federal agencies to order actions related to water quality and ongoing regulatory initiatives will further inflame political passions. All of this may lead to renewed efforts by Congress to legislate by policy riders on a final year-end budget deal that could become the ultimate example of a legislative Christmas tree strung and bowing under the weight of legislative ornaments.

Put Two “H” Molecules with One “O” Molecule and You Get A California Water Fight

The past week saw a marathon markup of the San Joaquin Valley Water Reliability Act ([H.R. 1837](#)). After more than eight hours of contentious debate and votes on amendments, the House Committee on Natural Resources approved H.R. 1837. As adopted the bill would rewrite California water resources policy by establishing that water deliveries for irrigation and municipal needs would be guaranteed and that there would not be any redirected impacts to such needs as a result of environmental water demands. Additionally, the bill would void existing law governing the restoration of the San Joaquin River, supersede the Endangered Species Act, and over-ride state public trust doctrine. The bill would eliminate the use of the Bay Delta Conservation Plan efforts and instead require compliance with the findings of the 1994 Bay Delta Accord that, among other matters, did not consider the impacts of climate change upon water resources.

The bill was approved 26-17 almost along party lines with Californian Jim Costa (D) siding with the Republican Majority on passage. The bill is expected to be moved to the House floor for

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debate and a vote on passage within the next several weeks. Shortly before the committee acted on the bill, Senators Dianne Feinstein and Barbara Boxer of California harshly denounced it. In their letter to the committee they noted that the bill represented a serious threat to the state of California and effectively eliminates compliance with the state's Endangered Species Act for a select group of water users. The Senators also noted that provisions that pre-empt California's water law sets a precedent of federal intrusion upon all western water law and rights. Because of these and other issues, it is unlikely the measure will see legislative daylight in the Senate should the House approve the bill later this spring.



House Draws, Quarters and Delays Transportation Reauthorization Bill

This week, the House Republican leadership opted to divide the consolidated transportation reauthorization bill ([HR 7](#)) into three bills: transportation, energy (expanded oil/gas drilling), and funding offsets for purposes of floor debate. In effect, the action was an admission that a comprehensive bill would not have the votes to pass the House. The House approved the Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act ([HR 3408](#)), which expands offshore and arctic oil and gas drilling and contains a

Keystone XL pipeline provision. The bill was approved 237-187. Only 21 Democrats voted for the bill, offsetting the 21 Republicans who voted against it.

By week's end, faced with the threat of a Presidential veto, bi-partisan congressional opposition, lukewarm industry support, local-state government hostility and nearly 300 amendments, Speaker Boehner announced that further action on the bills would be delayed until after next week's Presidents' Day recess.

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“America is One-Big Pothole” - Secretary LaHood Testifies on FY 2013 Budget

The Senate Committee on Budget held a hearing on the President's FY 2013 Budget Request for the Department of Transportation. Testifying at the hearing was Department of Transportation Secretary Ray LaHood who provided a review of the budget priorities and gave an impassioned call for investment in transportation infrastructure. The President's FY 2013 Budget proposes:

- \$74 billion in the fiscal 2013 budget, a \$1.4 billion increase from 2012 with the pay-for coming from savings from the wind down of military action in Iraq and Afghanistan;
- Overall funding provides \$60.3 billion of mandatory spending and \$13.7 billion of discretionary spending;
- Frontloading \$50 billion, of which \$28 billion would go to highway and \$3 billion for transit-formula programs;
- Moving all surface-transportation spending into the mandatory category, protecting it from the caps on discretionary spending enacted in the Budget Control Act of August 2011; and
- \$6 billion for state-of-good-repair transit projects, \$6 billion for rail projects, \$4 billion TIGER grants, and \$2 billion for the Airport Improvement Program.

Ranking Member Sessions (R-AL) contested the proposed use of “war savings” to pay for increased transportation funding, calling it “not commonsensical, and the reason why we are in such a deficit.” Sessions praised Secretary LaHood’s vision, however, he expressed that he did not believe it was connected to reality.

New Legislation Introduced

- [H.R. 4020](#) (Garamendi D-CA) - To amend the National Flood Insurance Act of 1968 to allow the construction and improvement of structures used for agricultural production in floodplains, and for other purposes.
- [S. 2104](#) (Cardin D-MD) - To amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

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- [H.R. 4001](#) (Campbell R-CA) - To amend the Internal Revenue Code of 1986 to allow partnerships invested in infrastructure property to be treated as publicly traded partnerships, to reduce the depreciation recovery periods for such property, and for other purposes.
- [H.R. 4033](#) (Sullivan R-OK) - Giving Local Communities a Voice in Tribal Gaming Act

New Rural Schools Funding Legislation Moves in House

On February 16, the House Committee on Natural Resources approved the Federal Forest County Revenue, Schools, and Jobs Act of 2012 ([H.R. 4019](#)). The Secure Rural Schools program, which is slated to expire at the end of this year, has historically shared revenue from U.S. Forest Service timber sales with local governments and schools. The House bill, introduced by Chairman Doc Hastings (R-WA), provides for a five year extension of the Payment in Lieu of Taxes (PILT) program and brings certainty to families who own cabins in National Forests by modifying the cabin fee formula. The bill creates an Annual Revenue Requirement (ARR) for each National Forest System unit, based on an average of gross receipts from 1980-2000. Of the ARR, 65% is shared with the counties through the County Revenue and Schools Trust and 35% is directed to the federal Treasury.

In the Senate, Senators Bingaman (D-NM) and Murkowski (R-AK) have proposed legislation ([S. 1692](#)) seeking a clean five-year extension of the PILT program. The president's FY 2013 budget includes over \$294 million for Secure Rural Schools as part of a five-year reauthorization. It also designates county payments as a mandatory program.

Senate Hearing on Energy and Economic Issues for Rural America

On February 15, the Senate Agriculture, Nutrition and Forestry Committee held a hearing titled "[Energy and Economic Growth for Rural America](#)." Agriculture Secretary Vilsack in his testimony discussing the next farm bill stated, "As you consider the next farm bill, I would like to suggest you consider two key themes: streamlining and flexibility. Over the course of many years, this committee and Congress have provided USDA with more than 40 programs in rural development, many of which have overlapping authorities and goals." The president's FY 2013 budget

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proposal provides \$23 billion in discretionary funding, a decrease of nearly 3 percent or almost \$700 million, below the 2012 enacted level.

New Climate and Clean Air Initiative

On February 15, Secretary of State Hilary Clinton announced a climate and clean air initiative to reduce short-lived climate pollutants, such as methane black carbon and hydrofluorocarbons (HFCs). Working together as the Climate and Clean Air Coalition, Bangladesh, Canada, Ghana, Mexico, Sweden, and the United States will conduct what Secretary Clinton described as "a targeted, practical, and highly energetic global campaign to spread solutions to the short-lived pollutants worldwide."

New Reports and Studies

HUD's Office of Sustainable Housing and Communities - [Sustainable Communities Resource Center](#)

Hearings

Senate

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

House

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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