

THE LEGISLATIVE SERVICES GROUP'S

Transportation Weekly

MONITORING AND ANALYZING DEVELOPMENTS IN FEDERAL TRANSPORTATION AND PUBLIC WORKS POLICY

Volume 10, Issue 12

Tuesday, February 24, 2009

Legislative Schedules

Week of February 23, 2009

House

Tuesday — meets at noon — three measures under suspension of the rules. No votes after 3 p.m. due to the joint session.

Wednesday and Thursday — meets at 10 a.m. — H.R. 1105, omnibus appropriations, and H.R. — mortgage relief.

Friday — no votes.

Senate

The Senate convened today at 10 a.m. today and resumed consideration of S.

160, D.C. voting rights.

The House and Senate meet in a joint session at 9 p.m. on Tuesday night to hear an address by President Obama.

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Final FY09 Spending Bill Unveiled; \$71.5B For DOT

Bill Gives \$40.7 Billion Ob Limit For Highways \$10.2 Billion For Mass Transit
FAA Gets \$15.5 Billion; Rail \$1.8 Billion; Bill Would Ban Mexican Trucks From U.S.

Yesterday, the chairman of the House Appropriations Committee introduced the omnibus appropriations bill (H.R. 1105) that is expected to finish up the appropriations process for fiscal 2009 for most domestic federal activities, including transportation and infrastructure.

The bill provides or allows a total budget for the U.S. Department of Transportation of \$71.5 billion in FY 2009, about \$3.4 billion (or 4.9 percent) above the comparable total for last year.

When combined with the money appropriated to USDOT in the emergency economic stimulus law last week (P.L. 111-5),

total funds made available to USDOT in FY 2009 will be about \$119.65 billion. This staggering amount is more than twice the actual FY 2004 USDOT budget, an impressive rate of growth.

The House Rules Committee is scheduled to hold a hearing on H.R. 1105 at 2 p.m. today in preparation for House consideration of the bill tomorrow. It is expected that the Rules Committee will allow few, if any, amendments to be offered to the bill so that the version of the bill pre-negotiated by House Appropriations Chairman David Obey (D-WI) and Senate Appropriations



The U.S. Department of Transportation does quite well in the omnibus appropriations bill for FY 2009, receiving a total of \$71.5 billion.

Chairman Daniel Inouye (D-HI) can get through the system as quickly as possible.

All of the agencies funded by the omnibus bill are currently operating under a stopgap continuing resolution (CR) that provides funding at FY 2008

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White House Rejects User Financing of Roads For Future?

President Obama's press secretary issued an unexpectedly hostile response to a question last week that calls into question whether or not the next surface transportation reauthorization bill will continue to explore next-generation finance method to replace the gasoline and diesel fuel taxes as they become less efficient.

Last week, new Transportation Secretary Ray LaHood was talking with a reporter from the Associated Press in what appeared to be a wide-ranging, "what do you think the future holds for transportation" kind of general conversation.

The AP reported that LaHood said that, in the future, "We should look at the vehicular miles

program where people are actually clocked on the number of miles that they traveled."

In this, LaHood was just repeating what has become the established conventional wisdom within the surface transportation community — that as more fuel-efficient cars, alternative-fuel cars, and electric cars take to the

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levels through March 6. If Senate Majority Leader Harry Reid (D-NV) wants to get H.R. 1105 through the Senate without significant amendment, as a strategic matter it behooves him to wait until as close to March 6 as possible to bring the bill to the floor.

The Department of Transportation is funded in Title I (roman numeral I, not letter I) of the Transportation-HUD division of the bill, which is Division I (letter I, not roman numeral I).

71.5 = 13.5. In real terms, the omnibus bill lets USDOT have a grand total of \$71.533 billion in new spending authority in FY 2009. But for purposes of budget enforcement, that \$71.533 billion only counts as \$13.480 billion.

How's that, you ask? Simple (almost). First of all, \$789 million of that \$71.533 billion is classified as true "mandatory" spending and is outside the discretionary budget enforcement process. Second, the bulk of the DOT budget (\$53.745 billion) does not come through new appropriations but instead takes the form of "obligation limitations" on contract authority.

Essentially, highway, transit, safety, and airport spending out of the transportation trust funds falls into a series of budget loopholes, inhabiting a no man's land between the discretionary and mandatory budget processes. Both the authorizing committees (subject to PAYGO rules) and the appropriators (subject to annual discretionary spending caps) are in charge of this money jointly, and if history has taught us nothing else, it's that when two rival factions are jointly in charge of something, it's the next best thing to nobody being in charge.

Just \$17.000 billion of the USDOT budget from the omnibus appropriations bill comes in the form of actual new appropriations. And \$3.519 billion of this money is offset

HIGHLIGHTS OF FY 2009 OMNIBUS APPROPRIATIONS U.S. DEPARTMENT OF TRANSPORTATION

	<u>FY 2008</u>	<u>Request</u>	<u>FY 2009</u>
Federal-aid Highways	\$41.955 billion	\$40.138 billion	\$41.439 billion
Transit Formula/Bus	\$7.768 billion	\$8.361 billion	\$8.261 billion
Transit New Starts	\$1.569 billion	\$1.621 billion	\$1.809 billion
FAA Operations	\$8.740 billion	\$8.8995 billion	\$9.042 billion
FAA F&E (procurem.)	\$2.514 billion	\$2.724 billion	\$2.742 billion
FAA Airport Grants	\$3.515 billion	\$3.515 billion	\$3.515 billion
Grants to Amtrak	\$1.325 billion	\$800 million	\$1.490 billion
USDOT Total	\$70.319 billion	\$68.169 billion	\$71.533 billion
Plus Stimulus:			+\$48.12 billion

USDOT TOTAL WITH STIMULUS: \$119.653 BILLION

by a series of bookkeeping gimmicks that are only possible because transportation spending is caught in the budget loophole between enforcement processes. So only \$13.480 billion of the money counts towards the \$55 billion budget ceiling for the Transportation-HUD Appropriations Subcommittee in the omnibus bill.

Highways. As always, spending for highways and bridges is the lion's share of the bill. The omnibus bill provides a primary obligation limitation on the existing contract authority for the federal-aid highways program of \$40.70 billion. This is either \$484 million more than last year or \$516 million less, depending on how you look at it. (In FY 2008, Congress established a primary obligation limitation of \$40.216 billion but also threw in an extra \$1 billion in ob limit for emergency bridge repairs. The FY 2009 total is an increase if you ignore last year's \$1 billion but a decrease if you don't.

The omnibus bill prevents a cut of \$1.001 billion in the highway ob limit that would otherwise have taken place under the revenue aligned budget authority (RABA) process authorized by the SAFETEA-LU law.

In addition to the primary ob limit, \$739 million in mandatory funding becomes available for highways each year outside the regular appropriations process, bringing the main federal-aid highways account up to a total of \$41.439 billion. On top of that, the omnibus bill contains a \$150 million appropriation from the Highway Trust Fund for House earmarks (merged with the contract authority in the TCSP account), a \$183 million appropriation from the general fund for Senate earmarks, and the usual Senate general fund appropriations for Alaska (\$5.7 million), and Appalachia (\$9.5 million) earmarks.

In total, the gross new spending permission given to the Federal Highway Administration by the omnibus bill is \$41.759 billion, 1.0 percent below last year but 4.0 percent above the Bush budget request.

This gross total is offset by a fiscally meaningless \$3.15 billion rescission of unobligated contract authority (the big gimmick mentioned above), bringing the net total down to \$36.563 billion.

The omnibus bill contains 739 earmarked highway projects totaling \$592 million.

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Transit. The omnibus bill provides a total of \$10.231 billion in spending authority for the Federal Transit Administration, up almost \$740 million from last year's level — an increase of 7.8 percent.

However, the increase is still not quite as large as the 2005 SAFETEA-LU statute envisioned, as the total FTA budget is still \$107 million below the level "guaranteed" by that law.

The principal reduction comes in the primary program, the obligation limitation on SAFETEA-LU's contract authority for the formula and bus grant program. The omnibus bill sets this level at \$8.261 billion (see table below), which is \$100 million below the SAFETEA-LU level laid out in the President's budget request.

The \$100 million difference is a reduction in bus funding, resulting from fewer Congressional earmarks in that program and the lingering resentment over how the Bush Administration divided up the FY 2007 bus money after an earmark-free appropriations law.

And that \$100 million cut may be counted twice, due to the unique loopholes that infest transportation budgeting. The \$100 million cut in

the obligation limitation takes the FTA total from \$10.331 billion to \$10.231 billion, but then the bill also rescinds \$100 million in unobligated contract authority for the bus program (not specifying from this year or from prior years), and voila, the net total for budget purposes at FTA drops to \$10.131 billion.

Even with the \$100 million cut, this is still 6.3 percent above last year's level. And even with \$100 million less in bus money, the omnibus bill still managed to earmark \$239 million for 302 bus projects (in addition to the 665 bus earmarks already made for this year by the SAFETEA-LU law).

The big discretionary account for FTA is capital investment grants (more commonly called new starts) for new subway, light rail and bus rapid transit service, funded by an appropriation from the general fund.

The omnibus bill appropriates a total of \$1.809 billion for new starts, \$240 million more than last year and \$188 million more than President Bush requested.

As part of Bush's request, FTA sent Congress a list of individual project requests. Seventeen of those projects had signed or pending full funding grant agreements (FFGAs) — contracts between FTA and the local transit agency that, while not legally binding on Congress, are at

least morally binding. The \$1.3 billion for those new starts went through the budget process basically untouched, as happens every year (see full table on page 12 of this issue for details), and there is a fair debate over whether or not Congressional funding of a new start with a FFGA should be considered an earmark.

The omnibus bill does earmark almost \$490 million for 42 other new start projects that were not part of the FFGA budget request. Two earmarks from the SAFETEA-LU law are also funded, totaling \$20 million.

The earmark requests were so numerous that the appropriators decided to fund the one percent set-aside for FTA project oversight out of each individual earmark (instead of taking the money off the top of the account, as is the normal practice) so the earmarks would look a bit bigger than they are.

The bill carries the same language as last year preventing FTA from finalizing its new start rulemaking during FY 2009.

The omnibus bill also rescinds \$100 million in unused new start funding from prior years.

The omnibus bill appropriates \$94.4 million from the general fund for FTA administrative expenses, the same amount as the budget request, and appropriations \$67 million for transit research, a 2.5 percent increase over last year.

Aviation. The omnibus bill provides a total of \$15.47 billion for the Federal Aviation Administration, a 3.7 percent increase over fiscal 2008 and a 5.6 percent increase over the Bush Administration's budget request.

As always, the big account is FAA operations, which funds air traffic control. The omnibus bill provides an appropriation of \$9.042 billion — \$3.804 billion from the general fund of the Treasury and the remainder from the Airport and Airway Trust Fund. This is a 3.5 percent increase over 2008.

FTA Formula and Bus Grant Account (Thousands of Dollars)

	FY 2008 Enacted	FY 2009 Request	FY 2009 Omnibus
Urbanized Area Formula Grants	\$ 4,280,002	\$ 4,552,547	\$ 4,552,281
Fixed Guideway Modernization	\$ 1,570,000	\$ 1,666,500	\$ 1,666,500
Bus and Bus Facility Grants	\$ 823,053	\$ 984,000	\$ 884,000
Over-the-Road Bus Accessibility	\$ 8,300	\$ 8,800	\$ 8,800
Clean Fuels Grant Program	\$ 49,000	\$ 51,500	\$ 51,500
Planning Programs	\$ 107,000	\$ 113,500	\$ 113,500
Elderly/Special Needs Grants	\$ 127,000	\$ 133,500	\$ 133,500
Non-Urbanized Area Grants	\$ 506,841	\$ 537,818	\$ 538,084
Job Access and Reverse Commute	\$ 156,000	\$ 164,500	\$ 164,500
New Freedom Program	\$ 87,500	\$ 92,500	\$ 92,500
National Transit Database	\$ 3,500	\$ 3,500	\$ 3,500
Alternatives Analysis Program	\$ 24,691	\$ 25,000	\$ 25,000
Transit in Parks and Public Lands	\$ 25,000	\$ 26,900	\$ 26,900
Total, Formula and Bus Grants	\$ 7,767,887	\$ 8,360,565	\$ 8,260,565

NOTE: Differences in the urbanized and non-urbanized formula amounts between the request and the omnibus are likely due to an update in apportionment factors.

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This is also a big shift away from the Trust Fund and towards the GF for FAA ops — last year, the split was \$2.343 billion to \$6.397 billion. The omnibus bill takes 42 percent of operations funding from the general fund, easing the financial pressure on the Trust Fund caused by the recent downturn in airline ticket sales.

Within the operations account, the omnibus bill gives a small boost to aviation safety and takes small cuts from center operations and IT services (compared to the budget request) — see table at bottom of this page. Also, the numbers don't quite add up — the bill directs FAA to

leave enough vacant jobs unfilled long enough to save \$697 thousand and make the books balance.

The procurement account for the FAA (facilities and equipment) receives a \$2.742 billion appropriation from the Trust Fund, a \$228 million increase over 2008 (\$19 million more than the request).

The obligation limitation for the Airport Improvement Program is flat-lined from last year, at \$3.515 billion — which is also the exact same level as FY 2007, and as FY 2006. And 2006 was only \$17.5 million higher than FY 2005.

The AIR21 law of 2000 took AIP from the \$1.9 billion per year range to the \$3.5 billion per year range in just two years, but the program has been stuck there since then. If a

FAA reauthorization law can be completed this year, there is more of a chance for an increase in the program next year.

The omnibus bill rescinds \$80 million in unusable AIP contract authority and earmarks \$82 million of the discretionary AIP money for 80 earmarked projects.

The omnibus bill also appropriates \$171 million for FAA research activities, a 16 percent jump from last year.

The bill also contains a general provision prohibiting FAA from going forward with plans to auction off takeoff and landing slots at New York City area airports.

There another aviation activity that is within DOT but outside

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FEDERAL AVIATION ADMINISTRATION APPROPRIATIONS COMPARISON

	FY 2008 Enacted	FY 2009 Request*	FY 2009 House	FY 2009 Senate	FY 2009 Omnibus
Operations					
Air Traffic Organization	\$ 6,966,193,000	\$ 7,078,793,000	\$ 7,085,019,000	\$ 7,119,031,000	\$ 7,099,019,000
Aviation Safety	\$ 1,081,602,000	\$ 1,130,927,000	\$ 1,146,977,000	\$ 1,162,927,000	\$ 1,164,597,000
Commercial Space Transportation	\$ 12,549,000	\$ 14,094,000	\$ 14,094,000	\$ 14,094,000	\$ 14,094,000
Financial Services	\$ 100,593,000	\$ 112,004,000	\$ 111,004,000	\$ 112,004,000	\$ 111,004,000
Human Resources	\$ 91,214,000	\$ 96,091,000	\$ 96,091,000	\$ 96,091,000	\$ 96,091,000
Region and Center Operations	\$ 286,848,000	\$ 336,894,000	\$ 321,270,000	\$ 336,894,000	\$ 331,000,000
Staff Offices	\$ 162,351,000	\$ 181,321,000	\$ 181,321,000	\$ 180,859,000	\$ 180,859,000
Information Services	\$ 38,650,000	\$ 48,338,000	\$ 44,447,000	\$ 48,338,000	\$ 46,500,000
Adjustments	\$ -	\$ -	\$ (5,000,000)	\$ -	\$ (697,000)
Total, Operations	\$ 8,740,000,000	\$ 8,998,462,000	\$ 8,995,223,000	\$ 9,070,238,000	\$ 9,042,467,000
Facilities and Equipment	\$ 2,513,611,000	\$ 2,723,510,000	\$ 2,691,165,000	\$ 2,749,595,000	\$ 2,742,095,000
Research, Engineering & Develop.	\$ 146,828,100	\$ 171,028,000	\$ 171,028,000	\$ 171,000,000	\$ 171,000,000
Airport Improvement Program					
Grants-in-aid to Airports	\$ 3,395,112,000	\$ 2,628,201,931	\$ 3,392,698,000	\$ 3,393,198,000	\$ 3,384,698,000
Office of Airports	\$ 80,676,000	\$ 87,450,232	\$ 87,454,000	\$ 87,454,000	\$ 87,454,000
Airport Technology Research	\$ 18,712,000	\$ 19,347,837	\$ 19,348,000	\$ 19,348,000	\$ 19,348,000
Airport Cooperative Research	\$ 10,000,000	\$ 15,000,000	\$ 15,000,000	\$ 15,000,000	\$ 15,000,000
Small Community Air Service (to OST)	\$ 10,000,000	\$ -	\$ -	\$ -	\$ 8,000,000
Total, AIP	\$ 3,514,500,000	\$ 2,750,000,000	\$ 3,514,500,000	\$ 3,515,000,000	\$ 3,514,500,000
GRAND TOTAL, FAA (Gross)	\$ 14,914,939,100	\$ 14,643,000,000	\$ 15,371,916,000	\$ 15,505,833,000	\$ 15,470,062,000
General Fund	\$ 2,342,939,100	\$ 2,732,514,000	\$ 2,359,916,000	\$ 2,923,238,000	\$ 3,804,462,000
Airport and Airway Trust Fund	\$ 12,572,000,000	\$ 11,910,486,000	\$ 13,012,000,000	\$ 12,582,595,000	\$ 11,665,600,000
General Fund (% of Total FAA)	15.7%	18.7%	15.4%	18.9%	24.6%
Trust Fund (% of Total FAA)	84.3%	81.3%	84.6%	81.1%	75.4%
Rescission, Offsets and "Other"					
Rescission of "pop-up" CA	\$ (85,000,000)	\$ -	\$ -	\$ -	\$ -
Rescission of excess AIP CA	\$ (185,500,000)	\$ -	\$ -	\$ (75,000,000)	\$ (80,000,000)
War risk insurance extension	\$ (40,000,000)	\$ -	\$ -	\$ -	\$ -
Total, Rescissions/Offsets/Other	\$ (310,500,000)	\$ -	\$ -	\$ (75,000,000)	\$ (80,000,000)
GRAND TOTAL, FAA (Net)	\$ 14,604,439,100	\$ 14,643,000,000	\$ 15,371,916,000	\$ 15,430,833,000	\$ 15,390,062,000

*The FY 2009 request proposes changes in the FAA account structure which are not comparable to previous years. The comparable numbers shown here are taken from a table in the FAA's detailed budget justification documents (Exhibit II-9).

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FAA — essential air service subsidies, vested in the Office of the Secretary. The bill provides an appropriation of \$73.013 million for the program, to be combined with the \$50 million per year in mandatory spending that becomes available without an appropriation. Together with unexpended balances, this should be enough to continue the program at all current EAS airports, but if it is not, the omnibus bill continues prior year language directing the Secretary to transfer funds from his own office budget to EAS to fill the gap.

Rail. The omnibus bill appropriates a total of \$1.798 billion for the Federal Railroad Administration, an increase of \$237 million (a whopping 15.2 percent) over last year. (It's not even relevant to compare it to the Bush Administration's perennially shortchanged rail

budget request). These numbers were put together before the stimulus bill stunned everyone by adding another \$9.4 billion to the FRA budget starting this year.

Until this point, the majority of the FRA budget has been a simple pass-through for Amtrak subsidies. Indeed, the Amtrak subsidy in the omnibus bill appropriates a total of \$1.49 billion for Amtrak, which is \$165 million above last year. \$940 million goes for capital and debt service, while \$550 million goes for operating subsidies.

The bill continues most of the Amtrak operational reforms written into the last several DOT appropriations bills.

Outside Amtrak, the omnibus bill provides \$159 million for FRA operations, a 6.2 percent increase over last year, and provides \$34 million for FRA research, a 5 percent cut from last year.

The omnibus bill appropriates \$25 million for freight line relocation

and improvement and \$90 million for intercity passenger rail grants (rendered relatively meaningless by the \$8 billion for the program in the stimulus bill).

Highway Safety. The omnibus bill follows the SAFETEA-LU "guarantees" for spending at the National Highway Traffic Safety Administration. The bill pairs \$127 million from the general fund with \$105.5 million in Highway Trust Fund obligations for total NHTSA overhead of \$232.5 million. (NHTSA research on road improvements comes from the Trust Fund while vehicle safety comes from the general fund, and the account is split accordingly.)

The bill provides the full SAFETEA-LU level for NHTSA grants to states of \$619.5 million and provides the usual \$4 million for the National Driver Register.

Motor Carrier Safety. The omnibus bill provides the SAFETEA-LU level of \$541 million for the Federal Motor Carrier Safety Administration for FY 2009, which is a 2.1 percent increase over last year. As in the law and the budget request, \$234 million goes for operations and programs and \$307 million goes for safety grants to states.

The bill contains a FMCSA general provision that could, conceivably, provoke a trade war with Mexico. Section 136 of the bill is identical to an amendment adopted in the Senate Appropriations Committee intended to kill off the ongoing DOT pilot program that allows Mexican trucks full access to U.S. roadways, as demanded by the NAFTA trade agreement.

In the past, the Bush Administration ignored poorly worded laws passed by Congress with the clear intent of shutting down the program, so the new bill minces no words: no funds in the bill can be used "directly or indirectly, to establish, implement, continue, promote, or in any way permit" such a program, "continuing, in whole or in part, any such program that was

COMPARING THE FY 2009 OMNIBUS BILL WITH AUTHORIZED FUNDING LEVELS

	Authorized Level		Conference Level	
Federal Highway Administration				
Federal-aid Highways (ob limit pre-RABA)	\$ 41,199,970,178	\$	40,700,000,000	98.8%
Revenue Aligned Budget Authority (ob limit)	\$ (1,001,242,952)	\$	-	0.0%
TOTAL, FHWA	\$ 40,198,727,226	\$	40,700,000,000	101.2%
Federal Transit Administration				
Formula and Bus Grants (ob limit)	\$ 8,360,565,000	\$	8,260,565,000	98.8%
Capital Investment Grants (GF)	\$ 1,809,250,000	\$	1,809,250,000	100.0%
Research and University Centers (GF)	\$ 69,750,000	\$	67,000,000	96.1%
Administration (GF)	\$ 98,500,000	\$	94,413,000	95.9%
TOTAL, FTA	\$ 10,338,065,000	\$	10,231,228,000	99.0%
Federal Motor Carrier Safety Administration				
FMCSA Operations and Programs (ob limit)	\$ 234,000,000	\$	234,000,000	100.0%
FMCSA Safety Grants (ob limit)	\$ 307,000,000	\$	307,000,000	100.0%
TOTAL, FMCSA	\$ 541,000,000	\$	541,000,000	100.0%
National Highway Traffic Safety Administration				
NHTSA Safety and Operations (GF)*	\$ 157,400,000	\$	127,000,000	80.7%
NHTSA Safety and Operations (ob limit)	\$ 105,500,000	\$	105,500,000	100.0%
Safety and Operations - Total	\$ 262,900,000	\$	232,500,000	88.4%
NHTSA National Driver Register (ob limit)	\$ 4,000,000	\$	4,000,000	100.0%
NHTSA Safety Grants (ob limit)	\$ 619,500,000	\$	619,500,000	100.0%
Total, NHTSA	\$ 886,400,000	\$	856,000,000	96.6%

Amounts shown above are gross totals and do not include any offsetting rescissions or other offsets.
 *NHTSA general fund appropriations are not protected by the budgetary "firewall"

COMPARING THE FY 2009 OMNIBUS BILL WITH THE HIGHWAY TRUST FUND FIREWALLS

Highway Category Obligations (RABA-adjusted):	Authorized Level		Conference Level	
Federal-aid Highways	\$ 40,198,727,226	\$	40,700,000,000	101.2%
Motor Carrier Safety	\$ 541,000,000	\$	541,000,000	100.0%
Highway Traffic Safety	\$ 729,000,000	\$	729,000,000	100.0%
Total, Highway Category Obligations	\$ 41,468,727,226	\$	41,970,000,000	101.2%
Mass Transit Category Obligations:	\$ 10,335,065,000	\$	10,231,228,000	99.0%

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initiated prior to the date of the enactment of this Act.”

Maritime. The omnibus bill provides \$333 million for the Maritime Administration, a 6.4 percent increase over last year and over the budget request. The only discrepancies from the budget are a small increase in operations, a small decrease in the ship disposal account, and the presence of \$17.5 million for Sen. Cochran’s (R-MS) priority, the aid to small shipyards program. The Administration proposed to kill this program, which the House did not want to fund, either. But the omnibus bill preserves it (and the stimulus bill gives it much more money besides.)

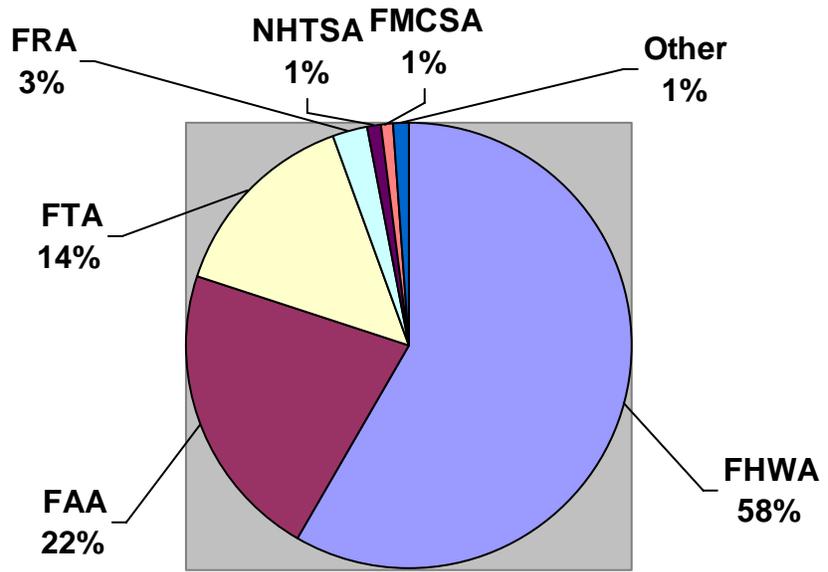
The St. Lawrence Seaway Development Corporation gets an appropriation of \$31.8 million, the same as the budget request and an 83 percent increase over last year. The increase is due to the start of a multi-year and long-postponed capital improvement program.

Pipelines and Hazmat. The omnibus bill provides a total of \$144.6 million for the Pipelines and Hazardous Materials Safety Administration, a 14.6 percent increase over last year. The hazardous materials safety account gets \$32 million, a 14.3 percent increase over 2008, and pipeline safety gets \$93.2 million, a 16.9 percent increase.

Other DOT. The omnibus bill provides \$258 million for the Office of the Secretary of Transportation. \$123 million of that goes for essential air service, as mentioned above. Beyond EAS, the omnibus bill appropriates \$98.3 million for OST salaries and expenses, a 7 percent increase over last year. (New Administration equals fewer initial fights over office budgets.)

The only significant discrepancy from the Bush budget request elsewhere in OST is a 31.8 percent increase in the transportation planning and R&D account.

GROSS BUDGETARY RESOURCES OF THE U.S. DEPARTMENT OF TRANSPORTATION UNDER THE OMNIBUS BILL FOR FY 2009



The Office of the Inspector General gets \$71.4 million under the bill, \$1 million more than the budget request. The Surface Transportation Board gets an appropriation of \$26.85 million, offset with the annual \$1.25 million in user fees for a net appropriation of \$25.6 million. And the Research and Innovative Technology Agency gets an appropriation of \$12.9 million.

Other Agency. The National Transportation Safety Board receives an appropriation of \$91 million under the bill, an increase of 7.7 percent over last year. (Traditionally, most NTSB funding for major accident investigations is handled via one-time supplemental appropriations, so the recent air accidents may necessitate one of those in a few months.)

Budget Gimmicks. As mentioned several times in this article, transportation trust fund spending falls into a unique gray area of the budget — programs that are neither fully discretionary nor wholly mandatory. Neither tilapia nor turkey.

This gray area allows gimmicky funding offsets (rescissions of contract authority that have zero effect on real-world outlays from the U.S. Treasury) and double-counting that is not allowed anywhere else in the

budget. Proponents of honesty in budgeting have been complaining about this state of affairs for some time.

To that ongoing budget debate we can add this word of advice: when President Obama’s budget framework comes out on Thursday, read the fine print in the transportation portion very carefully. This issue may be addressed there.

Adding Stimulus Funding. Throughout this discussion of the omnibus appropriations bill, there has been fairly little discussion of the elephant in the room — the \$790 billion economic stimulus bill signed into law one week ago today, which contained an extra \$48.1 billion for the U.S. Department of Transportation.

When the omnibus and the stimulus are added together (call it the totalbus, or the Bus, or Jerome Bettis, or whatever), the new spending resources available to DOT in fiscal 2009 total \$119.653 billion. The stimulus law has increased the 2009 funding available to DOT by 67.3 percent — a bonus that appears unprecedented.

The table at the bottom of this page shows how the amounts in the

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stimulus law compare to the regular amounts for those programs in the omnibus bill.

However, the appropriations made by the stimulus bill, by and large, cannot simply be added to the regular appropriations for these programs. There are a series of public reporting requirements and other rules for the stimulus funding that do not apply to regular funds, and the Office of Management and Budget has ordered all agencies to come up with new Treasury Appropriation Fund Symbols (TAFSS) in their financial systems for all stimulus funding accounts, unless a waiver is granted by OMB by February 25th.

The initial guidance document issued by OMB spells it out:

To maximize transparency of Recovery Act spending required by Congress and the Administration, agencies must not co-mingle Recovery Act funds with other funds in apportionment requests they prepare for OMB; SF 133 budget execution reports; or data feeds or reports they provide to Recovery.Gov. Within their financial systems, agencies must separately track apportionments, allotments, obligations, and expenditures related to Recovery Act funding.

Agencies in some cases may need to use Recovery Act funds in conjunction with other funds to complete projects. They may do so, but they must separately track and report the use of Recovery Act funds for these projects.

Moreover, most (but not all) of the budgetary resources provided by the omnibus bill have to be obligated by September 30, 2009. (There is some no-year ob limit for certain earmarks and \$2 billion of highway equity bonus funding, and portions of certain regular appropriations are available for longer than one year.)

But the stimulus money doesn't have to be obligated until September 30, 2010 at the earliest, and for some stimulus funding it's September 2011 (FAA F&E, the new discretionary grants at OST) or even September 2012 (the \$8 billion in rail funding).

In programs that are similar or identical, the presence of new money with a shorter deadline tends to crowd out money with a longer deadline. So states can reasonably be expected to take longer to obligate their no-year equity bonus money or their no-year SAFETEA-LU earmark money, for example, if those projects would compete for scarce attention and manpower with project that have to

be obligated under the stimulus by FY 2010.

(This may conflict with the "maintenance of effort" requirements of section 1201 of the DOT portion of the stimulus law, but the real-world consequences of failing to maintain effort are not likely to be anywhere near as serious as the prospect of losing stimulus money because it can't be obligated in time.)

But even though regular and stimulus funds can't be commingled, the same people at DOT will have to oversee both programs, and increasing the money in those programs by 67 percent (to say nothing of establishing new programs) takes a lot of manpower. While the stimulus bill makes several direct appropriations and set-asides for additional funding oversight and overhead, that may not be enough.

So the stimulus law also allows the head of each agency to transfer up to one percent of each account from that account to any other account provided by the bill — including oversight — and Congressional staff expect that some of the stimulus amounts below might be slightly reduced to pay for increased agency oversight activities under the transfer authority.

MAJOR TRANSPORTATION PROGRAMS, STIMULATED AND UNSTIMULATED

(Millions of Dollars in New Obligational Authority)

	<u>FY 2008</u> <u>Final</u>	<u>FY 2009</u> <u>Omnibus</u>	<u>Plus</u> <u>Stimulus</u>	<u>FY 2009</u> <u>Total</u>
Airport Improvement Program	3,515	3,515	+1,100	4,615
Federal-aid Highways	41,955	41,439	+27,500	68,939
Transit Formula Grants - Urbanized	4,280	4,552	+6,013	10,565
Transit Formula Grants - Non-Urbanized	507	538	+787	1,325
Transit Formula Grants - Rail Modernization	1,570	1,667	+750	2,417
Transit Rail New Starts	1,569	1,809	+750	2,559
<i>Subtotal, FTA Programs With Stimulus</i>	<i>7,926</i>	<i>8,566</i>	<i>+8,300</i>	<i>16,866</i>
Intercity and High-Speed Rail Grants	30	90	+8,000	8,090
Amtrak Capital Grants	850	940	+1,300	2,240
Assistance to Small Shipyards	10	18	+100	118

U.S. DEPARTMENT OF TRANSPORTATION APPROPRIATIONS IN THE OMNIBUS FY 2009 APPROPRIATIONS BILL (H.R. 1105) — PAGE 1 OF 3

(Dollar amounts in thousands of dollars — excludes emergency appropriations)

	FY 2008 Enacted	FY 2009 Request	FY 2009 House	FY 2009 Senate	FY 2009 Omnibus	Omnibus vs. 2008		Omnibus vs. Request		
						,000 Dollars	Percent	,000 Dollars	Percent	
Office of the Secretary										
Salaries and Expenses	91,782	101,782	97,282	98,500	98,248	6,466	7.0%	(3,534)	-3.5%	
Financial Management Capital	-	6,000	-	5,000	5,000	5,000	n/a	(1,000)	-16.7%	
Office of Civil Rights	9,141	9,384	9,634	9,384	9,384	243	2.7%	-	0.0%	
Rescission of 9/11 airline bailout cash	(22,000)	(1,000)	(848)	(1,000)	(848)	21,152	-96.1%	152	-15.2%	
Transportation Planning, Research & Dev.	13,884	10,105	13,855	12,750	18,300	4,416	31.8%	8,195	81.1%	
Minority Business Resource Center	893	912	912	912	912	19	2.1%	-	0.0%	
Minority Business Outreach	2,970	3,056	3,056	3,056	3,056	86	2.9%	-	0.0%	
Essential Air Service (discretionary)	60,000	-	80,000	60,000	73,013	13,013	21.7%	73,013	n/a	
Essential Air Service (mandatory/from overflight fees)	50,000	50,000	50,000	50,000	50,000	-	0.0%	-	0.0%	
Essential Air Service (mandatory/spectrum auction)	15,000	-	-	-	-	(15,000)	-100.0%	-	n/a	
Total, OST (Gross new budgetary resources)	243,670	181,239	254,739	239,602	257,913	14,243	+5.8%	76,674	+42.3%	
Total, OST (Net after rescissions & offsets)	221,670	180,239	253,891	238,602	257,065	35,395	+16.0%	76,826	+42.6%	
Federal Aviation Administration										
Operations (General Fund)	2,342,939	-	2,359,916	2,923,238	3,804,462	1,461,523	62.4%	3,804,462	n/a	
Operations (Airport & Airway Trust Fund)	6,397,061	-	6,635,307	6,147,000	5,238,005	(1,159,056)	-18.1%	5,238,005	n/a	
Operations - Total	8,740,000	-	8,995,223	9,070,238	9,042,467	302,467	3.5%	9,042,467	n/a	
Safety and Operations (General Fund)	-	1,293,533	-	-	-	-	n/a	(1,293,533)	-100.0%	
Safety and Operations (Trust Fund)	-	758,561	-	-	-	-	n/a	(758,561)	-100.0%	
Safety and Operations - Total	-	2,052,094	-	-	-	-	n/a	(2,052,094)	-100.0%	
Air Traffic Organization (General Fund)	-	1,423,956	-	-	-	-	n/a	(1,423,956)	-100.0%	
Air Traffic Organization (Trust Fund)	-	8,245,922	-	-	-	-	n/a	(8,245,922)	-100.0%	
Air Traffic Organization - Total	-	9,669,878	-	-	-	-	n/a	(9,669,878)	-100.0%	
Facilities & Equipment	2,513,611	-	2,691,165	2,749,595	2,742,095	228,484	9.1%	2,742,095	n/a	
Research, Engineering & Development (General Fund)	-	15,025	-	-	-	-	n/a	(15,025)	-100.0%	
Research, Engineering & Development (Trust Fund)	146,828	156,003	171,028	171,000	171,000	24,172	16.5%	14,997	9.6%	
Research, Engineering & Development - Total	146,828	171,028	171,028	171,000	171,000	24,172	16.5%	(28)	0.0%	
Airport Improvement Program (Ob Limit)	3,514,500	2,750,000	3,514,500	3,515,000	3,514,500	-	0.0%	764,500	27.8%	
Rescission of AIP C.A.	(185,500)	-	-	-	-	185,500	-100.0%	-	n/a	
Rescission of AIP C.A.	(85,000)	-	-	(75,000)	(80,000)	5,000	-5.9%	(80,000)	n/a	
Offset: Extension of War Risk Insurance	(40,000)	-	-	-	-	40,000	-100.0%	-	n/a	
Total, FAA (Gross new budgetary resources)	14,914,939	14,643,000	15,371,916	15,505,833	15,470,062	555,123	+3.7%	827,062	+5.6%	
Total, FAA (Net after rescissions and offsets)	14,604,439	14,643,000	15,371,916	15,430,833	15,390,062	785,623	+5.4%	747,062	+5.1%	
Federal Highway Administration										
Sub-limitation on administrative expenses (non-add)	377,556	394,890	394,880	390,000	390,000	12,444	3.3%	(4,890)	-1.2%	
Sub-limitation on research (non-add)	429,800	429,800	429,800	429,800	429,800	-	0.0%	-	0.0%	
Federal-aid Highways (Ob Limit)	40,216,051	39,398,728	40,198,728	41,199,970	40,700,000	483,949	1.2%	1,301,272	3.3%	
Federal-aid Highways (Extra Ob Limit for Bridges)	1,000,000	-	-	-	-	(1,000,000)	-100.0%	-	n/a	
Exempt Obligations (mandatory)	739,000	739,000	739,000	739,000	739,000	-	0.0%	-	0.0%	
Appalachian Highways	15,680	-	-	10,000	9,500	(6,180)	-39.4%	9,500	n/a	
Delta Regional Authority	14,014	-	-	-	-	(14,014)	-100.0%	-	n/a	
I-35W Bridge Replacement (GF)	195,000	-	-	-	-	(195,000)	-100.0%	-	n/a	
Denali Access System Program	-	-	-	6,000	5,700	5,700	n/a	5,700	n/a	
Surface Transportation Priorities	-	-	-	182,695	161,327	161,327	n/a	161,327	n/a	
Additional Funding for TCSP	-	-	150,000	-	143,031	143,031	n/a	143,031	n/a	
Rescission of Contract Authority (THUD bill)	(3,150,000)	(3,150,000)	(3,150,000)	(3,150,000)	(3,150,000)	-	0.0%	-	0.0%	
Rescission of ISTEA Contract Authority	(1,292)	(109,000)	-	(284,000)	-	1,292	-100.0%	109,000	-100.0%	
Rescission of TEA21 High Priority Projects	-	(626,000)	-	(626,000)	-	-	n/a	626,000	-100.0%	
Rescission of Miscellaneous HTF Appro.	(4,765)	-	-	-	-	4,765	-100.0%	-	n/a	
Rescission of Misc. Allocated Contract Authority	(544,954)	-	(40,278)	(45,158)	(45,158)	499,796	-91.7%	(45,158)	n/a	
Rescission of SAFETEA-LU sec. 1305 & 1502	(39,350)	-	-	-	-	39,350	-100.0%	-	n/a	
Rescission of FY 2008 RABA Budget Authority	(370,488)	-	-	-	-	370,488	-100.0%	-	n/a	
Total, FHWA (Gross new budgetary resources)	42,179,745	40,137,728	41,087,728	42,137,665	41,758,558	(421,187)	-1.0%	1,620,830	+4.0%	
Total, FHWA (Net after rescissions & offsets)	38,068,896	36,252,728	37,897,450	38,032,507	38,563,400	494,504	+1.3%	2,310,672	+6.4%	
Federal Motor Carrier Safety Administration										
Operations and Programs (Ob Limit)	229,654	234,000	234,000	234,000	234,000	4,346	1.9%	-	0.0%	
Motor Carrier Safety Grants (Ob Limit)	300,000	307,000	307,000	307,000	307,000	7,000	2.3%	-	0.0%	
Rescissions of Contract Authority	(50,476)	-	(25,390)	(25,412)	(33,145)	17,331	-34.3%	(33,145)	n/a	
Total, FMCSA (Gross new budgetary resources)	529,654	541,000	541,000	541,000	541,000	11,346	+2.1%	-	0.0%	
Total, FMCSA (Net after rescissions & offsets)	479,178	541,000	515,610	515,588	507,855	28,677	+6.0%	(33,145)	-6.1%	
National Highway Traffic Safety Administration										
Operations and Research (general fund)	126,572	-	127,350	126,000	127,000	428	0.3%	127,000	n/a	
Operations and Research (HTF)	107,750	227,500	105,500	105,500	105,500	(2,250)	-2.1%	(122,000)	-53.6%	
Operations and Research - Total	234,322	227,500	232,850	231,500	232,500	(1,822)	-0.8%	5,000	2.2%	
National Driver Register	4,000	4,000	4,000	4,000	4,000	-	0.0%	-	0.0%	
Highway Traffic Safety Grants	599,250	619,500	619,500	619,500	619,500	20,250	3.4%	-	0.0%	
Rescissions of Contract Authority	(22,846)	-	(6,927)	(51,849)	(71,644)	(48,798)	213.6%	(71,644)	n/a	
Total, NHTSA (Gross new budgetary resources)	837,572	851,000	856,350	855,000	856,000	18,428	+2.2%	5,000	+0.6%	
Total, NHTSA (Net after rescissions & offsets)	814,726	851,000	849,423	803,151	784,356	(30,370)	-3.7%	(66,644)	-7.8%	

U.S. DEPARTMENT OF TRANSPORTATION APPROPRIATIONS IN THE OMNIBUS FY 2009 APPROPRIATIONS BILL (H.R. 1105) — PAGE 2 OF 3

(Dollar amounts in thousands of dollars — excludes emergency appropriations)

	FY 2008 Enacted	FY 2009 Request	FY 2009 House	FY 2009 Senate	FY 2009 Omnibus	Omnibus vs. 2008 ,000 Dollars	Omnibus vs. 2008 Percent	Omnibus vs. Request ,000 Dollars	Omnibus vs. Request Percent
Federal Railroad Administration									
Safety and Operations	150,193	156,745	158,220	158,745	159,445	9,252	6.2%	2,700	1.7%
Railroad Research & Development	35,964	33,950	33,950	34,000	33,950	(2,014)	-5.6%	-	0.0%
Rail Line Relocation and Improvement	20,145	-	25,000	20,000	25,000	4,855	24.1%	25,000	n/a
<i>Amtrak Operating Subsidy Grants</i>	475,000	-	589,000	550,000	550,000	75,000	15.8%	550,000	n/a
<i>Amtrak Capital Grants</i>	850,000	525,000	850,000	1,000,000	940,000	90,000	10.6%	415,000	79.0%
<i>Amtrak Efficiency Incentive Grants</i>	-	275,000	-	-	-	-	n/a	(275,000)	-100.0%
Grants to Amtrak - Total	1,325,000	800,000	1,439,000	1,550,000	1,490,000	165,000	12.5%	690,000	86.3%
Intercity Passenger Rail Grant Program	30,000	100,000	60,000	100,000	90,000	60,000	200.0%	(10,000)	-10.0%
Rescission of Prior-Year Amtrak Efficiency Grants	-	-	-	(46,800)	(36,834)	(36,834)	n/a	(36,834)	n/a
Total, FRA (Gross new budgetary resources)	1,561,303	1,090,695	1,716,170	1,862,745	1,798,395	237,092	+15.2%	707,700	+64.9%
Total, FRA (Net after rescissions & offsets)	1,561,303	1,090,695	1,716,170	1,815,945	1,761,561	200,258	+12.8%	670,866	+61.5%
Federal Transit Administration									
Administrative Expenses	89,300	94,413	98,500	93,000	94,413	5,113	5.7%	-	0.0%
Formula and Bus Grants (Ob Limit)	7,767,887	8,360,565	8,360,565	8,260,565	8,260,565	492,678	6.3%	(100,000)	-1.2%
Rescission of Formula and Bus Grant Contract Authority	(28,661)	-	-	-	-	28,661	-100.0%	-	n/a
Research and University Research Centers	65,363	59,600	69,750	63,000	67,000	1,637	2.5%	7,400	12.4%
Capital Investment Grants	1,569,092	1,620,829	1,809,250	1,809,250	1,809,250	240,158	15.3%	188,421	11.6%
Rescission of unused contract authority	(105,006)	-	-	(100,000)	(100,000)	5,006	-4.8%	(100,000)	n/a
Total, FTA (Gross new budgetary resources)	9,491,642	10,135,407	10,338,065	10,225,815	10,231,228	739,586	+7.8%	95,821	+0.9%
Total, FTA (Net after rescissions & offsets)	9,357,975	10,135,407	10,338,065	10,125,815	10,131,228	773,253	+8.3%	(4,179)	0.0%
St. Lawrence Seaway Development Corporation									
Operations and Maintenance	17,392	31,842	31,842	27,000	31,842	14,450	83.1%	-	0.0%
Total, StLSDC	17,392	31,842	31,842	27,000	31,842	14,450	+83.1%	-	0.0%
Maritime Administration									
Maritime Security Program	156,000	174,000	174,000	174,000	174,000	18,000	11.5%	-	0.0%
Operations and Training	121,992	117,848	120,842	123,560	123,360	1,368	1.1%	5,512	4.7%
Ship Disposal	17,000	18,000	18,000	15,000	15,000	(2,000)	-11.8%	(3,000)	-16.7%
Assistance for Small Shipyards	10,000	-	-	20,000	17,500	7,500	75.0%	17,500	n/a
Title XI Shipbuilding Loan Program	8,408	3,531	3,531	13,531	3,531	(4,877)	-58.0%	-	0.0%
Rescission of Ship Construction funds	(6,673)	-	(814)	(1,382)	(1,383)	5,290	-79.3%	(1,383)	n/a
Total, MARAD (Gross new budgetary resources)	313,400	313,379	316,373	346,091	333,391	19,991	+6.4%	20,012	+6.4%
Total, MARAD (Net after rescissions & offsets)	306,727	313,379	315,559	344,709	332,008	25,281	+8.2%	18,629	+5.9%
Pipeline and Hazardous Materials Administration									
Hazardous Materials Safety	28,000	28,000	32,000	28,000	32,000	4,000	14.3%	4,000	14.3%
<i>Administrative Expenses (General Fund)</i>	17,491	17,491	17,991	18,491	18,491	1,000	5.7%	1,000	5.7%
<i>Administrative Expenses (Pipeline Safety Fund)</i>	639	639	639	639	639	-	0.0%	-	0.0%
Administrative Expenses - Total	18,130	18,130	18,630	19,130	19,130	1,000	5.5%	1,000	5.5%
<i>Pipeline Safety (Pipeline Safety Fund)</i>	61,018	74,481	69,791	74,481	74,481	13,463	22.1%	-	0.0%
<i>Pipeline Safety (Oil Spill Liability Trust Fund)</i>	18,810	18,810	19,000	18,810	18,810	-	0.0%	-	0.0%
Pipeline Safety - Total	79,828	93,291	88,791	93,291	93,291	13,463	16.9%	-	0.0%
Emergency Preparedness Fund (appropriation)	188	188	188	188	188	-	0.0%	-	0.0%
Emergency Preparedness Fund (Ob Limit) (non-add)	28,318	28,318	28,318	28,318	28,318	-	0.0%	-	0.0%
Total, PHMSA	126,146	139,609	167,927	140,609	144,609	18,463	+14.6%	5,000	+3.6%
Research and Innovative Technology Administration									
Research and Development	12,000	12,000	13,500	12,000	12,900	900	7.5%	900	7.5%
Total, RITA	12,000	12,000	13,500	12,000	12,900	900	+7.5%	900	+7.5%
Office of Inspector General									
Salaries and Expenses	66,400	70,468	70,468	72,200	71,400	5,000	7.5%	932	1.3%
Total, OIG	66,400	70,468	70,468	72,200	71,400	5,000	+7.5%	932	+1.3%
Surface Transportation Board									
Salaries and Expenses	26,425	23,085	26,847	26,847	26,847	423	1.6%	3,762	16.3%
Offsetting collections	(1,250)	(1,250)	(1,250)	(1,250)	(1,250)	-	0.0%	-	0.0%
Total, STB	25,175	21,835	25,597	25,597	25,597	423	+1.7%	3,762	+17.2%
Sec. 186 - 2% Rescission of all C.A. earmarks	(68,799)	-	-	-	-	68,799	-100.0%	-	n/a
TOTALS FOR TITLE I (USDOT):									
<i>Budgetary Resources Provided by Appropriators:</i>									
New Discretionary Budget Authority	15,775,945	15,478,909	16,630,564	16,956,622	16,998,830	1,222,885	7.8%	1,519,921	9.8%
New Transportation Obligation Limitations	53,739,092	51,901,293	53,343,793	54,245,535	53,745,065	5,973	0.0%	1,843,772	3.6%
GROSS RESOURCES PROVIDED IN APPROP. BILLS	69,515,037	67,380,202	69,974,357	71,202,157	70,743,895	1,228,858	+1.8%	3,363,693	+5.0%
<i>Budgetary Resources Provided Outside Appropriations:</i>									
Contract Authority Exempt From Obligation Limit	739,000	739,000	739,000	739,000	739,000	-	0.0%	-	0.0%
Mandatory Budget Authority for Essential Air Service	65,000	50,000	50,000	50,000	50,000	(15,000)	-23.1%	-	0.0%
GROSS RESOURCES PROVIDED OUTSIDE APPROP.	804,000	789,000	789,000	789,000	789,000	(15,000)	-1.9%	-	0.0%
TOTAL GROSS BUDGETARY RESOURCES, USDOT	70,319,037	68,169,202	70,763,357	71,991,157	71,532,895	1,213,858	+1.7%	3,363,693	+4.9%
<i>Rescissions and Budgetary Offsets:</i>									
Rescissions of Appropriated Budget Authority	-33,438	-1,000	-1,662	-49,182	-39,065	(5,627)	16.8%	(38,065)	3806.5%
Rescissions of Contract Authority	-4,652,372	-3,885,000	-3,222,595	-4,357,419	-3,479,947	1,172,425	-25.2%	405,053	-10.4%
Offsetting Receipts From War Risk Extension	-40,000	-	-	-	-	40,000	-100.0%	-	n/a
Subtotal: Rescissions and Offsets	-4,725,810	-3,886,000	-3,224,257	-4,406,600	-3,519,012	1,206,798	-25.5%	366,988	-9.4%
TOTAL NET BUDGETARY RESOURCES, USDOT	65,593,227	64,283,202	67,539,100	67,584,557	68,013,883	2,420,656	+3.7%	3,730,681	+5.8%
Total Subject to 302(b) Ceiling (Disc. BA less Offsets)	11,050,135	11,592,909	13,406,307	12,550,022	13,479,818	2,429,683	+22.0%	1,886,909	+16.3%

U.S. DEPARTMENT OF TRANSPORTATION APPROPRIATIONS IN THE OMNIBUS FY 2009 APPROPRIATIONS BILL (H.R. 1105) — PAGE 3 OF 3

(Dollar amounts in thousands of dollars — excludes emergency appropriations)

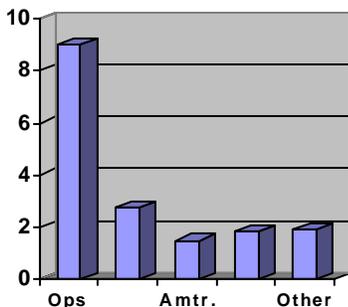
	FY 2008	FY 2009	FY 2009	FY 2009	FY 2009	Omnibus vs. 2008		Omnibus vs. Request		
	Enacted	Request	House	Senate	Omnibus	,000 Dollars	Percent	,000 Dollars	Percent	
Gross Discretionary Resources By Type and Source:										
New Appropriations (Airport & Airway Trust Fund)	9,117,500	9,160,486	9,577,500	9,127,595	8,224,113	(893,387)	-9.8%	(936,373)	-10.2%	
New Appropriations (General Fund/Other Funds)	6,658,445	6,318,423	7,053,064	7,829,027	8,774,717	2,116,272	31.8%	2,456,294	38.9%	
Obligation Limitations (Highway Account - HTF)	42,456,705	40,790,728	41,468,728	42,469,970	41,970,000	(486,705)	-1.1%	1,179,272	2.9%	
Obligation Limitations (Mass Transit Account - HTF)	7,767,887	8,360,565	8,360,565	8,260,565	8,260,565	492,678	6.3%	(100,000)	-1.2%	
Obligation Limitation (Airport & Airway Trust Fund)	3,514,500	2,750,000	3,514,500	3,515,000	3,514,500	-	0.0%	764,500	27.8%	
Gross Discretionary Budget Resources, USDOT	69,515,037	67,380,202	69,974,357	71,202,157	70,743,895	1,228,858	+1.8%	3,363,693	+5.0%	
Independent Agencies (excerpt)										
National Transportation Safety Board										
Salaries and Expenses	84,499	87,891	91,000	91,000	91,000	6,501	7.7%	3,109	3.5%	
Rescission of unobligated balances	-	(671)	(671)	(671)	(671)	(671)	n/a	-	0.0%	
Net Total, NTSB	84,499	87,220	90,329	90,329	90,329	5,830	6.9%	3,109	3.6%	

BREAKING DOWN THE \$71.5 BILLION IN GROSS TOTAL USDOT RESOURCES

The omnibus appropriations bill for FY 2009 (H.R. 1105), together with underlying spending statutes, provides or allows a total \$71.5 billion in gross “total budgetary resources” for the current fiscal year. This, we feel, is the best total measurement of new spending authority given to the agency. Some of it comes entirely from the Appropriations Committee, most of it is part of the weird authorization-appropriations hybrid process that exists at DOT but no longer exists anywhere else in the federal budget, and a small portion comes entirely outside the appropriations process. The graphs below tell the story. Note: these numbers do not include funding from the economic stimulus bill.

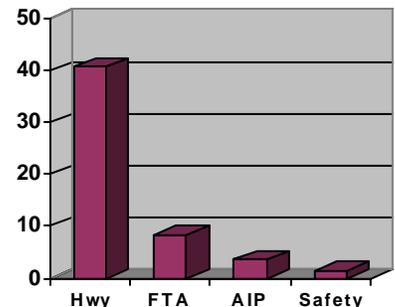
NEW APPROPRIATIONS \$17.000 BILLION 23.8 PERCENT

The omnibus bill contains \$17 billion in new discretionary appropriations for DOT. These are for programs where Congress technically has complete discretion over the funding level each year and uses the appropriations process to provide that budget authority. Within DOT, there are four major accounts using discretionary appropriations: FAA operations, FAA procurement (F&E), grants to Amtrak, and transit new starts. “Other” means pretty much all other DOT funds.



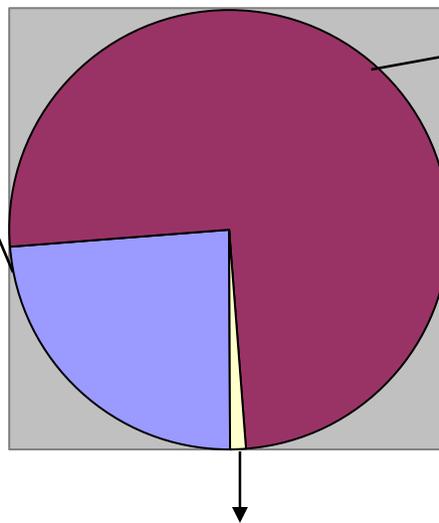
OBLIGATION LIMITATIONS \$53.745 BILLION 75.1 PERCENT

Most (75.1%) of the USDOT budget consists of annual limitations placed by appropriations bills on the obligation of contract authority (a form of budget authority provided by multi-year highway, transit and airport authorization laws and drawn from trust fund accounts). Highways are by far the biggest account, followed by FTA formula grants, the Airport Improvement Program, and highway and motor carrier safety (NHTSA and FMCSA, respectively).



MANDATORY SPENDING \$789 MILLION 1.1 PERCENT

A small portion (1.1 percent) of the annual USDOT budget is mandatory spending that takes place outside the annual appropriations process entirely. \$739 million is for federal-aid highways and \$50 million is for essential air service subsidies.



Omnibus Bill Carries 1,293 Earmarks at USDOT Totaling \$2.912 Billion

The omnibus appropriations bill for fiscal year 2009 (H.R. 1105) contains 1,281 earmarked transportation projects with a total cost of \$2.912 billion. However, many people feel that it is not fair to count transit projects with full funding grant agreements (FFGAs)

negotiated with the Federal Transit Administration and requested in the budget as earmarks. Using that definition, the omnibus bill contains 1,276 earmarked projects totaling \$1.613 billion.

Individual projects appear to have been slightly downsized from their

initial appearance in the Senate's version of the bill last year (and presumably from the draft House version that never saw the light of day) — a five percent "haircut". Projects that were \$1 million in the earlier iteration of the bill are now \$950 thousand, etc. etc.

Some observers had wondered how the bill would handle the change-over in membership between the last Congress and this Congress. As best we can tell, there is no uniform treatment. For example, the bill has a federal lands highways earmark of \$1.9 million for Alaska. Last year, that earmark was \$2.0 million and bore the name of Sen. Ted Stevens (R-AK). Now that Stevens is no longer a Senator, the earmark has taken a five percent haircut and bears the name of Sen. Lisa Murkowski (R-AK).

But there are also earmarks remaining in the omnibus bill that still bear the names of now-retired appropriators like Rep. Ralph Regula (R-OH) or Sen. Pete Domenici (R-NM). The House and Senate rules requiring the members sponsoring earmarks to be publicly identified apparently do not clarify that the legislator must be a member of the current Congress.

With regards to highways, the bill contains \$592.8 million in earmarks. \$319.6 billion of that comes from new appropriations of budget authority supplementing the TCSP program and creating a new program for surface transportation priorities (as well as the annual appropriations for Denali and Appalachia). The remainder of the highway earmarks come from the earmarks of contract authority provided by earlier surface transportation authorization statutes.

Because of this, the TCSP earmarks are subject to a slight reduction of six to eight percent apiece due to the highway obligation limitation, while the Senate earmarks are not.

Earmarked USDOT Projects in the Omnibus Bill

NOTE: the earmarks in the bill have not yet been paginated by GPO in machine-readable form, so we added these totals by hand.

Program	#	\$\$ Amount
Office of the Secretary		
Transportation Planning, R & D	12	\$ 9,832,500
Total, OST Earmarks	12	\$ 9,832,500
Federal Aviation Administration		
Operations	2	\$ 2,422,500
Facilities & Equipment	28	\$ 143,683,776
Research, Eng. & Development	3	\$ 3,562,500
Airport Improvement Program	80	\$ 81,781,700
Total, FAA Earmarks	113	\$ 231,450,476
Federal Highway Administration		
Interstate Maintenance Discretionary	93	\$ 88,160,000
Federal Lands Discretionary	68	\$ 87,770,500
Ferry Boat Discretionary	30	\$ 27,113,000
TCSP Discretionary	343	\$ 204,281,303
Delta Regional Auth. Discretionary	9	\$ 8,977,491
Surface Transportation Priorities	194	\$ 161,326,625
Appalachian Develop. Highways	1	\$ 9,500,000
Denali Commission Highways	1	\$ 5,700,000
Total, FHWA Earmarks	739	\$ 592,828,919
Federal Railroad Administration		
Railroad Research and Development	4	\$ 1,662,500
Grade Crossing Elimination	8	\$ 9,500,000
Rail Line Relocation Program	23	\$ 17,100,000
Total, FRA Earmarks	35	\$ 28,262,500
Federal Transit Administration		
Alternatives Analysis	26	\$ 15,188,125
Buses and Bus Facilities	302	\$ 239,442,275
Capital Investment Grants*	59	\$ 1,789,237,670
Research and Univ. Res. Centers	7	\$ 5,937,500
Total, FTA Earmarks*	394	\$ 2,049,805,570
Total USDOT Earmarks, w/ FFGAs	1293	\$ 2,912,179,965
Total USDOT Earmarks, w/o FFGAs*	1276	\$ 1,612,559,361

*The President's budget requested 17 specific Capital Investment Grant or "New Start" projects with existing or pending full funding grant agreements (FFGAs) totaling \$1.30 billion, most of which are provided in the Omnibus bill exactly as requested by the President. Many people believe that FFGAs should not be considered earmarks.

Omnibus Bill Earmarks Entirety of New Start Account, As Usual

The omnibus appropriations bill (H.R. 1105) appropriates a total of \$1.809 billion for the Federal Transit Administration's capital investment grants program ("new starts" of subway, light rail and fixed guideway modernization projects).

As usual, the bill earmarks the entirety of the appropriation. (Well, it actually leaves \$12 thousand and change left over for FTA to use at its discretion.)

Of the projects that were in the former President's budget request, most received sums in the bill that are similar or identical to the request. The biggest discrepancies were the Perris Valley Metrolink (CA) and the Portland Streetcar Loop (OR), each of which got \$5 million (10 percent) less than the request.

Several big new projects not requested by the Administration got seed money, like the Trans-Hudson Midtown Corridor from New Jersey to New York City (which got \$48 million, less than the \$75 million in the Senate bill and far, far, far less than the eventual project cost). And the Metrorail extension to Dulles Airport gets \$29.1 million.

The table at right shows the distribution of funds in the new starts account under the budget request, the Senate bill (there was no House bill), and the omnibus.

Note that the oversight set-aside is moved in the omnibus from "off-the-top" to "hidden in each individual earmark" so that in reality, each earmark shown at right will have to be cut by one percent to pay for FTA oversight of that project.

TRANSIT NEW STARTS IN THE FINAL FY 2009 OMNIBUS APPROPRIATIONS BILL				
Project or Activity	State	Budget	Senate	Omnibus
		Request	Bill	Final
AC Transit Bus Rapid Transit Corridor	CA	\$ -	\$ 3,000,000	\$ 4,000,000
Bellevue-Redmond BRT	WA	\$ 10,952,330	\$ 20,000,000	\$ 10,952,330
BRT, Potomac Yard-Crystal City	VA	\$ -	\$ 1,000,000	\$ 1,000,000
BRT, State Avenue Corridor, Wyandotte Co.	KS	\$ -	\$ 1,500,000	\$ 1,500,000
Central Corridor Light Rail Transit	MN	\$ -	\$ 20,000,000	\$ 20,000,000
Central Florida Commuter Rail	FL	\$ -	\$ -	\$ 13,000,000
Central Link Initial Segment, Seattle	WA	\$ 28,846,735	\$ 28,846,735	\$ 25,962,062
Central Phoenix/East Valley Light Rail	AZ	\$ 91,800,000	\$ 91,800,000	\$ 91,800,000
Charlotte Rapid Transit Ext. Northeast Corr.	NC	\$ -	\$ 18,000,000	\$ 20,500,000
Commuter Rail Improvements, Fitchburg	MA	\$ 30,000,000	\$ 27,000,000	\$ 30,000,000
Commuter Rail Study, Phoenix-Tucson	AZ	\$ -	\$ -	\$ 3,500,000
CTA Brown Line (Ravenswood)	IL	\$ 30,474,404	\$ 29,474,404	\$ 30,474,404
CTA Circle Line	IL	\$ -	\$ 8,000,000	\$ 6,000,000
DART Northwest-Southeast LR MOS	TX	\$ 87,974,716	\$ 87,974,716	\$ 87,974,716
Downtown Orlando East-West Circulator	FL	\$ -	\$ 8,000,000	\$ 8,000,000
Dulles Corridor Light Rail	VA	\$ -	\$ 30,000,000	\$ 29,100,000
Honolulu High-Capacity Transit Corridor	HI	\$ -	\$ 20,000,000	\$ 20,000,000
Houston METRO Solutions Phase 2	TX	\$ -	\$ 10,000,000	\$ 15,000,000
Hudson-Bergen Light Rail MOS	NJ	\$ 1,103,860	\$ 1,103,860	\$ 1,103,860
I-69 HOV/BRT	MS	\$ -	\$ 7,650,000	\$ 7,650,000
Improvements to Rosslyn Metro Station	VA	\$ -	\$ 2,000,000	\$ 2,000,000
JTA BRT System, Jacksonville	FL	\$ -	\$ -	\$ 1,280,000
Largo Metrorail Extension	VA	\$ 34,700,000	\$ 34,700,000	\$ 34,700,000
Livermore-Amador Bus Rapid Transit	CA	\$ 7,990,000	\$ 7,990,000	\$ 7,990,000
Long Island Rail Road East Side Access	NY	\$ 219,300,000	\$ 197,370,000	\$ 209,623,898
Los Angeles Metro Gold Line Eastside Ext.	CA	\$ 74,600,000	\$ 74,600,000	\$ 81,600,000
Los Angeles Metro Rapid Bus System	CA	\$ 332,620	\$ 332,620	\$ 332,620
Los Angeles Wilshire Blvd. Bus-Only Lane	CA	\$ 10,952,330	\$ 10,952,330	\$ 9,857,097
MARC Commuter Rail Improvements	MD	\$ -	\$ 15,000,000	\$ 13,000,000
Mason Street Corridor Bus Rapid Transit	CO	\$ 11,182,000	\$ 11,182,000	\$ 11,182,000
METRA	IL	\$ -	\$ 6,607,000	\$ 24,000,000
Miami-Dade County Metrorail Orange Line	FL	\$ -	\$ 20,000,000	\$ 20,000,000
Mid Jordan Light Rail Extension	UT	\$ -	\$ 10,000,000	\$ 20,000,000
Mountain Links BRT, Flagstaff	AZ	\$ 6,238,000	\$ 6,238,000	\$ 5,614,200
Norfolk Light Rail Project	VA	\$ 57,055,734	\$ 57,055,734	\$ 53,592,108
North Shore LRT Corridor	PA	\$ 670,885	\$ 670,885	\$ 670,885
Northern Indiana Commuter Transit District	IN	\$ -	\$ -	\$ 5,000,000
Northstar Corridor Rail Project	MN	\$ 71,166,060	\$ 71,166,060	\$ 71,166,060
Pacific Highway South BRT	WA	\$ 281,520	\$ 281,520	\$ 281,520
Perris Valley Line Metrolink Extension	CA	\$ 50,000,000	\$ 50,000,000	\$ 45,000,000
Pioneer Parkway EmX BRT, Springfield	OR	\$ 296,000	\$ 296,000	\$ 296,000
Portland Streetcar Loop	OR	\$ 50,000,000	\$ 50,000,000	\$ 45,000,000
San Diego Mid-City Rapid	CA	\$ 21,650,000	\$ 21,650,000	\$ 19,485,000
San Francisco Third Street Light Rail	CA	\$ -	\$ 8,000,000	\$ 10,000,000
Second Avenue Subway - Phase 1	NY	\$ 277,697,000	\$ 249,927,000	\$ 277,697,000
South Corridor BRT, Kent County	MI	\$ -	\$ -	\$ 600,000
South Corridor I-225/Portland Mall Light Rail	OR	\$ 81,600,000	\$ 81,600,000	\$ 81,600,000
South County Commuter Rail, Wickford Jct.	RI	\$ -	\$ 1,345,500	\$ 1,345,500
South Sacramento Corridor Phase 2	CA	\$ -	\$ 7,000,000	\$ 7,000,000
Southeast Corridor LRT	CO	\$ 1,031,210	\$ 1,031,210	\$ 1,031,210
Stamford Urban Transitway	CT	\$ -	\$ 5,000,000	\$ 3,650,000
Trans-Hudson Midtown Corridor	NJ	\$ -	\$ 75,000,000	\$ 48,000,000
Troost Corridor BRT, Kansas City	MO	\$ 125,200	\$ 125,200	\$ 125,200
Tuscon Modern Streetcar/LRT	AZ	\$ -	\$ -	\$ 2,000,000
University Link LRT Extension	WA	\$ 100,000,000	\$ 100,000,000	\$ 100,000,000
Van Ness BRT Project, San Francisco	CA	\$ -	\$ -	\$ 400,000
VRE Rolling Stock	VA	\$ -	\$ 5,000,000	\$ 5,000,000
Weber County to Salt Lake City Rail	UT	\$ 81,600,000	\$ 81,600,000	\$ 81,600,000
West Corridor Light Rail	CO	\$ 60,000,000	\$ 70,000,000	\$ 60,000,000
Subtotal, Earmarked Projects		\$ 1,499,620,604	\$ 1,747,070,774	\$ 1,789,237,670
Statutory Set-Asides:				
Oversight Activities		\$ 16,208,289	\$ 18,092,500	\$ -
Ferry Capital Projects (AK or HI)		\$ 15,000,000	\$ 15,000,000	\$ 15,000,000
Denali Commission		\$ 5,000,000	\$ 5,000,000	\$ 5,000,000
Subtotal, Statutory Set-Asides		\$ 36,208,289	\$ 38,092,500	\$ 20,000,000
Left to DOT Discretion		\$ 85,000,000	\$ 24,086,726	\$ 12,330
GRAND TOTAL		\$ 1,620,828,893	\$ 1,809,250,000	\$ 1,809,250,000

NOTE: the omnibus bill treats the one percent oversight set-aside as coming from each individual new start project after allocation, not off the top before allocations to projects.

**GENERAL PROVISIONS IN THE FY 2009 DEPARTMENT OF TRANSPORTATION APPROPRIATIONS ACT
(DIVISION I OF H.R. 1105, THE OMNIBUS APPROPRIATIONS ACT) — PAGE 1 OF 2**

Office of the Secretary

Sec. 101 allows transfer of funds from the Salaries and Expenses account to Minority Business Outreach, as did last year's law.

Sec. 102 restricts reimbursable agreements between DOT modal administrations, as did last year's law.

Sec. 103 prohibits funding to establish or implement the Essential Air Service local participation program, as did last year's law.

Sec. 104 allows the Secretary or her designee to "engage in activities with States and State legislators to consider proposals related to the reduction of motorcycle fatalities." This is a new provision.

Federal Aviation Administration

Sec. 110 limits the AASD R&D contract to 600 staff-years in 2009, up from 425 in 2008.

Sec. 111 prohibits FAA from requiring airports to give rent-free office space or free construction or maintenance, as did last year's law.

Sec. 112 allows the FAA to loan the Office of the Secretary money for the Essential Air Service program and waives 49 U.S.C. 41742(b), as did last year's law.

Sec. 113 allows fees under 49 U.S.C. 40113(e) to be credited to the appropriation, as did last year's law.

Sec. 114 prevents any funds in the Act from being used to change weight restrictions at Teterboro Airport, New Jersey.

Sec. 115 prohibits the use of funds for any action regarding the scheduling of commercial airline operations if the action includes an auction of the right to conduct airline operations at an airport, the implementation by FAA of peak-period pricing at an airport, the withdrawal of airline slots, the charging of fees for airspace access at particular airports, or giving incentives to airports to take these themselves. This is a new provision.

Sec. 116 requires AIP grant recipients to agree to DOT requests for cost-free space in a non-revenue producing public use area of the airport for the purpose of carrying out a public service air passenger rights and consumer outreach campaign. This is a new provision.

Sec. 117 requires a GAO review within 60 days of enactment of proposed airspace redesign over the New York-New Jersey-Philadelphia area. This is a new provision.

Sec. 118 lets airports use unscheduled charter enplanements to qualify for the minimum AIP apportionment for a 10,000+ enplanement airport. This is a new provision.

FAA general provisions contained in the FY 2008 law but not included in the Senate bill: secs. 116 (short-term FAA extension), and 117 (McCaskill amendment on the Allegheny-Mohawk decision and labor integration at merged air carriers).

Federal Highway Administration

Sec. 120 sets forth procedures for distribution of the obligation limitation on federal-aid highways, pre-empting the (very similar) procedures in sec. 1102 of SAFETEA-LU, as did last year's law.

Sec. 121 allows BTS to credit sales of data products to appropriation accounts, as did last year's law.

Sec. 122 appropriates an additional \$142 million from the Highway Trust Fund for the Transportation Community and Systems Preservation program. This is a new provision.

Sec. 123 rescinds \$33 million in unused FHWA administrative expense contract authority. This is a new provision.

Sec. 124 rescinds \$12 million in unused FHWA research contract authority. This is a new provision.

Sec. 125 appropriates \$161 million from the general fund for surface transportation projects earmarked in the committee report at a 100 percent federal share, to remain available until expended. This is a new provision.

Sec. 126 requires informal advance public comment on Buy America waivers, as did last year's law.

Sec. 127 reprograms money for an old appropriated earmark in Missoula, Montana. This is a new provision.

Sec. 128 restricts the ability of the State of Texas to place tolls on federal-aid highway facilities. This is similar to sec. 197 of last year's law.

Secs. 129-131 make technical corrections in several old highway earmarks. These are new provisions.

FHWA general provisions contained in the FY 2008 law but not included in the Senate bill: secs. 122-128 (various rescissions), 129 (RABA transfer), and 131 (rescission).

Federal Motor Carrier Safety Administration

Sec. 135 requires that funding in the Act comply with the requirements of past laws relating to the safety and security of U.S.-Mexico border truck traffic, as did last year's law.

Sec. 136 prohibits the use of funds, "directly or indirectly, to establish, implement, continue, promote, or in any way permit a cross-border motor carrier demonstration program to allow Mexican-domiciled motor carriers to operate beyond the commercial zones along the international border between the United States and Mexico, including continuing, in whole or in part, any such program that was initiated prior to the date of the enactment of this Act." This is far more restrictive than similar language in last year's law.

National Highway Traffic Safety Administration

Sec. 140 allows the transfer of \$130 thousand within NHTSA to pay for travel expenses for state management reviews and for core competency training, as did last year's bill.

Secs. 141-143 rescind almost \$72 million in unused contract authority from prior appropriations acts, similar to rescissions in last year's law.

Federal Railroad Administration

Sec. 151 allows the purchase of promotional items of nominal value, as did last year's law.

Sec. 152 provides for an automatic shutoff of all federal funding for Amtrak if Amtrak ever contracts to have services provided from any location outside the United States, as did last year's law.

Sec. 153 allows DOT to use non-federal resources to repair track inspection cars damaged by third parties, as did last year's law.

**GENERAL PROVISIONS IN THE FY 2009 DEPARTMENT OF TRANSPORTATION APPROPRIATIONS ACT
(DIVISION I OF H.R. 1105, THE OMNIBUS APPROPRIATIONS ACT) — PAGE 2 OF 2**

Sec. 154 requires quarterly reports by FRA to Congress on Amtrak's on-time performance, as did last year's law.

Federal Transit Administration

Sec. 160 provides that the obligation limitation on FTA funding does not apply to prior-year funding, as did last year's law.

Sec. 161 allows the transfer of unused FTA earmark money provided in the bill if not used within three fiscal years, as did last year's law.

Sec. 162 allows the transfer of unused funds from two and more prior fiscal years, as did last year's law.

Sec. 163 allows the continued use of unused new start appropriations for the same project, as did last year's law.

Sec. 164 states that during FY 2009, each FTA grant "for a project that involves the acquisition or rehabilitation of a bus to be used in public transportation shall be funded for 90 percent of the net capital costs of a biodiesel bus or a factory-installed or retrofitted hybrid electric propulsion system and any equipment related to such a system". This is identical to sec. 164 in last year's law.

Sec. 165 directs FTA to amend the Full Funding Grant Agreement for the Central Link Initial Segment Project, as did last year's law. (Which, given the phrasing that "the Secretary shall, immediately upon the date of enactment of this Act" amend the FFGA, means either that FTA has probably failed to obey last year's law.)

Sec. 166 reprograms old transit project money in Kansas.

Sec. 167 rescinds \$100 million of unusable bus money below the obligation limitation that is "left to the discretion of the Secretary of Transportation" and is similar but not identical to a provision in last year's law.

Sec. 168 prevents FTA from finalizing its new start rule during FY 2009, as did last year's law.

Sec. 169 sets conditions for the use of funds in the new start Alaska-Hawaii ferry set-aside, including a \$4 million earmark for Honolulu. This is a new provision.

Sec. 170 requires that, notwithstanding any other provision of law, unobligated funds or recoveries available to the Secretary for reallocation have to stay with the project they were originally provided for. This is a new provision.

Sec. 171 reprograms a prior-year earmark in Charlotte, North Carolina. This is a new provision.

FTA general provisions contained in the FY 2008 law but not included in the Senate bill: sec. 164 (biodiesel and hybrid buses), secs. 166-168 (earmark reprogramming), sec. 169 (repealing a provision of the 1986 DOT appropriations act), sec. 170 (earmark reprogramming) and secs. 171-172 (rescissions).

Maritime Administration

Sec. 175 allows MARAD to furnish, service and repair leased government property, as did last year's law.

Sec. 176 prohibits new obligations from the construction fund outside limits contained in the act, as did last year's law.

Sec. 177 doubles the authorized amount of student incentive payments at state merchant marine academies from \$4000 per year to \$8000 per year. This is a new provision.

Department-Wide

Sec. 180 allows the use of funds for aircraft, automobiles and insurance, as did last year's law.

Sec. 181 allows payments for outside consultants subject to a per diem cap, as did last year's law.

Sec. 182 caps the number of political employees at DOT at 110, as did last year's law.

Sec. 183 prohibits implementation of 23 U.S.C. 404, as did last year's law.

Sec. 184 prevents states from disseminating personal information from DMV records except as provided by law, as did last year's law.

Sec. 185 allows reimbursement to certain accounts for training expenses, as did last year's law.

Sec. 186 declares that projects earmarked in the explanatory statement are legally eligible for funding under the discretionary programs from which they are earmarked, similar to a provision in last year's law.

Sec. 187 authorizes Amtrak to redeem stock sold to DOT, as in last year's law.

Sec. 188 requires DOT to notify the Appropriations Committees 3 days before announcing grants of more than \$500 thousand for highway, AIP, or transit projects, as did last year's law.

Sec. 189 allows the proper crediting of rebates, refunds, and other payments, as did last year's law.

Sec. 190 allows DOT to recover improper payments to contractors, as did last year's law.

Sec. 191 limits the authority to approve reprogramming requests to the Appropriations Committees, as did last year's law.

Sec. 192 restricts the Surface Transportation Board's ability to regulate solid waste transfers, as did last year's law.

Sec. 193 limits STB filing fees to the maximum amount charged by federal district courts for filing a civil lawsuit, as did last year's law.

Sec. 194 limits the amount of unallocated funds that can be used for urban partnerships or congestion relief initiatives to not more than 10 percent of the total program funds available for allocation by the Secretary. This is a new provision.

Sec. 195 earmarks \$1 million from the ferry boat program for a project on the Missouri River. This is a new provision.

Sec. 196 allows New Mexico to use CMAQ highway funding for rail service. This is a new provision.

Sec. 197 reprograms funds from a SAFETEA-LU bus earmark in Missouri. This is a new provision.

Sec. 198 reprograms funds from a SAFETEA-LU highway earmark in St. Louis, Missouri. This is a new provision.

Sec. 199 extends for another year sec. 198 of last year's law dealing with a highway earmark in the Schuylkill Valley, Pennsylvania.

Department-wide general provisions contained in the FY 2008 law but not included in the Senate bill: sec. 191 (reprogramming earmarks), sec. 195 (OIG Internet site), and sec. 196 (FAA Academy).

Omnibus Bill Provides \$5.4 Billion for Corps of Engineers Water Program

Between the emergency appropriations dealing with the aftermath of Hurricane Katrina and the emergency appropriations to provide stimulus for the economy, the regular (non-emergency) budget totals for the U.S. Army Corps of Engineers are becoming less and less relevant. But we have to report them anyway.

The omnibus appropriations bill for FY 2009 (H.R. 1105) would appropriate a total of \$5.4 billion for the Corps' civil works (a.k.a. water resources) program in FY 2009. But when paired with the \$4.6 billion appropriated for the Corps in the stimulus law just one week ago, the total budget tops \$10 billion for the first time.

The stimulus money is distributed around so as to provide roughly equal percentage increases for the three big Corps accounts — construction, operations and maintenance, and the Mississippi river system.

But other accounts got bonuses as well. The investigations budget (the studies that, if successful, eventually become projects) got \$168 million in the omnibus but got \$25 million in the stimulus, which should grow into hundreds of millions of extra dollars in projects down the line.

The stimulus money renders most of the spending restraint in the omnibus bill irrelevant. What does it matter if the appropriators held the

line on construction spending by cutting the regular budget by \$152 million (6.6 percent) when in the same month they add an extra \$2 billion to the program? Likewise, slight cuts in O&M and the Mississippi system are rendered irrelevant.

The appropriators did stop funding the flood control and coastal emergencies account, which was a post-Katrina stopgap that threatened to work its way into the regular budget, and was able to hold the line on Corps administrative expenses (both inside and outside of the Assistant Secretary's office).

U.S. ARMY CORPS OF ENGINEERS (CIVIL WORKS) APPROPRIATIONS

	<u>FY 2008</u> <u>Enacted</u>	<u>FY 2009</u> <u>Request</u>	<u>FY 2009</u> <u>Omnibus</u>	<u>FY 2009</u> <u>Stimulus</u>	<u>FY 2009</u> <u>Total</u>	<u>Grand FY09 Total vs...</u> <u>FY 2008</u>	<u>Request</u>
Investigations - Regular Appropriation	167,271	91,000	168,100	-	168,100	0.5%	84.7%
Rescissions	(100)	-	-	-	-	-100.0%	n/a
Emergency Funding	-	-	-	25,000	25,000	n/a	n/a
Total, Investigations	167,171	91,000	168,100	25,000	193,100	15.5%	112.2%
Construction - Regular Appropriation	2,294,029	1,402,000	2,141,677	-	2,141,677	-6.6%	52.8%
Rescission	(4,688)	-	-	-	-	-100.0%	n/a
Emergency Funding	1,838,800	-	-	2,000,000	2,000,000	8.8%	n/a
Total, Construction	4,128,141	1,402,000	2,141,677	2,000,000	4,141,677	0.3%	195.4%
Mississippi River and Tributaries - Regular	387,402	240,000	383,823	-	383,823	-0.9%	59.9%
Emergency Funding	82,400	-	-	375,000	375,000	355.1%	n/a
Total, Mississippi River	469,802	240,000	383,823	375,000	758,823	61.5%	216.2%
Operations and Maintenance - Regular	2,243,637	2,475,000	2,201,900	-	2,201,900	-1.9%	-11.0%
Emergency Funding	740,000	-	-	2,075,000	2,075,000	180.4%	n/a
Total, O & M	2,983,637	2,475,000	2,201,900	2,075,000	4,276,900	43.3%	72.8%
Regulatory Program - Regular	180,000	180,000	183,000	-	183,000	1.7%	1.7%
Emergency Funding	-	-	-	25,000	25,000	n/a	n/a
Total, Regulatory Program	180,000	180,000	183,000	25,000	208,000	15.6%	15.6%
FUSRAP - Regular	140,000	130,000	140,000	-	140,000	0.0%	7.7%
Emergency Funding	-	-	-	100,000	100,000	n/a	n/a
Total, FUSRAP	140,000	130,000	140,000	100,000	240,000	71.4%	84.6%
Flood Control and Coastal Emergencies - Regular	-	40,000	-	-	-	n/a	-100.0%
Emergency Funding	415,600	-	-	-	-	-100.0%	n/a
Total, FC&CE	415,600	40,000	-	-	-	-100.0%	-100.0%
Expenses	174,046	177,000	179,365	-	179,365	3.1%	1.3%
Office of the Assistant Secretary	4,500	6,000	4,500	-	4,500	0.0%	-25.0%
TOTAL, USACE CIVIL WORKS	8,662,897	4,741,000	5,402,365	4,600,000	10,002,365	15.5%	111.0%
Total, Non-Emergency Only	5,586,097	4,741,000	5,402,365	-	5,402,365	-3.3%	13.9%

White House v.VMT

CONTINUED FROM FRONT PAGE

roads, the gas tax will become a less and less effective mechanism for paying for the wear and tear that those cars put on the roads.

No doubt the Obama Administration's own DOT transition team briefed LaHood on this, as the insolvency of the Highway Trust Fund (which is supported by the gas and diesel taxes) will be one of the early challenges that LaHood must face.

The state DOTs, two bipartisan blue-ribbon commissions, and almost every transportation economist and expert have all concurred that an eventual long-term transition away from the gas tax and towards some sort of real user fee based on mileage and weight is essential if one is to preserve the post-1956 concept that the users of the highway system should pay for its upgrades and upkeep.

But the Obama press office heard about LaHood's quote and went straight to political damage control mode. According to the transcript of the February 20 White House press briefing (see box, below), White House press secretary Robert Gibbs stated flatly that such a mileage-based user fee "is not and will not be the policy of the Obama administration."

There are two possible interpretations of this statement. Either Gibbs got way out ahead of policy in an attempt to beat down what he thought would turn into a politically troublesome distraction (without actually taking the time to look at the facts of the issue), or else the Obama Administration is committed to using the federal fuel taxes more as a way to punish sins against the environment and less as a means of financial support for surface transportation.

Illustrative example: the curb weight of a Chevrolet Corvette is within 50 pounds of the curb weight of a Chevy Volt plug-in hybrid. This means that for every mile traveled, the Corvette and the Volt do the exact same amount of damage to the roads and bridges they cross.

However, the driver of the Corvette is paying 18.3 cents per gallon of gas into the Highway Trust Fund, and if he drives the Corvette like that car cries out to be driven, he buys a lot of gas. The driver of the Chevy Volt could conceivably buy no gasoline (except on a long trip) and would pay almost nothing into the Trust Fund — even though his Volt has done just as much damage to the roads and bridges as has the Corvette if they happen to have driven the same distances.

Many environmentalists have long proposed extremely high gasoline and diesel taxes as a means of de-

terrering CO2 emissions — wanting to tax gasoline to European levels (where gas was \$4 per gallon back when it was only \$1.50 per gallon here). And the environmentalists wanted to use the increased tax receipts for purposes other than roads and bridges. But transportation advocates (Democrats and Republicans) have fought to retain the post-1956 principle that the entirety of the federal fuels tax should go towards surface transportation.

Enter the current debate. For the environmentalists who have long supported much higher gas prices as a deterrent to driving, the current trend towards fuel efficiency is just dandy — the environmentally responsible drivers pay low to no taxes while the gas guzzlers and long-distance commuters pay higher taxes. But this trend is strictly incompatible with the user fee model that the Highway Trust Fund was set up to emulate in 1956.

Whether Gibbs intended to or not, he put the Obama Administration on record as belonging in the environmentalist camp and not in the highway and bridge advocate camp. (Philosophically, there really is no middle ground: either you think roads should be supported by user fees — and the mileage fee is the most efficient user fee ever proposed on a wide scale — or you believe they should be supported by general taxes like everything else and should part of the overall resource allocation debate, in which case using gas taxes for environmental policy is just fine.)

Rep. Jim Oberstar (D-MN), the chairman of the House Transportation and Infrastructure Committee, responded forcefully to the Gibbs statement, telling *CQ* that LaHood had been "slapped down by know-nothings" and that "I've got news for you: transportation policy isn't going to be written in the press room of the White House."

The second blue-ribbon panel is expected to propose a mileage fee system as part of its report to be released on Thursday morning.

White House Press Briefing Transcript, 2-20-09

Q Robert, can I ask about gas taxes versus miles driven taxes?

MR. GIBBS: Sure.

Q Secretary LaHood told AP in an interview that he thinks we should look at this, going to miles driven taxes. But someone -- a spokesman over at the department said, no, that it is not and will not be administration policy. Which is it? And has the President weighed in on this?

MR. GIBBS: I don't believe the President has. I can weigh in on it and say that it is not and will not be the policy of the Obama administration.

Q So was Secretary LaHood speaking out of turn here?

MR. GIBBS: I would direct you to Secretary LaHood on that.

Q Well, we actually interviewed him, so --

MR. GIBBS: Well, call him back. (Laughter.)

NEW AND NOTABLE ON THE INTERNET

Economic Stimulus Legislation

The text of the final (enrolled) version of the stimulus bill (H.R. 1), as signed by the President, is here:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.txt.pdf

A PDF of the bound version of the conference report is finally online here:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_reports&docid=f:hr016.111.pdf

The initial guidance document from the Office of Management and Budget to federal agencies regarding implementation of the stimulus law is here:

http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf

Omnibus FY 2009 Appropriations Act

The text of the omnibus appropriations act (H.R. 1105), as introduced in the House, is here (the files are large image scans that are not machine-searchable and which take a while to load):

http://appropriations.house.gov/FY2009_consolidated.shtml

The text of H.R. 1105 as printed (machine-searchable) is here:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1105ih.txt.pdf

FY 2010 Budget Request

After its release Thursday morning, the outline of the President's FY 2010 budget request should be here:

<http://www.gpoaccess.gov/usbudget/fy10/browse.html>

National Surface Transportation Infrastructure Financing Commission

The final report of the National Surface Transportation Infrastructure Financing Commission, when released at 9:30 a.m. on Thursday, will be posted here:

<http://financecommission.dot.gov/>

Mileage-Based Highway User Fees

A PDF of a presentation by the head of the Oregon legislature's highway committee explaining the results of that state's pilot project on a GPS-based mileage fee in lieu of a gas tax is here:

<http://csg-web.csg.org/meetings/documents/Omaha-Starr-CSGVMTpresentation.pdf>

STATUS OF TRANSPORTATION-RELATED NOMINATIONS

Agency	Nominee	Position	Senate Committee	Latest Action
Department of Transportation	Ray LaHood	Secretary	Commerce, Science and Transportation	Sworn into office 1/23/09

Transportation Weekly is a publication of:

THE LEGISLATIVE SERVICES GROUP

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Transportation Weekly is published every week the Congress is in session and sporadically when Congress is not in session.

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THIS WEEK IN COMMITTEE

Tuesday, February 24, 2009 — House Transportation and Infrastructure — Subcommittee on Aviation — subcommittee hearing on the US Airways #1549 incident — *10:00 a.m., 2167 Rayburn.*

House Appropriations — Subcommittee on Energy and Water Development — subcommittee oversight hearing on the U.S. Army Corps of Engineers — *1:00 p.m., 2362-A Rayburn.*

Wednesday, February 25, 2009 — House Homeland Security — full committee hearing on DHS oversight with testimony by Secretary Napolitano — *10:00 a.m., 311 Cannon.*

House Transportation and Infrastructure — Subcommittee on Economic Development, Public Buildings, and Emergency Management — subcommittee hearing on FEMA’s continuing efforts in the Gulf Coast and response to other disasters — *10:00 a.m., 2167 Rayburn.*

Thursday, February 26, 2009 — House Appropriations — Subcommittee on Homeland Security — subcommittee oversight hearing on FEMA disaster response — *10:00 a.m., 2359 Rayburn.*

UPCOMING CALENDAR

Thursday, February 26, 2009 — The National Commission on Surface Transportation Infrastructure Financing releases its final report.

Friday, March 6, 2009 — Current continuing appropriations resolution expires.

Tuesday, March 31, 2009 — Current extension of federal aviation taxes and spending authority expires.

Wednesday, September 30, 2009 — Expiration of fiscal year 2009 and expiration of spending authority for surface transportation programs under the SAFETEA-LU law.

STATUS OF MAJOR TRANSPORTATION BILLS — 111th CONGRESS

BILL	HOUSE ACTION	SENATE ACTION	RESOLUTION
FY 2009 Omnibus Appropriations Act	H.R. 1105 introduced 2/23/09		
Economic Stimulus Appropriations & Tax Cuts	H.R. 1 passed House 1/28/09 by a vote of 244-188	H.R. 1 scheduled for passage vote in Senate on 2/10/09	Public Law 111-5 2/17/09
FY 2010 Congressional budget resolution			
FY 2010 Transportation-HUD Appropriations			
FY 2010 Energy and Water Appropriations			
FY 2010 Homeland Security Appropriations			
Federal Aviation Admin. Reauthorization Bill	H.R. 915 introduced in House 2/9/09		
Surface Transportation Reauthorization Bill			
Water Resources Development Act			
FY 2010 Coast Guard Authorization			