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MONITORING AND ANALYZING DEVELOPMENTS IN FEDERAL TRANSPORTATION AND PUBLIC WORKS POLICY

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Legislative Schedules
Week of March 2, 2009

House

Tuesday — meets at 2 p.m. for legislative business — four measures under suspension of the rules.

Wednesday — meets after the 11 a.m. joint session for the Prime Minister of the U.K. — H.R. 1106, mortgage relief.

Thursday — possible consideration of H.R. 157, D.C. voting representation in the House.

Friday — no votes.

Senate

The Senate convened at 10 a.m. today and resumed consideration of H.R. 1105, the omnibus FY 2009 appropriations bill.

Inside This Issue

Obama Budget Proposes 2.5% Increase For USDOT

High-Speed Rail Big Winner (Again); Trust Fund Programs Limited to 1% Raise; Budget Would Eliminate Firewalls and Give Appropriators Full Spending Control

President Obama sent a broad outline of his budget proposal for fiscal year 2010 and beyond to Congress last week.

The document transmitted last week is brief — the hard copy only runs 134 pages, as compared to the thousands and thousands of pages of budget documents and appropriations estimates that will be transmitted with the full budget in April.

Nevertheless, within the 621 words and handfuls of tabular lines dedicated to the U.S. Department of Transportation in the budget, it is possible to discern a few things and intuit even more. The bottom line: the budget transmitted last week does not bode particularly well for most modes of transportation.

The budget proposes $72.5 billion in total discretionary budgetary resources (new appropriations plus obligation limitations on contract authority) for FY 2010. The equivalent amount in the FY 2009 omnibus spending bill currently pending in the Senate is $70.744 billion.

Since the budget framework rounds off numbers to the hundred-million level, this means that the increase proposed by the White House could be anywhere from $1.704 billion to $1.805 billion, or an increase of between 2.41% and 2.55% (we're calling it 2.5 percent).

President Obama's first budget would give $72.5 billion to USDOT.

These numbers, of course, do not include the $48.1 billion for USDOT in the recently enacted economic stimulus law.

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Blue-Ribbon Panel Recommends Tax Hike, Eventual VMT Fee

For the second time in thirteen months, a bipartisan, blue-ribbon panel has recommended a clear path to financing a needed upgrade in the nation's surface transportation system — an increase in motor fuel taxes in the short term, and an eventual shift away from fuel taxes towards a mileage-based user fee over the next 15 to 20 years.

And for the second time in thirteen months, the White House appears aggressively disinterested in the blue-ribbon panel's conclusions, even before the conclusions had been formally released.

The National Surface Transportation Infrastructure Financing Commission was the second of two panels created by the 2005 SAFETEA-LU law. The earlier commission focused on both financing and policy and its members were appointed by President and Congressional party leaders. The second commission was to focus solely on financing issues and its members were named by

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A 2.5 percent increase, while better than nothing, is far less than some more favored agencies got — Education got a 12.8 percent increase over 2009, HUD got am 18.5 percent increase, and the EPA got a 34.6 percent increase.

Moreover, the budget lessens the proposed rate of growth for USDOT in the post-2010 "out-years" of the budget. The proposed increase in 2011 over 2010 is down to 1.8 percent and the increase in 2012 over 2011 would only be 0.6 percent (assuming that Congress does not switch the FAA from taxes to user fees in 2011 and corrects total spending accordingly — see table at bottom of page).

One thing is certain: there is no room in those numbers for the kind of ambitious spending increases for highway and transit infrastructure that legislators like House Transportation and Infrastructure chairman James Oberstar (D-MN) want to enact into law this year in the surface transportation reauthorization bill. (Oberstar has talked of increasing federal spending in these areas by tens of billions of dollars per year.)

The budget framework document appears to dodge the issue of the highway bill altogether, saying only this:

> Surface transportation programs are at a crossroads. The current framework for financing and allocating surface transportation investments is not financially sustainable; nor does it effectively allocate resources to meet our critical national needs. The Administration intends to work with the Congress to reform surface transportation programs both to put the system on a sustainable financing path and to make investments in a more sustainable future, enhancing transit options and making our economy more productive and our communities more livable. Further, the Nation's surface transportation system must generate the best investments to reduce congestion and improve safety. To do so, the Administration will emphasize the use of economic analysis and performance measurement in transportation planning. This will ensure that taxpayer dollars are better targeted and spent.

No one on Capitol Hill is quite sure what that paragraph means, but the consensus is that the message, in combination with the White House-approved words last week of new Transportation Secretary Ray LaHood, is this: don't look for the White House to support a gas tax increase this year. Politically, that means that no gas tax increase is likely before the 2010 elections. This in turn means that federal highway and transit spending is likely to be constrained by the (low) levels of fuel tax receipts, plus whatever indirect financial support Congress can muster (more tolls, loan guarantees, selling roadways to foreign conglomerates, etc.).

(*Ed. Note*: Historically, the gas tax has never been increased without strong Presidential leadership. Never, never, never. And given the current political dynamic, can anyone see Democratic leaders in Congress trying to force a gas tax down an unwilling Democratic President's throat? Much less being able to get the votes to pass such a proposal in the face of certain and near-unanimous Republican opposition? We didn't think so. Without an enormously popular President to give political cover, fuel tax increases are unlikely.)

One other option left open (and perhaps encouraged) by the budget: funding more of highway and transit spending out of the general fund of the Treasury. If tax increases are ruled out, and since there are serious limits to how much money can be raised from tolling, bonding, and rich foreigners, the general fund is the only other option for program growth. And while current budget rules discourage general fund support for highways and transit, a scorekeeping change proposed by the White House as part of the budget would effectively make Highway Trust Fund moneys and general fund appropriations inter-

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PRESIDENT OBAMA'S BUDGET REQUEST FOR THE U.S. DEPARTMENT OF TRANSPORTATION

In Billions of Dollars of Discretionary Budgetary Resources (Discretionary Appropriations + Obligation Limitations)

(Excludes appropriations in the economic stimulus act. FY 2009 adjusted to reflect actual omnibus FY 2009 appropriations bill.)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Obama Budget Request	70.7	72.5	64.2	64.1	65.2	66.3	67.5	68.7	69.9	71.1	72.4
Additional, if FAA user fees not enacted			+9.6	+10.1	+10.6	+11.1	+11.4	+11.8	+12.3	+12.7	+13.2
USDOT Total if no FAA user fees	**70.7**	**72.5**	**73.8**	**74.2**	**75.8**	**77.4**	**78.9**	**80.5**	**82.2**	**83.8**	**85.6**
Annual increase over prior year		*+2.5%*	*+1.8%*	*+0.6%*	*+2.2%*	*+2.1%*	*+1.9%*	*+2.0%*	*+2.0%*	*+2.1%*	*+2.1%*

The total Obama Budget Request line is taken from the budget document (with some farther out-year data provided by DOT). The second line (for the additional amount to be added to the discretionary total if the Administration's budget proposal for a transition from aviation taxes to aviation user fees starting in fiscal year 2011 is not adopted) is taken from the Office of Management and Budget communication to Congressional committees and leadership offices last week (see page 8 of this issue for the full text of the pertinent provision). The FY 2009 total in the budget document was based on the continuing resolution (CR) and we have adjusted it based on the tables for the USDOT portion of the FY 2009 omnibus bill passed by the House last week. Rounding errors are possible.

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changeable by eliminating the budget "firewalls" protecting the Trust Fund and by eliminating contract authority in all but name. (For more details, see pages 7-9 of this issue.)

Indeed, if one counts the stimulus money, the general fund of the Treasury is already providing 41 percent of the total new federal spending authority for highways, transit (excluding new starts), and safety programs available in 2009. And this does not include the $8 billion provided by the general fund to bail out the Highway Trust Fund in September 2008 or the billions more that will be required to bail out the Highway Trust Fund a second time (likely by July 2009). So a switch to a partial and permanent general fund contribution to highways is not as farfetched today as it once seemed.

Ob limits. The $72.5 billion total discretionary resources number is basically the only "macro" number given for transportation in the FY 2010 budget document. But an accompanying document sent by the Office of Management and Budget (OMB) to Congress clarifies that $54.3 billion of that $72.5 billion consists of obligation limitations on trust fund contract authority (highways, transit, airports, and highway and trucking safety).

The budget does not give any details of how that $54.3 billion would be split up, but the table above at right shows how the FY 2009 ob limits totaling $53.745 billion are divided up in the omnibus bill. Due to rounding, $54.3 billion could be anywhere between $504 million and $603 million above the 2009 level, an increase of between 1.03% and 1.12%.

Bear in mind that the FAA reauthorization bill due to be marked up by the House T&I Committee on Thursday would provide $4.0 billion for the Airport Improvement Program in FY 2010, up almost $500 million from 2009. If one accepts that level, there would only be $50.3 billion left under the President's budget for the surface transportation programs in 2010 — and those programs total $50.213 billion in the pending 2009 omnibus bill.

OBLIGATION LIMITATIONS ON HIGHWAY AND AIRPORT TRUST FUND CONTRACT AUTHORITY (In billions of dollars)

	FY 2009 Omnibus	FY 2010 Request
Federal-aid Highways	40.7	n/a
Mass Transit	8.3	n/a
Airport Improvement Program	3.5	n/a
NHTSA (Highway Safety)	0.7	n/a
FMCSA (Trucking Safety)	0.5	n/a
Total Transpo. Ob. Limits	**53.7**	**54.3**
FY 2010 Increase Over FY 2009:		**0.6**
Percent Increase Over FY 2009:		***1.0%***

While the budget request does not specify funding levels for individual agencies or accounts, it is obvious that any individual mode's funding increase in 2010 lessens the amount of increase that any other mode can get…

That means if aviation gets the boost that T&I wants, there will be almost zero room left under the President's budget for any increase in surface transportation funding out of the Highway Trust Fund next year, much less the boost that Oberstar wants to give them.

In other words, it's impossible to fit a 14 percent increase in airport funding and 10+ percent increases in highway and transit funding into an overall 1.0 to 1.1 percent increase in obligation limitations.

Because of the scorekeeping rules mentioned above and in the following article, obligation limitations are never expressly mentioned in the annual Congressional budget resolution. Instead, enforcement comes circuitously — by capping the amount of contract authority the authorizing committees will be allowed to give out during 2010 and during the 5-year out-year window, and by capping the total outlays available to the Appropriations Committees. (The whole reason obligation limitations came about in the first place was to help the appropriators meet the annual outlay ceiling in the FY 1977 budget resolution.)

But whether the budget authority for these programs is classified as mandatory or discretionary, it must be accounted for under the total recommended budget authority level in the budget resolution which will be marked up by the Budget Committees in a few weeks. That will make clear if they intend to go along with the scorekeeping change and how much budget authority will be available for reauthorization bills for surface transportation and airports.

The budget resolution will also probably create a "reserve fund" for the highway bill — a way of saying "if you (authorizers) can convince the tax committees to give you

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more revenues, we will then increase your budget allocation so you can spend that money." But see above, how additional tax revenues seem unlikely to materialize this year.

Discretionary appropriations. If $54.3 billion of the $72.5 billion discretionary total comes in the form of obligation limitations, then the remaining $18.2 billion must take the form of regular discretionary appropriations.

As the table at right demonstrates, $18.2 billion would be an increase of roughly $1.2 billion (damn you, rounding) over the levels in the FY 2009 omnibus bill. This is a healthy 7.1 percent increase.

However, this increase is not widely distributed. In one of the few transportation policy specifics in the budget framework, the President promises:

> To provide Americans a 21st Century transportation system, the Administration proposes a five-year $5 billion high-speed rail State grant program. Building on the $8 billion down payment in the American recovery and reinvestment Act of 2009, the President's proposal marks a new Federal commitment to give the traveling public a practical and environmentally sustainable alternative to flying or driving. Directed by the States, this investment will lead to the creation of several high-speed rail corridors across the country linking regional population centers.

To be clear, the $8 billion in the stimulus bill was marketed as high-speed rail but actually covers regular-speed rail as well, so we are forced to assume that the $1 billion in the 2010 budget does likewise. In that case, it corresponds with $90 million appropriated for regular-speed intercity passenger rail grants in the FY 2009 omnibus, an increase of $910 million, or over one thousand percent.

Increasing the rail number from $90 million to $1 billion means that the remainder of the proposed increase in USDOT discretionary appropriations drops down to the neighborhood of $300 million, which is less than a two percent increase over FY 2009.

This $300-ish million will have to cover a lot of demands, but the principle accounts receiving discretionary appropriations at USDOT at present are FAA operations, FAA procurement, Amtrak subsidies, and transit new starts.

DISCRETIONARY BUDGET AUTHORITY* FOR THE U.S. DEPARTMENT OF TRANSPORTATION (In billions of dollars)

	FY 2009 Omnibus	FY 2010 Request
Discretionary BA	17.0	18.2
FY 2010 Increase Over FY 2009:		**1.2**
Percent Increase Over FY 2009:		***7.1%***
Less amount for high-speed rail:		-0.9
Remainder of Increase:		**0.3**
Percent Increase Over FY 2009:		***1.8%***

While a 7.1 percent increase seems like a lot, remember that the budget request would increase funding for high-speed rail and intercity passenger rail from FY 2009's $90 million to a full $1 billion, leaving just $300-ish million for other programs.

**Discretionary budget authority as currently defined.*

These four accounts compete with each other every year for the discretionary BA subject to limit (with transit having a bit of a leg up because of the TEA21/SAFETEA-LU budgetary protections that the Obama Administration proposes to eliminate).

Some kind of increase in FAA procurement appears to be built into the budget request, to wit:

> The Budget provides approximately $800 million for the Next Generation Air Transportation System, a long-term effort to improve the efficiency, safety, and capacity of the air traffic control system. The 2010 Budget supports moving from a ground-based radar surveillance system to a more accurate satellite-based surveillance system; development of more efficient routes through the airspace; and improvements in aviation weather information.

The budget request does not clarify whether or not that $800 million for NextGen occurs solely in FY 2010 or if it is spread out over several years (we suspect the latter). But whatever portion of the increase occurs in 2010 will have priority for the $300-ish million discretionary spending increase.

In addition, if the air traffic controllers labor dispute is settled legislative on the terms sought by the union, the back pay they demand could add up to hundreds of millions of dollars, drawn on the FAA operations account. It is highly unlikely that federal subsidies for Amtrak can be reduced while Joe Biden (D-Metroliner) is Vice President, and everyone loves new starts (and the two pending NYC-area projects will add hundreds of millions of dollars per year to the annual new start total).

Also, the budget document makes one other promise — increasing the appropriation for essential air service subsidies by $55 million over the 2009 level. (They may have been talking about the 2009 CR level, $60 million, rather than the 2009 omnibus level of $73 million. But either way, that's another $42 to $55 million chunk out of the proposed $300 million-ish increase.

Those are a lot of demands trying to shoehorn their way into a piddly little 1.8 percent increase, and they leave out all of the other DOT programs including pipeline and hazmat safety, maritime, and the Secretary's staff salaries.

Aviation user fees. The out-year picture (FY 2011 and beyond) is muddled in the budget document because, to the surprise of many, the Obama budget includes an unspecified variant of the Bush Administration's controversial proposal to repeal most taxes on aviation users and replace them with a system of user fees that more accurately reflect how much use each

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individual airplane puts on the air traffic control system.

In the budget document itself, total discretionary spending for USDOT falls from $72.5 billion in 2010 to $64.2 billion in 2011 and $64.1 billion in 2012. Obviously, President Obama is not going to cut the overall USDOT budget by eleven percent in a year, so there had to be some other explanation.

The only mention of user fees is found in a table (S-6) in the back of the budget blueprint. One line in the table shows a line labeled "Modify Federal Aviation Administration financing" under "Tax Breaks for Business", starting at $7.225 billion in FY 2011 and increasing each year. A footnote accompanying that line in the table says that "The Budget proposes repealing some aviation excise taxes and replacing these taxes with direct user charges. The cost of repealing the excise taxes is reflected here. The user charges are considered discretionary and offset discretionary budget authority and outlays."

The separate document sent by OMB to Congress clarifies that "The proposal is intended to simplify aviation financing and more accurately align costs with use. While these effects are largely offsetting, they appear in two places in budget figures for technical reasons; as a revenue reduction shown in Summary Table 6 of the budget document, and as a decrease between 2010 and 2011 in discretionary budget authority for the Transportation Department shown in Summary Table 7 of the budget document. "

The document then goes on to state how much the discretionary spending total should be increased each year if the user fee proposal is not adopted by Congress.

The two sets of numbers are compared in the table below. The startling thing (which is not at all apparent unless you have both documents) is that the Administration apparently assumes that the total value of the money brought in by the user fees in 2011 will be $2.4 billion more than the total value of the tax receipts that will be repealed when the FAA makes the switch over from the current taxes to the fees.

This certainly looks like a revenue increase (if there is a different answer, we haven't been able to figure it out). And although it is mentioned nowhere in the budget documents, $2.4 billion is awfully close to the amount of the general fund contribution to FAA operations assumed under the FY 2009 CR. One could draw the conclusion that the Obama Administration is intending to get rid of the annual general fund contribution to the FAA and have aviation users finance the whole system.

Of course, one could also assume that OMB was so pressed for time that they just did a current services extension close to the Bush Administration proposal, with the implementation date pushed back a year, rather than have to think seriously about aviation finance reform.

And the White House may have assumed that Congress will enact a four-year FAA reauthorization bill by this summer without user fees (which were rejected by the House and the Senate last Congress), in which case the assumption of these fees would make the Obama budget look $25.8 billion lighter than it really is over 2011-2019.

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PROPOSED USER FEES FOR AIR TRAFFIC CONTROL VERSUS AVIATION TAXES PROPOSED FOR REPEAL IN THE OBAMA ADMINISTRATION'S PROPOSED FY 2010 BUDGET

(Dollar amounts in billions of dollars.)

		FY 2011	FY 2012	FY 2013	FY2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Line 1	FAA spending to be added to budget totals if user fee proposal is not adopted:	9.634	10.131	10.639	11.103	11.411	11.824	12.254	12.701	13.165
Line 2	Amount of lower taxes from adoption of user fee proposal:	7.225	7.599	7.980	8.260	8.559	8.869	9.190	9.527	9.873
Line 1 Minus Line 2	Aggregate amount that fees should be greater than current taxes	2.409	2.532	2.659	2.843	2.852	2.955	3.064	3.174	3.292

Source for numbers in Line 1: OMB communication to Congress entitled "Significant Presentation and Technical Changes in the Administration's Budget for Fiscal Year 2010".

Source for numbers in Line 2: President Obama's budget blueprint, "A New Era of Responsibility: Renewing America's Promise", Summary Table S-6.

These numbers were given in two separate documents, without any explanation. Nevertheless, the inescapable conclusion is that under the Obama Administration's budget plan, users of the U.S. aviation system will pay $2.4 billion more in FY 2011 under the proposed (but undefined) user fee system than they would pay under an extension of the existing taxes. This annual increase above baseline would rise to $3.3 billion in FY 2019.

The $2.4 billion amount is suspiciously close to what the general fund share of FAA operations would be in FY 2011 under a baseline using the FY 2009 continuing resolution level plus inflation (the FY 2008 GF contribution to FAA, on which the FY 2009 CR was based, was $2.34 billion).

It may be that the Administration is also assuming the end of the general fund contribution to the FAA. There is nothing explicit in the budget suggesting this, mind you, but the proposed revenue/fee increase is suspiciously close to the GF share.

The real question is — is the Obama Administration at all serious about this proposal? Or did they simply figure that Congress will pass a four-year FAA reauthorization bill in the next six months which will not contain any user fees, taking the issue off their hands and allowing the budget to assume $25.8 billion in additional revenues/fees over the 2011-2019 period that will never materialize?

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(*Ed. Note:* Who knows — perhaps the budget will inspire new Senate Commerce chairman Jay Rockefeller (D-WV) to make another full-court press for his general aviation per-flight user fee this year.)

National Infrastructure Bank. Separate from USDOT (but perhaps connected to the overall USDOT funding situation), the budget proposes the following:

> The Budget proposes to expand and enhance existing Federal infrastructure investments through a National Infrastructure Bank designed to deliver financial resources to priority infrastructure projects of significant national or regional economic benefit. The mission of this entity will be to not only provide direct Federal investment but also to help foster coordination through State, municipal, and private co-investment in our Nation's most challenging infrastructure needs. These projects will directly and indirectly support jobs and stimulate substantial long-term economic growth.

That is all that is known about the NIB proposal, aside from the $5.0 billion per year in the summary table for the bank. None of the experts we contacted were willing to speculate as to exactly how much money a NIB could leverage, as it all depends on the constraints laid out in the legislation. But in the federal TIFIA program, about ten dollars in funding can be leveraged for every dollar of federal appropriations or contract authority.

However, two things are clear: (1.) a NIB will be a separate entity from USDOT and will fund many non-transportation projects as well as transportation infrastructure; and (2.) a NIB will be overseen by the House and Senate Banking Committees, not the transportation or public works panels.

Homeland Security. Speaking of user fees, the budget proposes to increase the 9/11 Security Fee (currently capped at $2.50 per flight leg) by an undisclosed amount beginning in FY 2012. The fee has never come close to paying all of the aviation security costs incurred by TSA (see the book *After*, by Steven Brill, for the best summary of how the 2001 aviation security law was written and the fee levels were set).

The budget says that the current fee only pays for 36 percent of aviation security costs and should be adjusted to pay for a majority of the costs. (We can't figure that number out — in FY 2009, TSA aviation security accounts and federal air marshals totaled $5.57 billion, offset by fee collections of $2.32 billion, for 42 percent offset.)

There are few other details within the DHS budget — "adds 55 Bomb Appraisal Officers", "includes $64 million to modernize the infrastructure used to vet travelers and workers", saving $190 million over five years by killing LORAN-C radar at the Coast Guard.

Water. The budget requests $5.1 billion for the Army Corps of Engineers water program as part of the regular budget. The comparative number in the 2009 omnibus is $5.4 billion, but the stimulus bill added another $4.6 billion, and it is hard to see how the Corps will be able to process $9.7 billion in new spending in 2009, let alone any increase to the budget request.

The budget requests $3.9 billion for clean water and safe drinking water state revolving funds, a huge increase from the $1.5 billion the SRFs are receiving in the omnibus 2009 appropriations bill.

Economic assumptions. Things might be looking up for the financial ability of the transportation trust funds — Treasury will be required to perform its April trust fund baseline runs under the rosy economic assumptions contained in summary table S-8 of the budget document...

CURRENT STATUS OF DISCRETIONARY APPROPRIATIONS FOR FY 2009

As of Feb. 25, 2009, includes enacted bills and pending omnibus. Source: Congressional Budget Office. Dollar amounts in millions.

Appropriations	Non-Emergency		Emergency		Total	
Subcommittee	BA	Outlays	BA	Outlays	BA	Outlays
Agriculture	20,456	21,530	11,735	6,892	32,191	28,422
Commerce-Justice-Science	57,652	57,372	16,005	2,927	73,657	60,299
Defense	487,737	525,280	70,476	72,831	558,213	598,111
Energy and Water	33,261	32,270	57,856	5,124	91,117	37,394
Financial Services	22,697	22,890	6,858	1,359	29,555	24,249
Homeland Security	42,164	42,625	2,855	1,319	45,019	43,944
Interior and Environment	27,579	28,659	10,950	2,010	38,529	30,669
Labor-HHS-Education	152,255	151,758	136,683	24,362	288,938	176,120
Legislative Branch	4,402	4,330	25	8	4,427	4,338
Military Construction-VA	72,863	66,881	5,225	1,855	78,088	68,736
State-Foreign Operations	36,620	36,242	4,281	3,897	40,901	40,139
Transportation-HUD	55,000	114,663	61,781	6,274	116,781	120,937
Total, Discretionary	**1,012,686**	**1,104,500**	**384,730**	**128,858**	**1,397,416**	**1,233,358**

President Proposes Ending Budget Firewalls, Contract Authority: Would Give Appropriations Committees Full Control of Spending

President Obama's fiscal 2010 budget proposal proposes to make sweeping changes in the way that the federal government finances most transportation programs. The proposal would get rid of contract authority (for federal bookkeeping purposes) and would give the House and Senate Appropriations Committees the full power to set overall spending levels for highways, mass transit, airport development, and highway safety.

The proposal would also repeal the budgetary "firewall" protections designed to segregate the Highway Trust Fund and the Airport and Airway Trust Fund from the rest of the federal budget.

The budget document itself says:

> Budget authority for highway, transit, highway safety, and airport improvement programs usually has been defined as mandatory contract authority provided in authorizing legislation. However, the levels of contract authority have been, for the most part, controlled by obligation limitations in appropriations acts. Outlays from the obligation limitations have always been scored as discretionary. To more transparently display program resources, the Administration proposes changing the budgetary treatment of transportation programs to show both budget authority and outlays as discretionary.

But a companion document sent to Congressional committees and leadership offices by the Office of Management and Budget last week (see next page) makes it clear:

> ...consistent with the recognition that annual transportation levels are ultimately determined by the appropriations process, contract authority subject to obligation limitation (if legislation continues to provide it) would no longer be scored...These scorekeeping changes will make the budget more transparent and understandable, and is intended to put these programs on a level playing field with all other discretionary programs, including other trust fund programs governed by obligation limitations

A footnote in the OMB document confirms the White House opposition to the "firewalls": "Because one purpose of this proposal is to level the playing field, the Administration does not support an extension of the minimum funding level contained in House rules."

In explanation: the dominant, overused metaphor for the federal budget is this: every winter, at the start of the budget process, all competing interests gather around a national dining room table and start to slice up the federal spending pie for the year, with each interest fighting the others for a slightly larger slice than they got last year.

After the enactment of the 1956 highway law, the Highway Trust Fund was, in essence (and to use our new, proprietary metaphor), a small quiche sitting in another room altogether. The Trust Fund (like all trust funds back then) was a separate spending pie and was exempt from the normal fight for a bigger slice of the big pie.

Over the years, this situation changed — in 1969, the switch to the unified budget merged the trust fund pies with the main pie, and the Budget Act of 1974 provided the first annual constraints on overall pie size (before 1974, Congress never had to commit to capping total spending, so they could add filling to the pie late in the game if there wasn't enough to go around).

Starting in 1998, with the TEA21 law, highways and transit were effectively guaranteed that their slices of the big pie could not be smaller than a given dollar amount each year. (In 2000, aviation got a much weaker "guarantee" that still gave it some preferential treatment come pie-slicing time.)

These protections for highways and transit were weakened when some underlying budget law expired in 2003. Now the Obama Administration proposes to eliminate all such protections and make highways, transit, airports and safety fight it out with every competing interest for a slice of the discretionary spending pie each and every year.

Such a move would increase transparency in the overall budget presentation, and it would end the last huge, gaping loophole in the budget process — the fact that rescissions of contract authority above and beyond the obligation limitation (which yield no outlay savings whatsoever) are frequently used to offset new budget authority (almost 100 percent of which eventually goes out the Treasury door as real outlays). In fact, the budget tables in the Obama budget appear to have corrected FY 2009 so that the large rescission of contract authority in the omnibus bill is no longer scored as an offset.

If contract authority were to be abolished entirely, this would be the end of the highway bill as we know it, as it would become just a simple authorization like the WRDA bill, with every earmark subject to individual appropriation. And even if contract authority is kept, the scoring change would allow appropriators to lower the obligation limit and replace that money with general fund appropriations exclusively under their control (i.e. ob limits would be completely fungible with regular appropriations — which could lead to permanent general fund subsidization of highways).

OMB has tried and failed to make this change several times in the past, most recently in 1998, and always ran into significant opposition from authorizing committees on Capitol Hill, who understandably don't want to see their power further diminished and given to the appropriators.

Predictably, the bipartisan leaders of the authorizing committees have written to President Obama opposing the change (see page 9). The final decision is up to the House and Senate Budget Committees.

DOCUMENT FROM THE WHITE HOUSE'S OFFICE OF MANAGEMENT AND BUDGET

SIGNIFICANT PRESENTATION AND TECHNICAL CHANGES IN THE ADMINISTRATION'S BUDGET FOR FISCAL YEAR 2010

Appropriations Request for Fiscal Year 2010 and Estimates for Subsequent Years

[excerpt]

Transportation trust funds. – The total request for discretionary budget authority of 1,263 billion shown above and in Summary Table 7 of the budget document includes $54.3 billion that would, in the past, have been shown as an obligation limitation and not scored as budget authority. For year-to-year comparability, Summary Table 7 also shows transportation figures for 2009 as though the Appropriations Committee has funded those programs through discretionary budget authority.

This $54.3 billion in funding could be provided as a discretionary appropriation of budget authority or as a limitation on the use of contract authority – an obligation limitation. The Administration proposes to score discretionary budget authority in the amount of any transportation obligations limitations. To prevent double-counting of budget authority within the budget and to be consistent with the recognition that annual transportation levels are ultimately determined by the appropriations process, contract authority subject to obligation limitation (if legislation continues to provide it) would no longer be scored.[4] The changed scorekeeping of contract authority does not alter its legal meaning or effect. If contract authority is provided, it will continue to be allocated to states for planning purposes and states will continue to use it as they have in the past.

These scorekeeping changes will make the budget more transparent and understandable, and is intended to put these programs on a level playing field with all other discretionary programs, including other trust fund programs governed by obligation limitations.[5]

Aviation fees and user charges. – Effective with 2011, the Administration proposes to replace certain aviation excise taxes with user charges that would offset discretionary budget authority and outlays. The proposal is intended to simplify aviation financing and more accurately align costs with use. While these effects are largely offsetting, they appear in two places in budget figures for technical reasons; as a revenue reduction shown in Summary Table 6 of the budget document, and as a decrease between 2010 and 2011 in discretionary budget authority for the Transportation Department shown in Summary Table 7 of the budget document. Had estimates associated with new user charges not been included, the amount of discretionary budget authority in Summary Table 7 would have been higher by the following amounts (in millions of dollars):

2011	2012	2013	2014	2015	2016	2017	2018	2019
9,634	10,131	10,639	11,013	11,411	11,824	12,254	12,701	13,165

[further excerpt]

Pay-as-you-go for Receipts and Mandatory Spending

The Administration supports a statutory pay-as-you-go enforcement mechanism for legislation that would alter receipts or mandatory spending. Such a statute would complement and reinforce existing rules of the House and Senate that implement a pay-as-you-go approach to legislation. The Administration will work with Congress to determine the appropriate base against which receipts and mandatory legislation would be measured.

[4]The Administration requests that the Congress use the scoring for transportation programs discussed above. If it does not, and if transportation trust fund programs continue to receive contract authority, the amount of discretionary budget authority allocated to the Appropriations Committees should be $1,208.4 billion to be consistent with Administration funding policies.
[5]Because one purpose of this proposal is to level the playing field, the Administration does not support an extension of the minimum funding level contained in House rules.

TW Ed. Notes: *For starters, there's no way to verify any of the numbers in this document — we just have to take OMB's word for it.*
Paragraph 2 alleges that "annual transportation levels are ultimately determined by the appropriations process". Since 1976, this has usually (but not always) been the case. Occassionally, an authorization bill will pass after the annual appropriations bill has been enacted and change the obligation ceiling. Statutory provisions in budget law that segregated Highway Trust Fund spending from the rest of the budget expired in 2003. And while there is a point of order in the House (not in the Senate, though) purporting to prohibit legislation that sets obligation levels for highways and transit at less than a fixed sum each year, the House waives these rules more and more — just last week, almost all the members of the House Transportation and Infrastructure Committee voted to waive the point of order and allow the omnibus appropriations bill to violate the transit spending "guarantees". So this is technically accurate, and growing more practically accurate year-by-year.
Paragraph 2 then gives Congress an out by saying "if legislation continues to provide [contract authority]", suggesting that they might just give it up.
But then paragraph 2 says that "The changed scorekeeping of contract authority does not alter its legal meaning or effect." So, legally, contract authority would still be budget authority, but for all practical purposes, it will not be? Sounds weird, but that is essentially the same system we have had since 1987 (starting with the 1987 highway bill, the authorization bill itself contained an annual obligation limitation, so even if the Appropriations Committees stopped writing their own annual obligation limitation, the full amount of available contract authority would still be constrained.
Footnote 5 is the real bombshell — the Obama Administration is directly proposing to repeal the budget "firewall" point of order that was the hard-fought victory for T&I chairman Bud Shuster in the 1998 TEA21 law and which has been observed much more often than not since then, even since the statutory backing for the firewalls expired in 2003.

CONGRESSIONAL LETTER IN RESPONSE TO BUDGET SCOREKEEPING PROPOSAL

February 27, 2009

The Honorable Barack Obama
President
The White House
Washington, D.C. 20500

Dear Mr. President:

The President's Budget released on February 26, 2009, reflects a proposal by the Office of Management and Budget (OMB) to change how programs funded by contract authority are treated for budget scoring purposes. Currently, the highway, transit, and airport grant programs are funded by contract authority, a form of mandatory budget authority, derived from the Highway Trust Fund and the Airport and Airway Trust Fund ("Aviation Trust Fund"). OMB proposes to no longer score contract authority as budget authority, but rather to score the obligation limitations that are imposed on these programs in annual appropriations acts as discretionary budget authority.

We strongly oppose this proposed scorekeeping rule change and any other budget process reform that fails to recognize the unique nature of Trust-Funded programs. Such a rule would essentially convert the mandatory contract authority that currently funds our highway, transit, and airport grant programs to a simple authorization of appropriations for budget scoring purposes.

While proponents of such a scorekeeping rule change argue that it would increase Trust Fund transparency, it would in fact do the opposite, by further merging Trust-Funded programs with non-Trust-Funded programs in the budget process. If any budget process reforms are to be made, they should serve to increase the separation of Trust-Funded programs from non-Trust-Funded programs.

We have a longstanding commitment to ensuring that the user fees deposited into the Highway and Aviation Trust Funds are in fact used for their intended purposes – to rebuild our nation's infrastructure. These Trust Funds represent a contract between the Federal Government and the user. This contract specified that certain user fees would be levied on the users of our surface and aviation transportation systems. In return, the Federal Government pledged to use the receipts to build transportation infrastructure for the taxpayer's use.

Over the past decade, we achieved hard-fought reforms to ensure that this contract was upheld, even in the context of the unified budget. These battles were largely put to rest with the enactment of the funding guarantees established by the Transportation Equity Act for the 21st Century (TEA 21) in 1998 and the Aviation Investment and Reform Act for the 21st Century (AIR 21) in 2000. However, the OMB proposal raises these issues once again.

We urge you to reconsider OMB's ill-advised proposal.

Sincerely,

James L. Oberstar	John L. Mica
Barbara Boxer	James M. Inhofe
John D. Rockefeller, IV	Kay Bailey Hutchison
Christopher J. Dodd	Richard C. Shelby
Peter A. DeFazio	John J. Duncan, Jr.
Max Baucus	George V. Voinovich
Jerry F. Costello	Thomas E. Petri

TW Ed. Notes: *The facts stated in paragraphs 1 and 2 are correct.*
Paragraph 3 is somewhat misleading — it alleges that OMB is pushing the rule change in the name of "Trust Fund transparency" when in fact, the budget document makes clear that OMB is pushing this in the name of transparency in the overall budget picture — a very different thing. It is hard to argue with a straight face that the existing system is transparent — under current rules, last year's $8 billion bailout of the Highway Trust Fund by the general fund was not scored as being budget authority (BA) even though it directly prevented states from having to shut down their highway programs last fall, while a repeal of the $8.7 billion contract authority rescission set to take place on September 30 will be scored as BA even though it shouldn't make one dime's difference to the outflow of dollars from the Treasury. That ain't transparent.
Paragraph 4 repeats the misnomer that the receipts deposited in the Trust Funds are "user fees" — in fact, they are taxes, under the constitutional, legal, and practical definitions of the term. Payment of the federal gas tax has little correlation to one's usage of the federal-aid road system. (Some people drive almost exclusively on non-federal-aid roads yet pay equally into the federal system). First-class fliers pay much more into that Trust Fund than do coach passengers yet get identical benefits. Centuries of Supreme Court case law says that therefore, these are taxes, not user fees. Almost all of these taxes were levied years before the Trust Funds existed. And while the creation of the Highway Trust Fund in 1956 might be called a "contract", it should be noted that Congress has violated its end repeatedly — for starters, the "contract" (the 1956 Act) called for the gas tax to be cut in half and for the Trust Fund to expire upon completion of the Interstate system. We don't remember that happening.
Paragraph 5 adequately sums up the political dynamic of the situation.

Finance Commission

CONTINUED FROM FRONT PAGE

the Secretary of Transportation and the chairmen and ranking members of the House Ways and Means and Senate Finance Committees.

The second panel got off to a slower start and issued its final report last Thursday, three-and-a-half years after the enactment of SAFETEA-LU. Its recommendations on financing, however, closely track those of the earlier panel.

Both commissions start their reports by focusing on the annual gap between the amount of money the federal government commits to surface transportation infrastructure and the (much higher) amount that would be necessary to maintain and improve the existing systems. (The aggregate gap is $400 billion in the 2010-2015 period and $2.3 trillion over the next 25 years.) These numbers are published every two years by the Federal Highway Administration, so there is very little dispute over the numbers.

Then both panels focus on the fact that the federal motor fuels tax levels have not been increased since 1993 and have therefore lost a good bit of their buying power (33 percent as of last year) due to inflation, and that if the gas tax had been increased in 1993 for annual inflation adjustments, the tax would be 27.5 cents per gallon, not the current 18.4 cents per gallon.

Specifically, last week's report notes that the current estimates call for the Highway Account of the Highway Trust Fund to take in about $38 billion per year in receipts in the next two years, rising to about $40 billion in 2015. Meanwhile, the estimated cost to maintain the existing system is already up to $81 billion per year in 2010 and the cost of improving the system up to somewhere near $100 billion per year in 2010.

(*Ed. Note:* no one really disputes any of these figures. But there are large disputes over what people are willing to say should be done about to fix the problem.)

Both panels then bifurcate their recommendations into the short-term and long-term. (The earlier commission actually included a "medium-term" as well.) Both short-term and long-term recommendations contain politically difficult solutions.

In the short term (the next few months to the next few years), the Financing Commission and its earlier sibling found that there is really no answer for how to pay for increased surface transportation investment other than increasing the federal motor fuels taxes — if you want to maintain the post-1956 principle that users of the highway system should bear exclusive responsibility for its upkeep. (The Obama Administration may not be sold on that principle — see pages 7-9 of this issue.)

Last week's commission report said that "The stakes are too high and the hole we have dug for ourselves too big to wait for a new revenue system to be put in place" and that the proposed fuel tax increases are "Far from a panacea and covering only a portion of the actual need…"

The commission proposes an immediate increase of 10 cents per gallon in the gasoline tax (to 28.4 cents per gallon) and of 15 cents per gallon in the diesel tax (to 39.4 cents per gallon). The report says that "Together, these increases would translate into nearly $20 billion per year more than is collected today and would allow the federal government to fund its current commitments."

The also recommends that the gas and diesel taxes be indexed for inflation (using CPI) every year thereafter, even though construction costs frequently inflate faster than CPI.

The commission notes that these fuel tax increases would only cost

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KEY RECOMMENDATIONS

Of the National Surface Transportation Infrastructure Financing Commission

Short term recommendations:

- **Increase federal motor fuels taxes** by 10 cents per gallon for gasoline and 15 cents per gallon for diesel, immediately, and index those tax rates for annual inflation after 2009.
- **Double the Heavy Vehicle Use Tax (HVUT)** on heavy trucks immediately, from $100 per truck and $22 per 1000 pounds over 55,000 pounds to $200 per truck and $44 per 1000 pounds, and index rates for inflation.
- **Maintain and strengthen the Highway Trust Fund** to keep highway user taxes and user fees linked to surface transportation spending.
- **Allow additional tolling of federal roads** by allowing tolling of net new Interstate capacity, allowing metropolitan areas of over 1 million population to levy tolls on existing Interstates for congestion relief, and expanding the existing Interstate toll pilot program from three slots to five.
- **Beef up the TIFIA innovative finance program** by increasing spending to $1 billion per year and giving TIFIA greater scope and flexibility.
- **Re-capitalize State Infrastructure Banks** at $500 million per year.
- **Encourage public-private partnerships,** with appropriate safeguards.
- **Increase private activity bonding** from $15 billion total to $30 billion.

Long term recommendation:

- **By 2020, begin implementation of a national mileage-based user fee that will gradually replace the gasoline and diesel taxes.** The eventual rate should be set at the level needed to maintain and improve the surface transportation system — it is estimated that this level would be 2.3 cents per mile in today's dollars (simply replacing the current tax levels would require a replacement rate of about 0.9 cents per mile). Aggressive R&D and demonstration programs should begin immediately with the goal of funding initial implementation in the highway bill after the next one (circa 2015).

Finance Commission

CONTINUED FROM PAGE 10

the typical family (1.89 cars per household; 11,818 miles per vehicle) $5 extra a month per vehicle or $9 extra a month per household.

The report also recommends doubling the annual fee levied on trucks over 55,000 pounds and indexing that fee and the excise tax on truck tires for inflation in the future.

Beyond these efforts to increase the amount of money made directly available to and by the federal government, the report cites all of the oft-repeated ideas for finding ways to get someone other than the federal government to fork over more money — tolls, PPPs, bonding, etc.

No one — and we mean no one — has yet come up with any substantive plan for increasing highway and transit investment by $20+ billion per year that both (a.) maintains the user-pays concept and (b.) does not involve increasing the gasoline and diesel taxes in the short term.

Nevertheless, Transportation Secretary Ray LaHood said last week that the Obama Administration would not support any gas tax increase "during a recession", which means during 2009 and probably during 2010 as well.

The long-range part of the commission's plan (and we mean long-range — R&D and demonstration pilot projects in 2010-2015, money for fleet changeover and procurement in 2016-2019, with initial deployment not even to start until 2020) is a mileage-based fee charged to cars and trucks that would gradually (starting after 2020) replace the gas and diesel taxes.

This is because, as the panel notes, "The current federal surface transportation funding structure that relies primarily on taxes imposed on petroleum-derived vehicle fuels is not sustainable in the long term and may erode more quickly than previously thought. Emerging energy and environmental policies and new vehicle technology (relating both to fuel efficiency and alternative fuels) are already driving down petroleum consumption by individed highway system users, and the rate of reduction is likely to accelerate over time."

The table below shows how the VMT rate would be set under a variety of scenarios. (One advantage of a mileage fee is that it can be varied — the cents per mile can be higher for higher-weight cars, could be varied by time of day and location for congestion relief, and could even, hypothetically, be lower for low-income drivers.)

If you could snap your fingers and wish such a system in place today, the cost per mile to take the place of current tax revenues would be 0.9 cpm for cars, rising to 1.3 cpm to actually pay for existing federal spending, and rising to 2.3 cpm if one actually wants to improve the system.

However, the White House press secretary has said that a mileage-based fee "is not and will not be" the policy of the Obama Administration, even though the commission only seeks further R&D and testing money in the upcoming surface transportation reauthorization bill.

We apologize — the release of the President's budget on the same day as the Commission's report meant that we had to give short shrift to the Commission's report this week, but we will have more analysis next week and in the weeks to follow.

EXHIBIT 8-5: ILLUSTRATIVE ESTIMATED FEDERAL VMT FEES TO MEET NEEDS

(all figures 2008 dollars in billions)

	Estimated Federal VMT Fees (¢/mile)[a]						Equivalent Fuel Taxes (¢/gallon)[b]		Required Annual HTF Revenues
	Charge on All Miles			Charge FAH Miles Only					
Needs Scenario	LDVs	Trucks	Avg.[c]	LDVs	Trucks	Avg.[c]	Gasoline	Diesel	(billions)
Maintain Current Levels Scenarios									
2008 HTF Revenues	0.9¢	5.0¢	1.2¢	1.0¢	5.9¢	1.4¢	18.3¢	24.3¢	$ 36.4
2008 Federal Program Level	1.3¢	7.3¢	1.8¢	1.5¢	8.6¢	2.1¢	27.0¢	39.2¢	$ 53.6
Augmented HTF Levels	1.4¢	7.7¢	1.9¢	1.6¢	9.1¢	2.2¢	28.3¢	39.3¢	$ 56.4
Base Case Needs Scenarios									
"Need to Maintain"	1.9¢	10.6¢	2.6¢	2.2¢	12.5¢	3.0¢	39.0¢	59.9¢	$ 77.6
"Need to Improve"	2.3¢	13.2¢	3.2¢	2.7¢	15.5¢	3.7¢	48.4¢	75.9¢	$ 96.2

a. Estimated LDV and truck VMT charges maintain the current ratio of LDV and truck-related contributions to the HTF (i.e., revenues from federal gasoline and special fuel taxes versus federal diesel taxes plus truck user fees).

b. Equivalent motor fuel tax rates assume current truck-related user fees are maintained (indexed for inflation); motor fuel taxes are based on levels needed to maintain the current ratio of total LDV to truck-related contributions. Equivalent rates also assume and account for the extension of current motor fuel tax refunds and transfers.

c. Average VMT charges are simply total required revenues divided by all LDV and truck miles on the applicable system.

LDV = light duty vehicle.

APPORTIONMENT OF STIMULUS FUNDING FOR HIGHWAYS AND BRIDGES - MARCH 2, 2009

	Transportation	Allocated to Areas Based on Population:			For Use In	Total
State	Enhancements	Over 200K	5K-200K	Under 5K	Any Area	Distribution
ALABAMA	15,410,762	43,155,264	97,763,209	13,189,152	344,173,696	513,692,083
ALASKA	5,263,845	18,953,911	0	33,684,535	117,559,196	175,461,487
ARIZONA	15,658,752	110,710,953	35,198,112	10,678,455	349,712,129	521,958,401
ARKANSAS	10,546,334	15,712,278	77,816,643	11,934,419	235,534,794	351,544,468
CALIFORNIA	77,087,050	609,756,706	134,336,616	26,777,174	1,721,610,774	2,569,568,320
COLORADO	12,117,724	74,875,946	34,387,670	11,913,623	270,629,167	403,924,130
CONNECTICUT	9,061,619	62,172,534	23,993,369	4,450,284	202,376,150	302,053,956
DELAWARE	3,654,860	21,667,403	11,681,462	3,199,730	81,625,195	121,828,650
DIST. OF COL.	3,705,235	37,052,353	0	0	82,750,254	123,507,842
FLORIDA	40,402,050	292,653,602	94,632,788	16,734,111	902,312,452	1,346,735,003
GEORGIA	27,947,570	143,993,510	118,185,897	17,296,297	624,162,406	931,585,680
HAWAII	3,772,391	22,362,203	12,161,981	3,199,730	84,250,075	125,746,380
IDAHO	5,458,039	11,502,033	35,127,027	7,951,329	121,896,203	181,934,631
ILLINOIS	28,067,781	202,847,977	59,591,547	18,238,287	626,847,112	935,592,704
INDIANA	19,739,031	84,898,430	97,516,490	14,975,392	440,838,364	657,967,707
IOWA	10,744,873	20,786,016	73,236,776	13,425,937	239,968,829	358,162,431
KANSAS	10,434,515	38,221,026	53,507,200	12,616,924	233,037,502	347,817,167
KENTUCKY	12,632,850	40,587,146	72,550,042	13,191,309	282,133,644	421,094,991
LOUISIANA	12,895,783	50,888,406	67,379,854	10,689,568	288,005,816	429,859,427
MAINE	3,922,561	0	33,656,955	5,568,655	87,603,861	130,752,032
MARYLAND	12,931,043	89,628,126	33,342,830	6,339,477	288,793,301	431,034,777
MASSACHUSETTS	13,135,958	110,122,871	14,593,517	6,643,189	293,369,720	437,865,255
MICHIGAN	25,416,145	139,458,842	95,647,189	19,055,419	567,627,239	847,204,834
MINNESOTA	15,068,525	73,163,386	61,793,048	15,728,819	336,530,399	502,284,177
MISSISSIPPI	10,636,930	21,099,663	73,612,251	11,657,389	237,558,110	354,564,343
MISSOURI	19,113,660	93,414,889	80,625,990	17,095,716	426,871,729	637,121,984
MONTANA	6,353,802	0	51,814,260	11,723,757	141,901,572	211,793,391
NEBRASKA	7,067,678	32,598,136	28,088,326	9,990,322	157,844,817	235,589,279
NEVADA	6,040,574	48,912,258	3,738,315	7,755,165	134,906,148	201,352,460
NEW HAMPSHIRE	3,883,217	3,020,195	32,612,242	3,199,730	86,725,172	129,440,556
NEW JERSEY	19,553,234	175,273,280	14,370,500	5,888,564	436,688,902	651,774,480
NEW MEXICO	7,579,331	26,021,866	39,204,830	10,566,617	169,271,733	252,644,377
NEW YORK	33,620,542	263,944,891	52,857,589	19,402,937	750,858,764	1,120,684,723
NORTH CAROLINA	22,065,801	72,075,331	128,587,029	19,995,645	492,802,878	735,526,684
NORTH DAKOTA	5,103,795	0	43,451,139	7,586,810	113,984,753	170,126,497
OHIO	28,070,311	161,489,155	98,886,715	20,327,239	626,903,610	935,677,030
OKLAHOMA	13,939,657	56,225,150	70,574,602	12,596,816	311,319,000	464,655,225
OREGON	10,017,072	50,649,701	38,563,322	10,957,694	223,714,600	333,902,389
PENNSYLVANIA	30,792,870	181,169,499	102,546,800	24,212,405	687,707,438	1,026,429,012
RHODE ISLAND	4,112,872	36,412,909	1,516,079	3,199,730	91,854,135	137,095,725
SOUTH CAROLINA	13,892,444	43,487,203	85,135,085	10,302,157	310,264,594	463,081,483
SOUTH DAKOTA	5,490,821	0	46,634,361	8,273,847	122,628,330	183,027,359
TENNESSEE	17,181,031	69,934,160	86,815,495	15,060,658	383,709,699	572,701,043
TEXAS	67,500,454	393,806,463	240,767,690	40,430,391	1,507,510,148	2,250,015,146
UTAH	6,406,370	46,165,488	10,825,970	7,072,238	143,075,587	213,545,653
VERMONT	3,773,739	0	34,537,657	3,199,730	84,280,165	125,791,291
VIRGINIA	20,833,825	117,803,558	76,127,267	14,407,422	465,288,751	694,460,823
WASHINGTON	14,767,270	83,466,861	53,074,554	11,131,286	329,802,366	492,242,337
WEST VIRGINIA	6,325,566	0	55,078,010	8,177,651	141,270,977	210,852,204
WISCONSIN	15,873,357	49,074,020	95,035,825	14,623,730	354,504,983	529,111,915
WYOMING	4,728,482	0	39,585,763	7,699,054	105,602,759	157,616,058
TOTAL	**799,800,001**	**4,341,215,598**	**3,022,767,888**	**634,016,515**	**17,862,199,998**	**26,660,000,000**

Source: FHWA Notice N.4510.705, March 2, 2009.

BY JUNE 30, 2009, EACH STATE MUST HAVE OBLIGATED A TOTAL AMOUNT EQUAL TO 50 PERCENT OF THE TOTAL DERIVED BY ADDING THE ENHANCEMENTS COLUMN WITH THE "FOR USE IN ANY AREA" COLUMN, OR ELSE THE REMAINDER OF THAT MONEY WILL BE REDISTRIBUTED.

NEW AND NOTABLE ON THE INTERNET

Budget of the United States Government

The full text of the budget blueprint released by the White House last week is here:
http://www.whitehouse.gov/omb/assets/fy2010_new_era/A_New_Era_of_Responsibility2.pdf

Economic Stimulus Legislation—Implementation

The DOT guidance to states on their "maintenance of effort" certifications is here:
http://www.dot.gov/recovery/2009/02/27/comms/governorsletter.pdf

And a list of all maintenance of effort certifications received by DOT so far is here:
http://testimony.ost.dot.gov/ARRAcerts/

The full FHWA apportionment notice for the $27.5 billion in highway and bridge funds from the economic stimulus act is here:
http://www.fhwa.dot.gov/legsregs/directives/notices/n4510705.pdf

The Federal Highway Administration guidance document on its stimulus funding is here:
http://www.fhwa.dot.gov/economicrecovery/guidance.htm

The Federal Transit Administration guidance document on its stimulus funding is here:
http://www.fta.dot.gov/documents/American_Recovery_and_Reinvestment_Act_of_2009.doc

The Federal Railroad Administration guidance document on its stimulus funding is here:
http://www.fra.dot.gov/Downloads/ARRA%20FAQ%20022309%20FINAL.pdf

National Surface Transportation Infrastructure Financing Commission

The final report of the Financing Commission is here:
http://financecommission.dot.gov/Documents/NSTIF_Commission_Final_Report_Advance%20Copy_Feb09.pdf

Highway Trust Fund

FHWA has started posting monthly updates on the financial health of the Highway Trust Fund, which can be bookmarked here:
http://www.fhwa.dot.gov/highwaytrustfund/index.htm

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

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THIS WEEK IN COMMITTEE

Tuesday, March 3, 2009 — House Homeland Security — Subcommittee on Emergency Communications, Preparedness and Response -- subcommittee hearing on FEMA's Gulf Coast rebuilding efforts (postponed from last week) — *10:00 a.m., 311 Cannon.*

Wednesday, March 4, 2009 — House Transportation and Infrastructure — Subcommittee on Water Resources and Environment -- subcommittee business meeting to mark up H.R. ___, Water Quality Investment Act of 2009 — *10:00 a.m., 2167 Rayburn.*

Thursday, March 5, 2009 — House Transportation and Infrastructure — full committee business meeting to mark up H.R. 905, FAA Reauthorization Act of 2009, H.R. ____, Water Quality Investment Act of 2009, and the committee views and estimates on the FY 2010 budget — *11:00 a.m., 2167 Rayburn.*

UPCOMING CALENDAR

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 passed House 2/25/09 by a vote of 245-178	H.R. 1105 considered by Senate 3/3/07	
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			