

Committees. The second relies on OMB to produce the PAYGO estimate.

Under the first mechanism, Congress can determine the costs or savings of PAYGO bills by enacting those estimates into law. Under the Act, Congress includes within the text of a PAYGO bill a cross-reference to an estimate that will have been included in the Congressional Record by the Chairmen of the Budget Committees. That estimate must be submitted to the Record before the House of Representatives or the Senate has voted on final passage of that PAYGO bill but after they have voted on the last amendment (if any) to that bill. Under this mechanism, OMB's role is limited to entering the congressionally determined estimates on the 5-year and 10-year PAYGO scorecards, averaging and cumulating the entries, and calculating any sequestration that might be needed.

If Congress does not determine the costs or savings of PAYGO legislation as described above, the Act requires OMB to estimate the budgetary effects for the scorecards using the economic and technical assumptions underlying the President's Budget. Cost and savings estimates are entered on the scorecard after PAYGO bills are enacted. Entries on the scorecard are not later changed, even if new estimates could be developed based on more recent information.

If Congress determines the costs of legislation, as the PAYGO Act envisions, it is significant that on January 5, 2011, the House of Representatives agreed to a special order that permits the Budget Committee Chairman to certify that the costs of certain types of legislation are zero when PAYGO estimates are introduced into the Congressional Record:

- Repeal of the Affordable Care Act.
- Extension of EGTRRA and JGTRRA. (This would have the effect of expanding the current adjustment in PAYGO to include the upper-income provisions of EGTRRA and JGTRRA.)
- Extension of AMT relief and estate tax repeal. (This provision would have the effect of making the PAYGO adjustments, which are available only through 2011, permanent. Moreover, this provision would increase the size of the adjustment for the estate tax, allowing its complete repeal without offsets, whereas the PAYGO Act allowed the estate tax to be scaled back without offsets from the \$1 million exemption and maximum 55 percent rate under 2001 law only to a \$3.5 million exemption and maximum 45 percent rate).
- Creation of a 20 percent deduction in income to small businesses.
- Enactment of legislation implementing trade agreements.

Legislation described in the first three bullets would add approximately \$2.9 trillion in ten-year costs to the

PAYGO scorecards under the definitions and current policy adjustments in that Act, but would add no costs, and therefore would not have to be offset, under the terms of the House's new special order. For example, CBO estimates that repealing the Affordable Care Act would cost \$230 billion over the next decade. Under the House's new special order, however, this cost would not have to be offset. Thus, after counting interest, the new House rules could have the effect of increasing deficits over the 10-year scorecard window by \$3.4 trillion.

### Administrative PAYGO

The Administration will continue to review potential administrative actions by Executive Branch agencies affecting entitlement programs, as stated in a memorandum issued on May 23, 2005, by the Director of the Office of Management and Budget. This effectively establishes a PAYGO requirement for administrative actions involving mandatory spending programs. Exceptions to this requirement are only provided in extraordinary or compelling circumstances.

### Budgetary Treatment of Surface Transportation Infrastructure Funding

**Overview.**—Currently, surface transportation programs financed from the Highway Trust Fund (HTF) are treated as hybrids: contract authority<sup>7</sup> is classified as mandatory, while outlays are classified as discretionary. Broadly speaking, this framework evolved as a mechanism to ensure that collections into the HTF (e.g., motor fuel taxes) were used to pay only for programs that benefit surface transportation users, and that funding for those programs would generally be commensurate with collections. However, the framework no longer functions as it was intended, because collections are no longer adequate to support current law spending levels. Absent that central part of the bargain—enough revenue to support spending—the system does not give policy-makers appropriate incentives to make fiscally sound choices and bring revenue and spending in line.

The National Commission on Fiscal Responsibility and Reform (the "Fiscal Commission") recognized this problem and recommended changing the scorekeeping treatment of surface transportation programs:

This hybrid treatment results in less accountability and discipline for transportation spending and allows for budget gimmicks to circumvent budget limits to increase spending. The Commission plan reclassifies spending from the Transportation Trust Fund to make both contract authority and outlays mandatory, and then limits spending to actual revenues collected by the trust fund.

<sup>7</sup> Contract authority is a form of budget authority that permits obligations to be incurred in advance of liquidating appropriations.

Specifically, rather than skirting the two mechanisms intended to control spending, discretionary funding allocations and PAYGO, the Fiscal Commission's recommendation would establish surface transportation programs as subject to PAYGO.

The 2012 Budget reflects the recommendation of the Fiscal Commission. The 2012 Budget also includes a surface transportation reauthorization proposal that would broaden the scope of programs included under the Trust Fund umbrella: the HTF is renamed the Transportation Trust Fund (TTF), and supports additional highway safety and transit programs, as well as passenger rail programs and a new National Infrastructure Bank. The mechanics of how the 2012 Budget conforms to the Fiscal Commission recommendation are described in greater detail below. Generally speaking:

- Hybrid treatment is ended; all TTF accounts have mandatory contract authority and mandatory outlays.
- For the sake of comparability, the Budget reclassifies current law spending for all TTF activities as mandatory. This is intended to allow policy makers to: 1) transparently calculate the difference between baseline levels and the President's proposal, and 2) account for that difference under a unified, existing scorekeeping regime, PAYGO.
- Rescissions of contract authority in appropriations acts would be scored as CHIMPS (discretionary changes that would be rebased as mandatory subsequent to enactment, following long-standing scorekeeping conventions).

The Budget also assumes bipartisan agreement on new revenues sufficient to keep the Transportation Trust Fund solvent in every year, not only for the six-year reauthorization period (2012-2017) but for the ten-year Budget window. The estimates in the Budget fill projected Highway Trust Fund shortfalls that exist under current law and cover proposed spending with dedicated trust fund resources, thus requiring no transfers from the General Fund. These estimates are a placeholder and do not assume an increase in gas taxes or any specific proposal to offset surface transportation spending. Rather, they are intended to initiate a discussion about how the Administration and Congress could work together on a bipartisan basis to pass a surface transportation reauthorization that is both financially sustainable and meets critical national needs.

As proposed by the Administration, this unified scoring framework does not radically alter traditional roles and jurisdictional relationships as they are conceived of under current law and scorekeeping practice. Authorizing committees would be scored with the full cost of contract authority and outlays associated with their proposal; discretionary outlays would no longer be a central feature of

the scorekeeping system. However, under the proposal, the Appropriations Committees would continue to set obligation limitations that would remain legally binding. In addition, the Appropriations Committees would liquidate contract authority. As under current law, multi-year authorizing bills would set initial expectations for spending. The new scorekeeping regime would recognize that fact by fully reflecting the cost of that legislation in terms of both budget authority and outlays.

While the Administration envisions both types of committees playing important roles, the central innovation of the proposed scorekeeping regime is that it would require all stakeholders to reconcile revenue and spending during the authorization process. That is the chief concern highlighted by the Fiscal Commission. By taking action to make all surface transportation programs subject to PAYGO, the Administration and the Congress would create a framework whereby any policy option must be fiscally sustainable. The Administration believes that current spending must be increased to keep the Nation competitive. We also recognize that a scorekeeping regime that closes loopholes in current practice and forecloses options that are not fiscally responsible is necessary for budget discipline and to drive policy makers towards consensus. Further delay in addressing our inadequate surface transportation infrastructure, and our inadequate system for financing that infrastructure, is not an acceptable outcome for the American people.

Note that this budget process is only one element of the Administration's comprehensive plan to rebuild the Nation's transportation infrastructure and put the financing of those expenditures on a more sustainable path. The *Budget* and *Appendix* discuss the broader policy in more detail.

**Account-by-Account Budgetary Treatment.**—As under current law, the Budget proposes the enactment of no-year contract authority for the Transportation Trust Fund for each year, 2012-2017, totaling \$551 billion over six years. The contract authority is to be enacted by the reauthorization bill and, as under current law, will be classified as mandatory.

Under the budget, outlays flowing from that contract authority—which is already mandatory—will be treated as mandatory. The same treatment is applied to outlays flowing from prior obligations of the Highway Trust Fund, which will now be attributed to the Transportation Trust Fund. This is a departure from current law; as discussed earlier, this mandatory treatment of both contract authority and outlays follows the recommendation of the Fiscal Commission. As is the case for all other programs, this aligns outlays with budget authority, and by placing trust fund revenue and outlays on the PAYGO scorecard, it gives scoring effect to the linkage between dedicated re-

ceipts in a trust fund and the spending of those receipts for trust fund purposes.

For virtually all of the resources in the surface transportation reauthorization proposal, the Budget proposes that the reauthorization contain annual obligation limits at the same level as the contract authority, and also that annual appropriations bills include obligation limits at those levels. The obligation limits enacted by the appropriators enable the Administration and Congress to review TTF policies and resource levels on an annual basis, but under a framework that will continue to give external stakeholders a high level of certainty regarding the multi-year resource trajectory for highways, transit, passenger rail, and Infrastructure Bank activities.

The Budget modifies individual accounts to conform to the proposed budgetary treatment in all years. Specifically:

- For accounts that are presently classified as generating discretionary budget authority and outlays, but that the Administration proposes to incorporate into the TTF (for example the Federal Transit Administration's Capital Investment Grants account), the Budget includes separate schedules that:
  - Show baseline budget authority and outlays as discretionary, consistent with current classifications.
  - Reclassify baseline budget authority and outlays as mandatory in all years, including 2010 and 2011, for comparability purposes (i.e., to enable a comparison of funding levels across years in an account).
- Show mandatory changes (subject to PAYGO) to the baseline level of budget authority and outlays that are requested in the Budget.
- For accounts that are presently funded from the HTF and that the Administration proposes to incorporate into the TTF (for example, Federal-Aid Highways), the Budget includes separate schedules that:
  - Show baseline levels of mandatory contract authority and discretionary outlays resulting from obligation limitations contained in appropriations acts. Since SAFETEA-LU is only currently extended through March 4, 2011, the contract authority is frozen in all years subsequent to that extension, consistent with current scorekeeping conventions.
  - Reclassify discretionary outlays from obligation limitations as mandatory outlays from mandatory contract authority for the 2011 estimate and create a new baseline of contract authority that is equal to the previous inflated discretionary baseline for obligation limitations.
  - Reclassify 2010 enacted budget authority and outlays as mandatory for comparability purposes (i.e., to enable a comparison of funding levels across years in an account).
  - Show proposed mandatory spending above or below the baseline as PAYGO costs or savings.
- For proposed new accounts supported by the TTF (for example, the Federal Railroad Administration's Network Development account), the Budget includes a schedule that includes new mandatory contract authority and outlays requested to support those programs.

**Table 14–1. FUNDING, SPENDING, AND REVENUES ASSOCIATED WITH THE TRANSPORTATION TRUST FUND**

(Dollars in billions)

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	6-year	10-year
1. Funding for the Transportation Trust Fund (Contract Authority) .....	107	77	82	89	95	101	97	98	99	100	551	944
2. Estimated outlays .....	60	69	75	78	83	91	97	101	102	103	457	861
3. Baseline funding (Contract Authority and Budget Authority) .....	59	60	61	62	63	65	66	67	68	69	371	641
4. Estimated baseline outlays .....	53	50	59	60	61	64	67	69	70	71	348	624
5. Proposed funding increase .....	48	16	21	26	31	36	31	31	31	31	179	303
6. Estimated outlay increase .....	7	19	16	18	22	27	31	32	32	32	110	237
7. Dedicated revenues of the Transportation Trust Fund .....	64	76	80	82	85	87	90	92	94	97	475	848
8. Highway Trust Fund revenues (at current rates) .....	38	39	41	41	42	42	42	42	42	43	244	413
9. Placeholder revenue increase .....	26	37	39	41	43	45	48	50	52	54	231	435
10. Transportation Trust Fund annual cash flow .....	4	7	4	4	1	–4	–7	–8	–8	–7	17	–13
11. Transportation Trust Fund end-of-year balances .....	26	34	38	42	43	39	32	23	15	9		
Effect of proposal on overall budget:												
12. Estimated outlay increase (above) .....	7	19	16	18	22	27	31	32	32	32	110	237
13. Revenue increase, net of assumed 25 percent offset .....	20	28	29	31	32	34	36	38	39	41	174	328
14. Reduction in baseline deficits .....	13	9	13	13	10	7	5	6	7	9	64	91

Note: Amounts may not add due to rounding. This table includes \$1.9 billion in BA and \$1.5 billion in outlays in years 2013-2021 that were inadvertently omitted from account-level data in the Budget.

The discretionary accounts that are incorporated into the TTF construct are:

- Office of the Secretary, National Infrastructure Investments.
- Federal Railroad Administration (FRA): Operating Subsidy Grants to the National Railroad Passenger Corporation; Capital and Debt Service Grants to the National Railroad Passenger Corporation; Capital Assistance for High-Speed Rail Corridors.
- National Highway Traffic Safety Administration (NHTSA): Operations and Research.
- Federal Transit Administration (FTA): Administrative Expenses; Capital Investment Grants; Research and University Research Centers; Grants for Energy Efficiency and Greenhouse Gas Reductions.

Amounts in these accounts currently total \$7.1 billion. Note that in a number of cases, activities captured in these accounts are requested under a new account in the Administration's reauthorization proposal. For example, activities under the two existing Amtrak accounts are requested as part of the Federal Railroad Administration's new System Preservation account. In those instances, the PAYGO impact of the Administration's reauthorization proposal must be calculated at the aggregate level rather than the individual account level (i.e., the change between the reclassified baseline amounts in the existing General Fund accounts and the proposed levels in the successor account).

**Outyear Assumptions.**—Beyond the reauthorization proposal, the Budget assumes that contract authority will increase at one percent per year after 2017, although the requested legislation will only extend through 2017. As an exception, funding for the National Infrastructure Bank is assumed to end after 2017; resources of the Infrastructure Bank are assumed to support activity beyond the six-year time frame of the reauthorization proposal, and their level can be revisited when appropriate.

**Transportation Trust Fund Mechanics.**—As discussed earlier, the Budget proposes a successor to the Highway Trust Fund, the Transportation Trust Fund, containing four accounts:

- The Highway Account subsumes the highway and highway safety activities currently in the Highway Trust Fund plus the NHTSA Operations and Research account, currently a General Fund account.
- The Mass Transit Account subsumes the transit activities currently in the Highway Trust Fund plus four FTA accounts currently financed by the General Fund: Capital Investment Grants; Research and University Research Centers; Grants for Energy Efficiency and Greenhouse Gas Reductions; and Ad-

ministrative Expenses.

- The Rail Account focuses on developing high-speed rail and also subsumes activities currently financed from the General Fund: Capital Assistance for High-Speed Rail Corridors; Capital and Debt service grants to AMTRAK; and Operating Grants to AMTRAK.
- The final account covers the Infrastructure Bank (I-Bank) included in the Administration's reauthorization proposal.

The goal of a broader Trust Fund is to allow policy-makers to review surface transportation policy and spending in a more comprehensive way.

**Financing.**—The President is committed to working with Congress on a bipartisan basis to bring solvency to the Transportation Trust Fund and to ensure that funding increases for surface transportation do not increase the deficit. As a placeholder, the Budget assumes bipartisan agreement on new revenues sufficient to ensure the solvency of the Transportation Trust Fund through 2021. The placeholder does not make any specific assumptions about the composition of these new revenues, including whether they are composed of modifications to charges under current law, like the existing charges to motor fuels or truck tires, or new revenues. The Budget assumes that these revenues would be dedicated to the Transportation Trust Fund, as would all gross proceeds from existing excise taxes dedicated to the Highway Trust Fund and any unexpended balances of the Highway Trust Fund available at the beginning of 2012. In no year do the unexpended balances of the Transportation Trust Fund fall below \$8 billion; these resources are estimated to cover all the Trust Fund's outlays through 2021 with a cushion of \$8 billion or more in each year.

As a matter of policy, the Administration believes that the proceeds from existing Highway Trust Fund excise taxes should be dedicated solely to the highway and transit accounts; no existing excise taxes would be diverted to rail, I-Bank activities, or other activities. Rather, under the Administration's proposal, the new revenues would eliminate the projected shortfall in the Highway and Mass Transit accounts, cover increased funding for highways and mass transit, and finance passenger rail and Infrastructure Bank activities.

The Administration intends to work with Congress on a bipartisan basis to develop the specific revenues to be included in the reauthorization and the date on which they would become effective. The revenue stream displayed in the Budget is a placeholder that assumes that additional revenues become effective on January 1, 2012. This approach is intended to preclude the need for transfers from the General Fund to the Transportation Trust Fund. Note, however, that if the new revenues are not

effective until some year after 2012, transfers from the General Fund may still be necessary in 2012 and perhaps subsequent years. If that is the case, Administration policy is that the new revenues be sufficient to fully repay the General Fund by 2021 for any further transfers. A later effective date for the new revenues would therefore imply initially lower but ultimately higher annual revenues than shown in the Budget. Repaying the General Fund for any new transfers is also consistent with a budgetary treatment in which transfers from the General Fund to the Transportation Trust fund are treated as costs. Note that under Statutory PAYGO, such up-front costs are permissible if they are fully offset over the PAYGO window. Because the Administration's proposal does not require any future General Fund transfers, however, such a budgetary treatment of transfers is not a necessary component of the proposal.

Because some sources of revenue generate partially offsetting revenue reductions, the Budget makes the most conservative assumption, which is that a bipartisan agreement on financing produces new revenues that have the general characteristics of an excise tax, for which net proceeds are 75 percent of gross proceeds. This assumption is a conservative placeholder and is not intended to limit the choice of revenue type. The gross proceeds of the new revenues are to be deposited into the Transportation Trust Fund.

***Explanation of the Administration's Proposal and PAYGO Treatment.***—Table 14-1 details the Administration's surface transportation reauthorization proposal.

- Line one illustrates the proposed contract authority levels for accounts under the TTF, including accounts presently reflected as General Fund budget authority, HTF-funded accounts (hybrid treatment), and new activities. Note that the Administration proposes to front-load the reauthorization proposal to accelerate its economic impact. Line two illustrates outlay estimates associated with that contract authority, as well as prior-year outlays from the HTF.
- Line three illustrates the baseline level of budgetary resources for all activities proposed under the TTF. For comparability, those budgetary resources that were previously classified as discretionary are here displayed as mandatory. Line four illustrates the outlay estimates associated with those budgetary resources, including prior year outlays from the HTF.
- Lines five and six calculate the mandatory budget authority and outlay changes—the increases over the baseline levels. Line six is the amount that would be subject to PAYGO.
- Line seven indicates the assumed income of the Transportation Trust Fund available to liquidate

outlays. That figure is made up of two components: estimates associated with current law receipts (line eight) to the Highway Trust Fund and the placeholder revenue stream needed to maintain Trust Fund solvency (line nine). Note that the placeholder revenue stream is not intended to match solvency needs year by year; rather, it is a smoothed estimate of revenue required to keep the TTF solvent over the ten-year window. The smoothed estimate, however, produces somewhat more than the minimum needed amount of revenues in the earlier years.

- Line ten illustrates the net cash flow to the TTF assumed in each year (revenues minus outlays).
- Line eleven illustrates the notional cash balances of the TTF over the ten-year period. As mentioned above, in each year the balances exceed the \$8 billion minimally needed to ensure solvency.
- Lines twelve through fourteen illustrate the net impact of the proposal on the Budget.

In order to ensure the successful transition of these programs to a fiscally responsible framework, the Administration's proposal—or any proposal to make surface transportation programs subject to PAYGO—must consider two initial adjustments.

First, congressional scorekeeping must accommodate the initial shift from discretionary to mandatory outlays. As illustrated by line four, the activities that the administration proposes to incorporate in the TTF as mandatory outlays would generate discretionary outlays under current law totaling an estimated \$348 billion over six years and \$624 billion over ten years. If those outlays are reclassified, they should not be added to the PAYGO cost of any legislation by virtue of the fact that they are new to the mandatory side of the budget. Rather, the mandatory baseline should be adjusted to include those outlays that would occur under current law—as the 2012 Budget does—and calculate any changes from that baseline. Without this initial accommodation, the same archaic scorekeeping rules that frustrate budget discipline would prevent implementation of the Fiscal Commission's recommendation by overstating the cost of legislation intended to reform the hybrid system.

Second, to adhere to the Fiscal Commission's recommendation that the Transportation Trust Fund be fully financed by its own resources, additional revenue would be needed. Illustratively, over six years it would have to cover: 1) the difference between current law revenues and baseline HTF outlays (\$66.2 billion) to restore solvency to the existing HTF, 2) any reclassification of baseline activities currently financed by the General Fund (\$23.7 billion in the Administration's proposal), and 3) all program increases relative to the baseline (\$109.7 billion, shown in Table 14-1). The Administration suggests that, for revenue increases that fill the gap between current law spending (under a BEA baseline) and current law revenue, that

Table 14-2. EFFECT OF STUDENT AID PROPOSALS ON DISCRETIONARY PELL FUNDING NEEDS  
(Dollars in billions)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	11-year
Current law (discretionary) before administrative actions .....	17.5	23.2	44.2	35.7	36.3	36.8	37.3	37.8	38.4	38.9	39.4	40.0	
IRS Verification (Administrative action) .....			-0.3	-0.3	-0.3	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-3.7
Current law (discretionary) .....	17.5	23.2	43.9	35.4	36.0	36.4	36.9	37.5	38.0	38.5	39.0	39.6	
Pell reforms (discretionary): end year-round Pell, reform FAFSA ....			-7.6	-4.3	-4.4	-4.5	-4.6	-4.7	-4.8	-4.9	-4.9	-5.0	-49.6
Proposed total discretionary funding before mandatory legislation ....	17.5	23.2	36.3	31.1	31.6	31.9	32.4	32.8	33.2	33.6	34.1	34.6	
<i>Mandatory savings (non-add):</i>													
Student loan acquisition/debt consolidation .....			-2.1										-2.1
Student loan subsidies .....			-1.0	-3.2	-3.0	-3.0	-3.0	-3.0	-3.1	-3.2	-3.3	-3.3	-29.3
Savings in mandatory Pell .....		-0.5	-0.6	-0.7	-0.8	-1.0	-1.1	-1.3	-1.3	-1.4	-1.4	-1.4	-11.4
Other mandatory savings .....			-0.4	-1.1	-0.7	-0.5	-0.3	-0.6	-0.6	-0.6	-0.6	-0.5	-5.7
Total mandatory savings (non-add) .....		-0.5	-4.0	-5.0	-4.5	-4.4	-4.4	-4.9	-5.0	-5.2	-5.3	-5.3	-48.6
Mandatory funding for discretionary Pell .....			-7.7	-2.8	-3.3	-3.7	-4.1	-4.5	-5.0	-5.4	-5.9	-6.4	-48.6
Total reduction in Pell discretionary funding .....			-15.6	-7.4	-8.0	-8.5	-9.0	-9.6	-10.1	-10.6	-11.2	-11.8	-101.8
Remaining needed discretionary funding .....	17.5	23.2	28.6	28.3	28.3	28.3	28.3	28.3	28.3	28.3	28.3	28.3	

Note: Amounts may not add due to rounding

increment of revenue not be recorded as a credit to the PAYGO scorecard. That "excess" revenue should be reserved for filling that gap, whereas under current PAYGO rules it could be used to offset other direct spending.<sup>8</sup>

Finally, the transportation initiative includes \$5.350 billion of one-time, 2012 budget authority increases for TIGER grants and aviation, proposed as direct spending, that are not part of the TTF and so are not included in the table. These amounts are separate from the calculation of the amount of "excess revenue" that is kept off the PAYGO scorecard.

### Pell Grants

The Pell Grant program includes features that make it unlike other discretionary programs. In recent years, the program's costs have risen significantly. This section provides some background on the unique nature of the Pell Grant program and explains how the Budget accommodates these rising discretionary costs. A later section of this chapter discusses the treatment of Pell in the adjusted baseline.

Under current law, the Pell program has several notable features:

- The costs of each Pell grant are funded with both mandatory budget authority provided by the College Cost Reduction and Access Act (CCRAA) as amended, and discretionary budget authority provided in annual appropriations acts. There is no programmatic difference between the mandatory and discretionary funding.

<sup>8</sup> As explained above, the new revenues used to fill the existing shortfall in the HTF constitute deficit reduction, as do the new revenues used to cover the baseline amount of programs that are currently general fund programs but would become part of the TTF and so need dedicated financing. These two sources of deficit reduction are described in the text. However, they are partially offset by the fact that gross revenues increases having the general characteristics of excise taxes – as the placeholder revenues in this Budget are assumed to have – produce net revenues for the Budget as a whole that are 25 percent smaller. This 25 percent offset also reduces the amount by which the notional revenue increase exceeds the estimated increase in outlays.

- The Pell program acts like an entitlement program, such as the Supplemental Nutrition Assistance Program or Supplemental Security Income, where the size of the individual award and the number of eligible applicants together determine the cost in any given year. Specifically, Pell Grant costs depend on the maximum award set in statute, the number of eligible applicants, and the award for which those applicants are eligible based on their needs and costs of attendance. The current maximum Pell award for an academic year is \$5,550, of which \$4,860 is established in appropriations acts and the remaining \$690 is provided automatically by the CCRAA as amended.
- If valid applicants are more numerous than expected, or if these applicants are eligible for higher awards, the Pell program will cost more than the appropriations provided, and vice versa. If the costs during one academic year are higher than expected, the Department of Education funds the extra costs with the subsequent year's appropriation. The Department can do this because the annual appropriations act both sets the maximum Pell award and provides funding for the subsequent academic year. The 2012 appropriation, for instance, will support the 2012-2013 academic year beginning in July 2012.<sup>9</sup>
- To prevent deliberate underfunding of Pell costs, in 2006 the congressional and Executive Branch scorekeepers agreed to a special scorekeeping rule for

<sup>9</sup> This ability to "borrow" from a subsequent appropriation is unique to the Pell program. It comes about for two reasons. First, like many education programs, Pell is "forward-funded"—the budget authority enacted in the fall of one year is intended for the subsequent academic year, which begins in the following July. Second, even though the amount of funding is predicated on the expected cost of Pell during one academic year, the money is made legally available for the full 24-month period covering the current fiscal year and the subsequent fiscal year. This means that, if the funding for an academic year proves inadequate, the following year's appropriation will legally be available to cover the funding shortage for the first academic year. The 2012 appropriation, for instance, will support the 2012-2013 academic year beginning in July 2012 but will become available in October 2011 and can therefore help cover any shortages that may arise in funding for the 2011-2012 academic year.

## After Two Years of Democratic Control in Washington, A Transportation Roundup

Yonah Freemark

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» **Advances on livability and intercity rail were overshadowed by the inability of the Congress to legislate multi-year transportation funding. Republican control of the House beginning in January changes the equation significantly.**

The 2008 elections brought the full reigns of the executive and legislative branches of the U.S. government under the control of the Democratic Party, power that enabled the passage of the stimulus, health care reform, and, this month, a huge package of tax cuts. Though transportation policy was clearly not the priority of either the Obama Administration or the Congress, the decision by voters last month to install a Republican Party-controlled House of Representatives is likely to alter the government's approach on the issues quite significantly. Thus it is worth looking back to examine the record of federal government over the last two years.

The Obama Administration and the Democratic Congress have changed some aspects of federal policy significantly, advancing grant programs that reward cities for developing alternative transit systems and seriously promoting the national intercity rail project. A full-scale change in Washington's approach to transportation, however, has yet to be accomplished.

The most significant lost cause has been, of course, the inability of the Congress to move forward on a multi-year transportation reauthorization bill. Though then-Chair of the House Committee on Transportation and Infrastructure James Oberstar (D-MN) proposed a draft of such legislation in June 2009, his effort went mostly unnoticed on Capitol Hill. It was never brought to the attention of the full House of Representatives and the relevant Senate committees never bothered to consider it.

The biggest problem: Party control over Washington or not, the Democrats could not come to any sort of agreement about how to fund transportation, an increasing problem because gas tax revenues are falling relative to both inflation and the public need. President Obama refused to consider raising fuel fees in the midst of the recession and directed his press secretary to shoot down a promising alternative, the vehicle miles traveled fee. This meant repeated temporary extensions of the expired transportation legislation, SAFETEA-LU, paid for through general fund expenditures rather than the fuel tax. These problems have yet to be resolved, and are unlikely to change over the course of the next two years.

Mr. Oberstar's proposal would have transformed thinking about national transportation spending: It proposed shifting spending to two reserves, one dedicated to maintaining the existing system and then other to ramping up new capacity. Significantly, it would have

required some allocations to be distributed in a mode-neutral manner, meaning that in some corridors, a public transit project might be picked by a local agency as the best use of funds instead of a highway expansion. This would have represented a major advance over current affairs, since currently roads and transit funding are divvied up into separate pots. But the effort went nowhere.

Thus in terms of allocations towards highway programs, transit maintenance, and new rail projects, the Department of Transportation has changed little. Several major new transit capital projects have been approved to receive major New Start grants from Washington, including two light rail lines in Houston, two more in Denver, and the San Francisco Central Subway, among others. And funding on the nation's biggest transportation projects under construction, including New York's Second Avenue Subway and East Side Access, Dallas' Green Line, and Seattle's University Link, continued apace. (The decision by New Jersey Governor Chris Christie to cancel the ARC Tunnel was depressing for the public interest, but it reflected no failure on the part of Washington.)

Yet these projects would have probably been funded whether Democrats have swept into power or not. Other measures have been far more indicative of the changes that have taken place over the past two years.

The failure of the Democrats to move a transportation bill forward was partially resolved by the passage of the stimulus in early February 2009. That \$800 billion bill provided a huge shot in the arm to transportation projects all over the country, giving \$46.2 billion to highway, transit, and rail. Though highway expenditures continued to receive the majority of funds, their share of total spending was lower than in a typical year's federal transportation allocations. Without these essential funds, thousands of transportation projects, underfunded by local and state agencies, would have come to a halt.

But the big news was the \$8 billion the bill included for intercity rail, an allocation added personally by President Obama and far more than members of Congress had suggested in the course of their own negotiations. This infusion of funds, in addition to the \$2.5 billion directed for such projects in fiscal year 2010, represented the largest-ever American public commitment to rail. Whether the program is ultimately refunded remains up in the air, especially because of the radical anti-rail stance of some Republican governors in states such as Ohio and Wisconsin. Nonetheless, this funding is enough to ensure the construction of the first segment of California's high-speed line and finance major improvements to Amtrak corridors in Iowa, Michigan, North Carolina, and Washington. Florida's fast train between Tampa and Orlando — to be the first such project in the country — is now fully financed and will be built, as long as new Governor Rick Scott (R) agrees to the program.

The stimulus put a (temporary) end to a highly egregious anti-transit rule that provided higher tax rebates to drivers than public transportation riders.

Finally, the stimulus provided to the Department of Transportation \$1.5 billion in funding to distribute to projects at the discretion of the Secretary. These TIGER grants were offered to mobility programs that were not being funded under traditional means. When grantees were announced in February 2010, hundreds of millions of dollars were provided to freight rail improvement programs and upgrades to transportation terminals. In addition, streetcar projects in Dallas, Detroit, and Tucson received big endorsements, starting off a national streetcar boom.

The department used congressionally allocated funds to finance another \$600 million in TIGER II grants unveiled in October 2010. These sponsored streetcar lines for Atlanta and Salt Lake City and several freight projects, among others. In addition, it provided funding for the demolition of a freeway in New Haven for the purposes of transforming it into an urban boulevard, arguably a first for U.S. transportation funding.

The Urban Circulator grants announced in December 2009 and awarded in July 2010 provided another \$293 million in funds for bus improvements and streetcar construction. Though Fort Worth has apparently abandoned its planned streetcar, even after receiving a \$25 million commitment from Washington, Cincinnati, Charlotte, and St. Louis — each of which also benefited from major allocations — are moving ahead. Several other cities, including Chicago, New York, and Stamford, got funding for downtown busways. Boston received \$3 million for the nation's first federally funded bike sharing program. Together, the Urban Circulator, TIGER, and TIGER II grant programs represent the government's largest-ever contribution to small-scale transit projects, and the nation's first major public commitment to the construction of streetcar lines.

Correspondingly, for the first time, the Department of Transportation has taken the idea of "livability" seriously and directed allocations accordingly. In March 2009, the DOT announced the Joint Sustainable Communities Initiative with the Department of Housing and Urban Development with the goal of coordinating federal transportation and housing expenditures. This was a major demonstration of the government's commitment to the effort to plan mobility and development in sync, an idea that has been accepted by urban planners for years but largely off the radar of government officials.

In addition, in January 2010, the agency announced that it would be changing the way it judged transit New Start capital grants to move beyond the assumption that cost-effectiveness based on "travel time savings" is the most important indicator of a good transportation project. This policy move opened up the possibility of funding "slow" transit, arguably the best sort for the creation of walkable neighborhoods.

In Fall 2010, the Obama Administration began pushing for a new transportation bill. The President announced that he wanted a \$50 billion "downpayment" on transportation infrastructure with the ultimate goal of constructing 4,000 miles of railways and 150 miles of runways, on top of renovating 150,000 miles of roads. This package — a sort of second stimulus — would be the first step in a multi-year transportation bill. But the Congress' focus instead on tax cuts won the day, and this transportation focus seemingly disappeared.

Two years of Democratic Party power in Washington, then, meant quite a few improvements to the nation's transportation policy-making, bringing to the fore projects that have been largely ignored by the government for decades. The Obama Administration and its allies in Congress have made clear their collective interest in funding projects that are founded on the idea that transportation can be an important element in the creation of livable cities. This represents a significant and positive change from past federal policy. But there is more work to be done.

Republican control of the House of Representatives is unlikely to simplify the extension of many of the new programs undertaken over the past two years — from high-speed rail to TIGER. Though these programs have faced some controversy and *should* be made more transparent, they have been well-managed, largely fair in their distribution of grants, and, crucially, have spread funding to cities across the country, in both Red and Blue states. In order to assure their future, President Obama will have to articulate their positive effects nationwide and advance ways to fund them that appear bipartisan and consensus-worthy.

Will he make the effort to do so when the nation has so many other pressing needs? Is there enough political support on either side of the aisle to maintain a major federal commitment to transport policies that do not revolve around the construction of highways?

I should note as a postscript that Secretary of Transportation Ray LaHood, who had no concrete previous transportation experience, has taken to his job quite seriously and is deserving of praise. Though in his previous post — as a congressman from Peoria, Illinois — he represented an area relatively unfamiliar with the mobility needs and problems of the nation's biggest cities, he has proven himself to be a strong advocate of transit and intercity rail programs. Compared to the experience under President George W. Bush, Mr. LaHood has been practically a dream; Mr. Bush repeatedly asked Congress to reduce expenditures on Amtrak to zero (the legislature fortunately declined to do so) and the Secretary of Transportation in his later years, Mary Peters, almost shut the doors on one of the nation's biggest and most important transit projects, the extension of the Washington Metrorail to Dulles. Similarly, Ms. Peters was unwilling to spend federal money on streetcars and hoped to replace most light rail plans with cheaper bus rapid transit lines. What a change we have seen in Mr. LaHood.