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Appropriations for FY2001: Department of Transportation and Related Agencies

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ABSTRACT

Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bounded by the rules of the House and Senate, the Congressional Budget and Impoundment Control Act of 1974 (as amended), the Budget Enforcement Act of 1990, and current program authorizations.

This report is a guide to the Department of Transportation (DOT) and Related Agencies appropriations bill for FY2001. It is designed to supplement the information provided by the Subcommittees on Transportation of the House and Senate Committees on Appropriations. It summarizes the current legislative status of the bill, its scope, major issues, historic funding levels (by agency and major programs), and requests for the upcoming fiscal year, and related legislative activity. The report lists the key CRS staff relevant to the issues covered and related CRS products.

It will be updated following each major legislative stage, especially following legislative action in the committees and on the floor of the House and Senate.

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Appropriations for FY2001: Department of Transportation and Related Agencies

Summary

Both houses of Congress have passed somewhat different versions of the FY2001 Department of Transportation (DOT) Appropriations Act (H.R.4475). The House of Representatives version provides total budgetary resources of $55.2 billion; the Senate version provides $54.7 billion. The roughly $500 million difference is partly an outgrowth of the lower budget cap that Senators had to work with. The House and Senate bills both provide significant increases above FY2000 enacted funding for all major agencies except the Federal Railroad Administration (FRA). However, compared to the House bill, there are two losers in the Senate bill. The Senate bill provides almost $200 million less for the Federal Aviation Administration (FAA) and $257 million less for the Coast Guard. For the overall DOT budget, the Senate bill represents a 9.5% increase over the FY2000 budget; the House bill represents a nearly 10.5% increase.

The President's FY2001 budget, released on February 7, 2000, had proposed spending just under $55 billion for the DOT and related agencies. This would have amounted to an increase of slightly more than 9% above the FY2000 level.

The House and Senate bills as well as the Administration's request reflect the continuing impact of the Transportation Equity Act for the 21st Century (TEA21). The House and Senate figures for highway funding and for mass transit are in agreement and conform closely to TEA21's provisions. The bills raise highway funding by over 6.5% and transit funding by almost 8.5%. The Administration's proposed increases of 5% for highways and roughly 9% for transit reflected the Administration's requested changes in TEA21's provisions for distribution of Revenue Aligned Budget Authority (RABA) funds.

The enactment of FAIR21 (P.L. 106-181), which reauthorized the FAA through FY2003, has had a major impact on the agency's funding for FY2001. Both the House and Senate-passed versions of H.R. 4475 provide for an increase in the FAA's total budgetary resources of well over 20%. In the House-passed version, both the Airport Improvement Program (AIP) and the Facilities and Equipment (F&E) budget are funded at the FAIR21 guaranteed level of $3.2 billion and $2.657 billion, respectively. However, in a possible nonconformance with FAIR21, the Senate initially funded AIP and F&E at the required levels but then provided for a transfer of $120 million of AIP contract authority to the FAA Operations and Maintenance (O&M) budget.

Most observers do not expect a difficult conference on H.R. 4475 but there are still some issues to be resolved. These issues include: removing the Senate bill's transfer of $120 million of AIP funding that may not conform to FAIR21; language to strengthen state drunk driver blood alcohol standards to 0.08%; raising the budget allocation to increase the Coast Guard's and FAA's O&M budgets; motor carrier "hours of service" rules; project earmarking; and spending restrictions related to the corporate average fuel economy (CAFÉ) standards.

Key Policy Staff

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Airport Improvement Program/FAA Reauthorization	Bob Kirk, John Fischer	RSI RSI	7-7769 7-7766
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Federal Railroad Administration	Paul Rothberg	RSI	7-7771
Federal Transit Administration	John Fischer, Bob Kirk	RSI RSI	7-7766 7-7769
Highway and Truck Safety	Paul Rothberg	RSI	7-7012
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Division abbreviations: RSI = Resources, Science, and Industry Division.

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Most Recent Developments

On June 15, 2000, the Senate passed the Department of Transportation and Related Agencies Appropriations (DOT) bill, 2001 (H.R. 4475, as amended by S. 2720). Although the bill provided more than a 9% increase for DOT, including increases for nearly all major programs, the amount was roughly $500 million below the amount the House of Representatives had approved in May. The Senate's overall spending appears to be in conformance with the Transportation Equity Act for the 21st Century (TEA21). However, in including a provision to allow for the transfer $120 million of Airport Improvement Program (AIP) contract authority to be transferred to the Federal Aviation Administration's (FAA) operations and maintenance (O&M) budget, the bill may not conform to the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21).

On May 19, 2000, the House had passed its version of H.R. 4475. The bill called for a budget of just over $55 billion, an increase of more than 10% above the FY2000 enacted level. The spending levels in the bill are in conformance with the spending guarantees of both TEA21 and FAIR21 and provide increases for nearly all agencies.

On February 7, 2000, the President submitted a DOT FY2001 budget request that was slightly under $55 billion, roughly 9% above the enacted FY2000 level.

Conferees are expected to meet after the August recess to begin resolving differences in the two versions of H.R. 4475. Issues include: the transfer of $120 million from AIP to the FAA Operations budget that may not be in conformance with FAIR21; the inclusion of language to strengthen state drunk driver blood alcohol standards to 0.08%; raising the budget allocation to the House's level to allow more spending on the Coast Guard and FAA Operations; changes in motor carrier "hours of service" rules; the earmarking of projects; and the spending restrictions related to corporate average fuel economy (CAFÉ) standards.

The Transportation Appropriations Framework

Transportation is function 400 in the annual unified congressional budget. It is also considered part of the discretionary budget. Funding for the DOT budget is derived from a number of sources. The majority of funding comes from dedicated transportation trust funds. The remainder of DOT funding is from federal Treasury general funds. The transportation trust funds include: the highway trust fund, the transit account of the highway trust fund, the airport and airway trust fund, and the inland waterways trust fund. All of these accounts derive their respective funding from specific excise and other taxes.

Together, highway and transit funding constitute the largest component of DOT appropriations, and can account for 60% to 70% of total federal transportation spending in any given year. Most highway and the majority of transit programs are funded with contract authority derived by the link to the highway trust fund. This is very significant from a budgeting standpoint. Contract authority is tantamount to, but does not actually involve, entering into a contract to pay for a project at some future date. Under this arrangement, specified in Title 23 U.S.C., authorized funds are automatically made available at the beginning of each fiscal year and may be obligated without appropriations legislation. Appropriations are required to make outlays at some future date to cover these obligations.

Where most federal programs require new budget authority as part of the annual appropriations process, transportation appropriators are faced with the opposite situation. That is, the authority to spend for the largest programs under their control already exists and the mechanism to obligate funds for these programs is also in place.

Prior to the FY1999 DOT Appropriations Act, changes in spending in the annual transportation budget component had been achieved in the appropriations process by combining changes in budget/contract authority and placing limitations on obligations. The principal function of the limitation on obligations is to control outlays in a manner that corresponds to congressional budget agreements.

The authority to set a limitation on obligations for contract authority programs gave appropriators considerable leeway in allocating funds among the various federal transportation activities in function 400, which includes agencies such as the Coast Guard and the Federal Aviation Administration. In addition, the inclusion of the highway and transit programs and their trust-fund generated revenue streams in the discretionary budget provided appropriators with additional flexibility as part of the annual process by which available funds were allocated amongst the 13 standing appropriations subcommittees in the House and the Senate.

Changes in Transportation Appropriations as a Result of TEA21

TEA21 changed this budgetary procedure in two ways. First, it created new budget categories and second, it set statutory limitations on obligations. TEA21 amends the Balanced Budget and Emergency Deficit Control Act of 1985 to create two new budget categories: highway and mass transit. TEA21 further amends the budget process by creating a statutory level for the limitation on obligations in each fiscal year from FY1999 to FY2003.

In addition, TEA21 provides a mechanism to adjust the amounts in the highway account, but not the transit account, to correspond with increased or decreased receipts in the highway-generated revenues. This Revenue Aligned Budget Authority (RABA) redistributes to the various states, for obligational TEA21 highway programs, the trust fund revenues that are in excess of projected receipts. These additional revenues are allocated to the states using the formulas spelled out in the law. However, the FY2000 DOT request proposed redirection of RABA funds from highway programs to other DOT initiatives, predominantly for environmental activities associated with the Congestion Mitigation and Air Quality (CMAQ) program and for transit. In the end, the FY2000 DOT appropriations act (P.L. 106-69) did not adopt the Administration's proposed redirection of RABA funds. In its FY2001 budget submission, the Administration again suggested that a portion of RABA funds be redirected, although the beneficiary programs to which additional funds would be made available are different from those proposed in FY2000.

The net effect of the creation of these new budget categories is a predetermined level of funding for core highway and transit programs, referred to in TEA21 as a discretionary spending guarantee. The highway and mass transit categories are separated from the rest of the discretionary budget in a way that prevents the funds assigned to these categories to be used for any other purpose.These so called "firewalls" are viewed, in the TEA21 context, as guaranteed and/or minimum levels of funding for highway and transit programs. Additional funds above the firewall level can be made available for highway and transit programs through the annual appropriations process.

TEA21 changes the role of the House and Senate appropriations and budget committees in determining annual spending levels for highway and transit programs. The appropriations committees are precluded from their former role of setting an annual level of obligations. In addition, it appears that the Act precludes, at least in part, the House and Senate appropriations committees from exercising what some Members view as their traditional option of changing spending levels for specific programs or projects. In the FY2000 Appropriations Act, however, it appears that appropriators have taken some tentative steps to regain some of their discretion over highway spending. The FY2000 Act called for the redistribution of some funds among programs and added two significant spending projects.

As suggested earlier, the TEA21 firewalls appear to diminish the flexibility of the committees on appropriations to meet the goals of the annual budget process, because the committees can only adjust the DOT agency or program budgets outside the firewalls. Hence, any reduction in spending for function 400 must be allocated to agencies or programs other than highways or transit. This has raised special concern for supporters of the Coast Guard and Amtrak, which are the largest DOT functions without firewall protection.

Changes in Transportation Appropriations as a Result of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR 21 or AIR21)

FAIR21 (P.L. 106-181, signed April 5, 2000) provides a so-called "guarantee" for FAA program spending. The guarantee for aviation spending, however, is significantly different from that provided by TEA21. Instead of creating new budget categories, the

FAIR21 guarantee rests on adoption of two point-of-order rules for the House and the Senate. The first point-of-order prevents Congress from considering any legislation that does not spend all of the "total budget resources" as defined by FAIR21 for aviation purposes. Total budget resources for purposes of the Act are essentially the revenues and interest accruing to the aviation trust fund. The second point-of-order prevents any spending for FAA operations and maintenance (O&M) or Research, Engineering and Development (RE&D), unless the Airport Improvement Program (AIP) and the Facilities and Equipment (F&E) portions of the FAA account are funded at their fully authorized levels.

Almost all observers view the FAIR21 guarantees as being somewhat weaker than those provided by TEA21 for highway and transit programs. Congress can, and sometimes does, waive points-of-order during consideration of legislation. In addition, there is a sense that appropriators might still have some latitude to make significant changes to FAA O&M funding, which is dependant on both trust fund and general fund contributions. For FY2001, the supporters of FAIR21 have the assurances of House leadership that no point-of-order waivers will be considered. Similar assurances were not provided by Senate leadership.

Supporters of FAIR21 believe the Act requires significant new spending on aviation programs. And for at least the FY2001 appropriations cycle, this is likely to be the case. Enactment of FAIR21 means that transportation appropriators have total control over spending for the Coast Guard, the Federal Railroad Administration (including Amtrak), and a number of smaller DOT agencies. All of these agencies are concerned about their funding prospects especially if overall domestic discretionary spending caps are not raised sufficiently.

Supporters of the Coast Guard are especially concerned about this new transportation appropriations environment. The Coast Guard is not funded by a trust fund, and hence cannot claim a user-fee base to support an argument for its own budget firewalls. The Coast Guard has a unique status within the transportation budget category because of its wartime role in national defense. It is not unusual for the Coast Guard to receive some funds from military appropriations during the annual appropriations process. It is possible that the Coast Guard will seek additional funding from the military side of the budget in the years ahead if additional funds from transportation appropriations do not become available.

Table 1. Status of Department of Transportation Appropriations for FY2001

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
H.R. 4475 5-8-00	S. 2720 6-13-00	H.Rept. 106-622 5-17-00	5-19-00	S.Rept. 106-309 6-14-00	6-15-00	–	–	–	–

Key Policy Issues

With release of the Clinton Administration's FY2001 budget proposal on February 7, 2000, the budget debate began in earnest. In proposing an overall transportation spending level of nearly $55 billion, the Administration continues to emphasize its safety, research, environmental, infrastructure, and mobility priorities which complement Vice President Gore's proposals concerning the Administration's "livability agenda." Additional issues have arisen during congressional consideration of the appropriations legislation, however, perhaps because of the shortness of the election-year session there have not been many. Another reason the FY2001 DOT appropriations debate was less contentious than last year is that has been argued in a less constrained budgetary environment. Conference is expected to occur after Labor Day.

The unresolved issues are relatively narrow. The Senate version of H.R. 4475 includes language that would penalize states, by reducing their funding under certain federal highway programs, that do not adopt and enforce a 0.8 blood alcohol concentration (BAC) law. The Senate bill also includes a provision that prohibits DOT from spending funds to consider, adopt, or enforce any proposed rule or proposed amendment to the existing hours of service regulations that govern the driving and work hours of commercial drivers. In addition, the Senate bill includes a provision that could be in nonconformance with FAIR21. It allows FAA to transfer $120 million of Airport Improvement Program (AIP) funds to the Operations and Maintenance (O&M) budget. This could be interpreted as lowering AIP funding below the $3.2 billion trigger level for the new AIP distribution formulas. If the old formulas remain intact, this could cause a significant shift of funds from the formula program and a relative increase in the monies available for discretionary grants. The House version of H.R. 4475 includes language that restricts DOT spending related to changing the corporate average fuel economy (CAFÉ) standards. The remaining issues include project earmarking and whether to raise the budget allocation to the House level to allow for more spending for the Coast Guard or FAA's O&M budget.

Major Funding Trends

Table 2 shows Department of Transportation actual or enacted funding levels for FY1988 through FY2000 plus the President's budget proposal for FY2001. The major portion of these funds are contract authority.[1] Total DOT funding almost doubled from FY1988 through FY2000 and the FY2001 proposal adds to this growth trend. Totals may not include some user fee collections; thus, program totals may vary from other figures cited in this report.

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[1] Starting in the early 1990s, about $300 million of the funds shown in **Table 2** were transferred from the DOD appropriations budget to DOT. These monies are used to support Coast Guard activities.

Table 2. Department of Transportation Appropriations: FY1988 to FY2001
(in millions of dollars)

Fiscal Year [a]	Appropriation [b]
FY1988 Actual	25,779
FY1989 Actual	27,362
FY1990 Actual	29,722
FY1991 Actual	32,776
FY1992 Actual	36,184
FY1993 Actual	36,681
FY1994 Actual	40,359
FY1995 Actual	38,878
FY1966 Actual	37,378
FY1997 Actual	40,349
FY1998 Actual	42,381
FY1999 Enacted	47,224
FY2000 Enacted[c]	49,995[c]
FY2001 Proposed	54,566[d]

[a] "Actual" amounts from FY1988 to FY1998 include funding levels initially enacted by Congress in the Department of Transportation and Related Agencies Appropriations bill as well as any supplemental appropriations and rescissions legislation enacted at a later date for that fiscal year. "Enacted" figures for FY1999 and FY2000 are mostly taken from the conference report tables (H.Rept. 106-355).
[b] Amounts include obligations, limitations, DOD transfers, and exempt obligations.
[c] The across-the-board rescission mandated for FY2000 required a reduction of roughly $179 million from the $50.174 billion provided in P.L. 106-69.
[d] FY2001 proposed funding figure is taken from budget tables provided by the House Committee on Appropriations.

Coast Guard

[http://www.uscg.mil/]

The Coast Guard's increased responsibilities for drug and illegal immigrant interdiction on the high seas and its aging fleet of water craft and aircraft are two concerns associated with its funding. The Administration requested $4.608 billion for Coast Guard discretionary funds in FY2001.[2] Compared to the total $4.022 billion appropriated in

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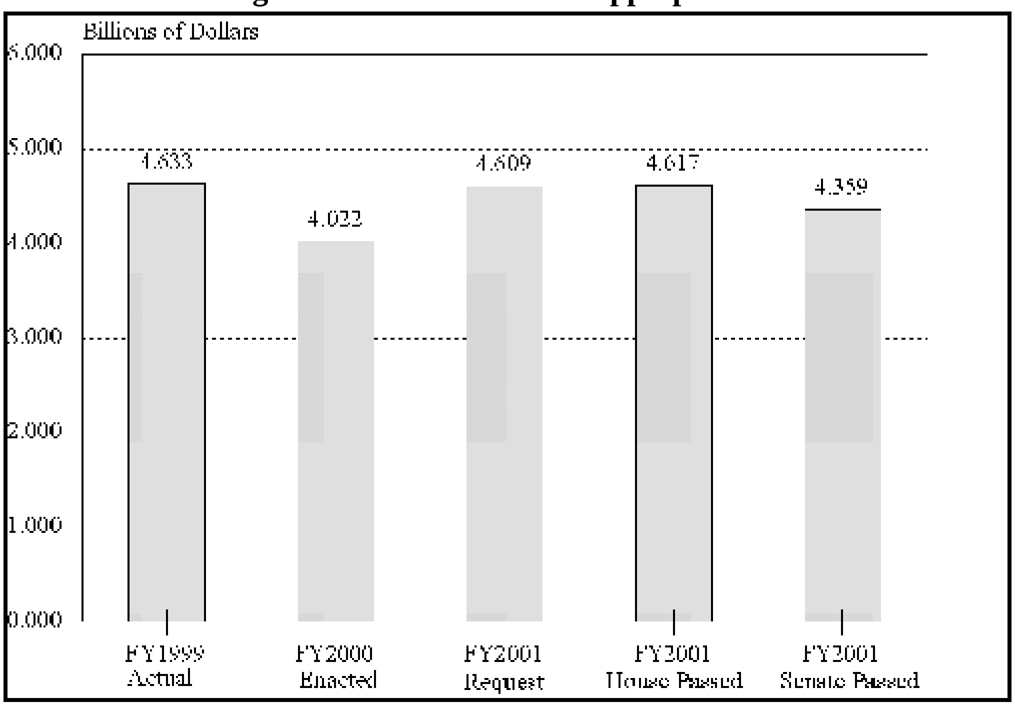
[2] The Administration's budget includes a number of offsets to adjust for proposed but unauthorized user fees that would require authorizing legislation outside the jurisdiction of the appropriations committees. The House Appropriations Committee figures on the Administration's budget request factor out the impact of these non-existent user fees.
(continued...)

FY2000, the FY2001 request represents a $586 million, or 15% increase. In approving FY2001 funds on May 16, 2000, the House Appropriations Committee (H. Rept. 106-622) recommended a total of $4.617 billion, an amount approved by the House on May 19, 2000. This amount was $7.9 million above the President's request. On June 14, 2000, the Senate Appropriations Committee approved $4.359 (S. Rept. 106-309), an amount approved by Senate on June 15. Coast Guard programs are authorized every 2 years; see CRS Report RS20117, *Coast Guard FY2000 and FY2001 Authorization Issues*, for discussion of current congressional consideration of authorization bills. For a more in depth discussion of the Coast Guard's budget, see CRS Report RS20600, *Coast Guard: FY2001 Budget Issues*.

The Coast Guard budget request of $4.609 billion is proposed to enable the Coast Guard to continue its activities against drug smuggling and recapitalize aircraft and vessel fleets. Of this amount, $3.199 billion (a 15% increase compared to FY2000) would be allocated to operation and maintenance of a wide range of ships, boats, aircraft, shore

Figure 1. U.S. Coast Guard Appropriations



units, and aids to navigation. The House approved $3.192 billion, $7 million less than requested; the Senate, $3.040, $159 million less than requested. Another major component of the request would assign funds for acquisition, construction, and improvement purposes. For this component, the Administration sought $520 million, a

[2] (...continued)
Because of this difference, the figures in the textual discussion of the President's FY2001 request will differ from the figures in the tables and charts of this report that rely on the House Appropriations Committee budget tables. The appropriations committee adjusted total for the Coast Guard request is $4.609 billion.

34% increase compared to FY2000 funds. The House passed $515 million, $5.2 million less than requested; the Senate $407.8 million, $107 million less than the request. The proposal sought, and the House and Senate approved, $17 million, roughly the current level, for Coast Guard activities for environmental compliance and restoration. For research, test, and evaluation, the plan requested and the Senate approved $21.3 million, $3 million more than FY2000 funds; the House-approved amount of $19.7 million is $1.6 million less than requested. For Coast Guard retirement, the budget sought, and the House and Senate approved, $778 million, $48 million more than the current level. The Administration requested $73 million to train, support, and sustain a ready military Selected Reserve Force of 7,600 members for direct support to the Department of Defense and to provide surge capacity for responses to emergencies such as cleanup operations following oil spills. The House and Senate approved $80.4 million, $7 million more than requested.

A prominent issue has been the Coast Guard's management of a major planned replacement of aging and outmoded high seas' vessels and aircraft. Only planning and analysis funds of about $45 million are requested for this in the FY2001 request; actual purchases of nearly $10 billion are anticipated over a 20-year period beginning in FY2002. During hearings before the Coast Guard's authorizing and appropriating subcommittees in 1999, the General Accounting Office (GAO) criticized the Coast Guard's handling of this vital replacement program. CRS Report 98-830F, *Coast Guard Integrated Deepwater System: Background and Issues for Congress*, discusses the issues associated with the program. In approving FY2000 funds in P.L. 106-69, Congress specified that the Coast Guard submit a comprehensive capital investment plan with its FY2001 budget justification, a date not met by the Coast Guard. The House FY2001 bill includes language requiring a capital investment plan covering 2002-2006 to be submitted with the FY2002 budget and specifies a recission of $100,000 per day if the due date is not met. The Senate-passed bill would withhold FY2001 planning funds until the study is completed.

Another issue involves the Coast Guard's planned use of user fees. The FY2001 budget anticipates using roughly $95 million from new user fees for recapitalization of vessels, information management, and Coast Guard shore infrastructure not part of the deepwater replacement effort. The Administration has proposed legislation to authorize user fees for commercial cargo vessels and cruise ships; it anticipates collecting $212 million in FY2001 and $636 million annually when the fee system is fully operational. Past proposals for user fees for traditional Coast Guard services, such as buoy placement and vessel traffic regulation, have been controversial. Some have argued that these services should be funded from general funds because of their widespread benefits; others think that user fees should be assigned in instances where the beneficiaries can be clearly identified. In passing FY2000 appropriations in P.L. 106-69 (H.R. 2084), Congress included bill language prohibiting the Coast Guard from using any FY2000 funds "to plan, finalize, or implement any regulation that would promulgate new user fees..." The FY2001 House- and Senate-passed FY2001 bill continues this prohibition.

Federal Railroad Administration (FRA)

[http://www.fra.dot.gov]

The House and Senate-passed FY2001 appropriations bills (H.R. 4475) include somewhat different funding for FRA. The House bill provides $689 million; the Senate bill provides $705 million. Both the House and Senate bills include roughly $521 million for Amtrak. Both bills also reject the Administration's request for $468 million in RABA funding for its expanded Intercity Passenger Service fund.

In the Senate, the floor debate included discussion of an amendment that would have allowed states to use federal-aid highway funds for intercity passenger rail (see the discussion at end of the FAA section).

During the debate in the House, two significant provisions were eliminated from the points-of-order: one that would have allowed the use of Congestion Mitigation and Air Quality Improvement (CMAQ) or Surface Transportation Program (STP) funds for intercity rail passenger vehicles and facilities; and a second provision that would have increased the federal share for the elimination of rail-highway crossing hazards from 90% to 100%.[3]

For FY2001, the Administration had requested $1.179 billion for FRA.[4] This would have been roughly a 60% increase over the FY2000 enacted level. This requested increase reflected the impact of a new DOT initiative: the Expanded Intercity Rail Passenger Service Program.

The most notable reduction from the FY2000 amount was a $50 million cut for Amtrak. Amtrak issues are discussed in a separate section below.

Railroad Safety and Technology. The FRA is the primary federal agency that promotes and regulates railroad safety. In the FY2000 budget, the Administration requested about $95.5 million for the railroad safety program and all other administrative and operating activities related to FRA staff and programs. Most of those funds were used to pay for salaries as well as associated travel and training expenses for field and

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[3] Although the 100% matching share provision was eliminated from H.R.4475, it was included in the FY2000 emergency supplemental spending provisions included in the Military Construction Appropriations Act, 2001 (P.L. 106-246).

[4] The Administration's budget includes a number of offsets to adjust for proposed but unauthorized user fees that would require authorizing legislation outside the jurisdiction of the appropriations committees. The House Appropriations Committee figures on the Administration's budget request factor out the impact of these non-existent user fees. Because of this difference, the figures in the textual discussion of the President's FY2001 request will differ from the figures in the tables and charts of this report that rely on the House Appropriations Committee budget tables. The Appropriations Committee total for the Administration's FRA request is $1.056 billion.

headquarters staff and for information systems monitoring the safety performance of the industry.[5] The conference agreement accompanying P.L. 106-69 specifies $94.3 million for those expenses. For FY2001, the Administration is requesting $103.2 million for those expenses. In H.R. 4475, the House Committee on Appropriations recommended $102.5 million for FRA's safety and operations activities. In the Senate version of H.R. 4475, the Senate Committee on Appropriations recommended $99.4 million. The House and Senate-passed bills retained the committee recommended levels.

The last railroad safety reauthorization statute was enacted in 1994 and funding authority for that program expired at the end of FY1998. FRA's safety programs continue using the authorities specified in federal railroad safety law already and with annual appropriations. Subcommittees of the Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee held extensive hearings during the 105th Congress on various railroad safety issues. Those deliberations did not result in a consensus to enact a law that would have authorized continued funding for the regulatory and safety compliance activities conducted by the FRA or change any of the existing authorities used by that agency to promote railroad safety. A reauthorization statute changing the scope and nature of FRA's safety activities would most likely affect budgets after FY2001.

The adequacy and effectiveness of FRA's grade-crossing activities continue to be of interest, especially after the March 1999 crash between an Amtrak train and a truck in Bourbonnais, IL., which resulted in 11 deaths and more than 110 injuries. Relevant safety issues include: How is FRA helping the states deal with the grade crossing safety challenge? Is FRA's FY2001 budget adequate to deal with that challenge? Congressional reaction to those questions had a bearing on the railroad safety budget for FY2000. The FY2000 conference agreement increased funding for Operation Life- saver to $.95 million and provided support for a national public service campaign to increase awareness to crossing safety and trespass prevention. In its FY2001 budget, FRA is requesting additional staff and funding to strengthen its grade crossing program and associated public education activities. The House Report specified a total of $.95 million for Operation Lifesaver activities for FY 2001. The Senate Report recommended $1.1 million.

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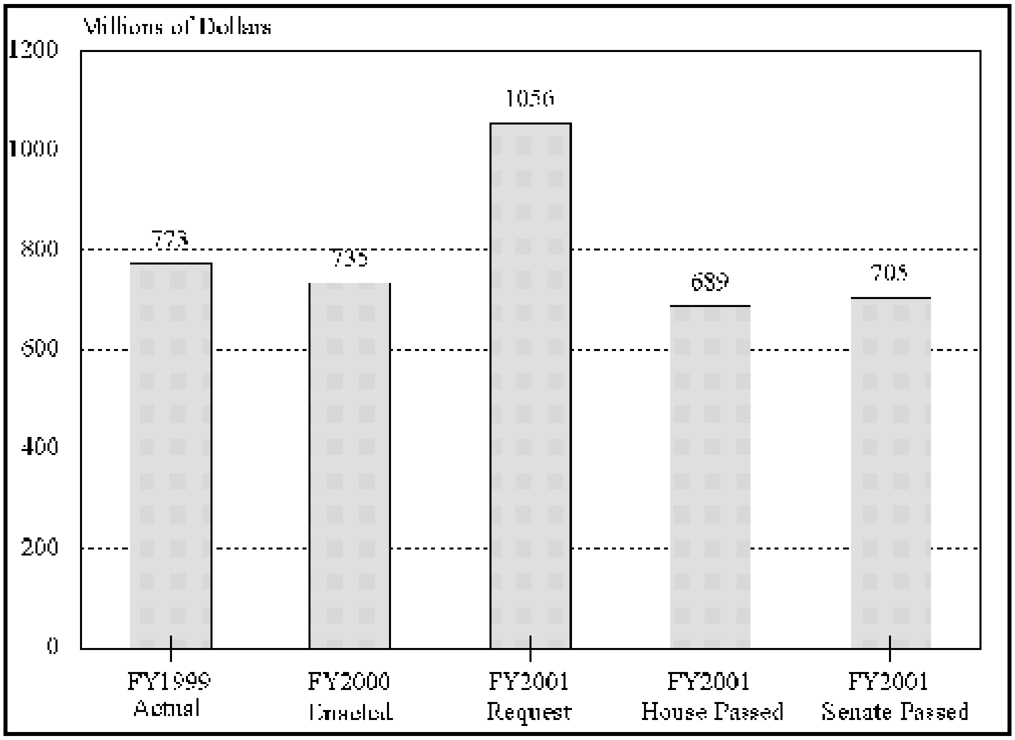
[5] Those funds also are used to conduct a variety of initiatives, including the Safety Assurance and Compliance Program (SACP), the Railroad Safety Advisory Committee (RSAC), and field inspections. SACP involves numerous partnerships forged by railroad management, FRA personnel, and labor to improve safety and compliance with federal railroad safety regulations. RSAC uses a consensus-based process involving hundreds of experts who work together to formulate recommendations on new or revised safety regulations for FRA's consideration.

To support its safety program, the FRA conducts research and development (R&D) on a diverse array of topics, including: fatigue of railroad employees, technologies to better control train movements (positive train control), and track dynamics. For FY2000, the FRA requested $21.8 million for railroad R&D. The conference agreement on P. L. 106-

Figure 2. Federal Railroad Administration Appropriations



69 specifies $22.5 million for the FY2000 R&D program. For FY2001, FRA is requesting $26.8 million for railroad R&D activities. In H.R.4475, the House Committee on Appropriations recommended $26.3 million for railroad R&D. The Senate Committee on Appropriations recommended $24.7 million for railroad R&D. In the reports accompanying the House and Senate transportation appropriation bills and in the annual conference report, the appropriations committees historically have allocated the railroad R&D funds among various research categories pertaining to safety.

High Speed Rail R&D and Magnetic Levitation R&D. In FY2000, $27.1 million was made available for the Next Generation High Speed Rail Program. The FRA is requesting $22 million to continue this program in FY2001. In H.R. 4475, the House Committee on Appropriations recommended $22 million for FRA's high speed rail program. The Senate Committee on Appropriations recommended $24.9 million for FRA's high speed rail program. TEA21 authorizes $20 million of contract authority in FY2000 to support the Magnetic Levitation (maglev) Transportation Technology Deployment Program. For FY2001, TEA21 provides $25 million of contract authority for continuation of the maglev program.

Amtrak

[http://www.amtrak.com]

The FY2000 budget authority for Amtrak was $571 million compared to $609 million in FY1999. Amtrak also had about $1.1 billion available in FY1999 from the Taxpayer Relief Act of 1997 for such things as new equipment and improved signaling and track. Amtrak borrowed some of that $1.1 billion to cover operating expenses. The Administration requested $521 million for Amtrak for FY2001. The House-passed appropriations bill provides $521 million for Amtrak for FY2001. The Senate-passed bill also provides $521 million for Amtrak for FY2001.

Federal financial operating assistance to Amtrak is prohibited after FY2002 (49 U.S.C. 24101 (a) (1999)). GAO and the DOT Inspector General (IG), at the request of Congress, have evaluated Amtrak operations and outlook, and have reported to Congress that they are not optimistic that Amtrak will be able to operate without federal financial operating assistance after FY2002. In 1997, Congress created an independent national commission, entitled the Amtrak Reform Council (Council), and assigned it several tasks regarding Amtrak and the future of intercity rail passenger service. The Council submitted its first annual report to Congress in January 2000. In that report, the Council stated that "During the decade when the American economy and most of its transportation system have expanded in an unprecedented manner, Amtrak's ridership has remained virtually unchanged . . . . The most notable accomplishment of intercity rail passenger service since 1970 is that it has simply managed to survive, albeit as a declining percentage of the total transportation market." The report contains suggestions for Amtrak. The report also contains issues the Council intends to study during 2000.

In addition to federal financial operating assistance to Amtrak, the DOT IG estimates that over the next several years, Amtrak will require $2.7 billion to $4 billion in federal funds for new equipment and improvements to signaling and track. Some of these funds would be used to upgrade track between Washington, DC, and New York City, the most heavily traveled Amtrak route. Beyond this amount, the DOT IG estimates that Amtrak will have additional, continuing requirements for federal funding for new equipment and improvements to signaling and track for the foreseeable future.

Amtrak Reform Council. Amtrak Reform Council (Council) funding is presented within the budget request, although the Council is an independent federal commission. The budget authority for the Council was $750,000 in FY2000 compared to $450,000 in FY1999. The Administration requested $1 million for FY2000. The House Appropriations Committee recommended $1 million for FY2001. However, during debate on the floor the bill (H.R. 4475) was amended to provide only $450,000 for the Council for FY2001. The Senate-passed bill recommends $495,000 for the Council for FY2001.

The Council was created in 1997 to perform an independent assessment of Amtrak's labor agreements, Amtrak's progress in increasing employee productivity, and [any time after December 2, 1999] Amtrak's ability to operate without federal operating assistance after September 30, 2002. Congress added other duties later. If the Council concludes that Amtrak will require federal operating assistance after September 30, 2002, then federal law requires the Council to submit to Congress an Amtrak reorganization plan; requires Amtrak to submit to Congress an Amtrak liquidation plan; and states that legislative action will be taken by the Senate.

Expanded Intercity Rail Passenger Service Fund. The Administration's budget proposal requested the establishment of a new grant program to aid Amtrak and intercity rail passenger service, to be funded at $468 million in FY2001. The Administration requested that the $468 million come from RABA funds associated with the highway trust fund. These funds would have required a 100% match of state funds. The projects would have to make a positive financial contribution to Amtrak and produce public benefits in excess of public costs. Projects would have to be located on a current or potential future intercity rail corridor. Funds were to go toward the acquisition of equipment, construction of infrastructure improvements including acquisition of right-of-way, and planning and design. Funds were to be used only for capital as defined by Generally Accepted Accounting Principles (GAAP), thus excluding them from being used for maintenance of equipment or track. The House-passed bill provides no funding for FY2001. The Senate-passed bill also provides no funding for FY2001.

An amendment was offered from the floor to allow states to use their apportionments from the highway trust fund (specifically, from the national highway system program, the surface transportation program, and the congestion mitigation and air quality improvement program) to pay for capital improvements for intercity passenger rail service. The argument for this amendment was that the individual states were the best judges of their most urgent transportation needs and should be given the flexibility to spend their available transportation funds as they see fit. The arguments against this amendment were that the repair and maintenance needs of the nation's highway system were very great, therefore none of the money available for that purpose should be allowed to be used for anything else, and that expanding the spending criteria of these programs to include things other than highways would constitute legislating in an appropriations bill. The amendment failed on a point of order objection that the amendment was legislating in an appropriations bill; the objection was upheld by a 52-46 vote.

Federal Highway Administration (FHWA)

[http://www.fhwa.dot.gov]

The Senate passed version of the FY2001 appropriations bill provides FHWA with total budgetary resources, $30.7 billion, comparable to those found in the House passed version of the bill, also $30.7 billion. Both House and Senate bills provide funding at levels slightly above the $30.6 billion level found in the Administration proposal. Programmatically, the House and Senate bills closely track the Administration proposals, which are in turn governed by the provisions of TEA21. The limitation on obligation funding level in both bills is an identical $29.7 billion. The House and Senate bills essentially ignore an Administration request to redistribute a portion of FY2001 revenue aligned budget authority (RABA) funds.

The FHWA portion of the appropriations bill has drawn little comment during floor consideration of this legislation in either the House or the Senate. There is little by way of controversy surrounding the FHWA budget. The possible exception to this statement is the level of specific project earmarking for the Federal Lands Highway Program and the Transportation and Community and System Preservation Pilot Program. The reports accompanying both the Senate and House bills detail specific, and in some cases different, project earmarks for both of these programs.

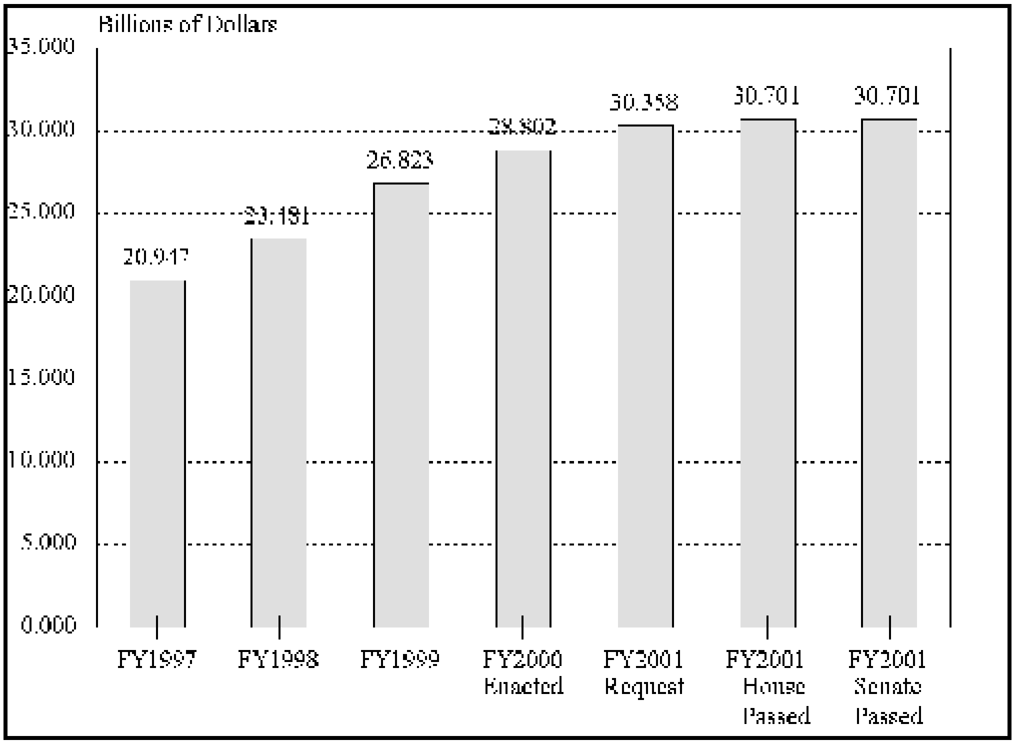
The Administration was proposing a total FHWA budget of $30.358 billion for FY2001. In terms of the total FHWA budget, this represented an increase of just over 5% from the FY2000 level. The obligational limitation, which supports most of the federal-aid highway program, was set at $29.319 billion; funding for exempt programs (emergency relief and a portion of minimum guarantee funding) was set at just over $1 billion. All of the core FHWA funding programs received considerable increases in the context of the program framework established by TEA21 (described later in this section).

The Administration was also proposing that only $2.31 billion of the available RABA be assigned to highway programs. This meant that $741 million of RABA fund would have been transferred within DOT agencies for mostly non-highway activities. In addition, the Administration was proposing that specific programs within FHWA's jurisdiction receive designated distributions of RABA funds. For example, funding for Indian reservation roads and highway tax fuel evasion projects would have increased to levels beyond those that would be provided by TEA21. The proposal to change the distribution of RABA funds is a controversial one. The Administration made a redistribution proposal in FY2000 that was ultimately ignored by Congress. The Administration proposal for FY2001 is of a different nature than last year's request in that it does not provide a major shift of RABA funds to transit.

A final issue likely to have arisen as a result of the Administration proposal was the use of contract authority to fund a number of the proposed increases discussed above. The net effect of this proposal was to potentially exceed the obligational limitation detailed in TEA21. In other words, the Administration spending proposal appeared to exceed TEA21 authorized levels for some programs. Hence, either new authorizing legislation, with concomitant increases in contract authority, would have been needed to accommodate the new funding levels (an unlikely prospect at the moment) or some existing programs would have seen spending reductions to accommodate the increased spending for favored initiatives. Both of these scenarios were unpopular with highway interest groups and with those Members who do not want to see the TEA21 framework changed.

In FY2000, the FHWA was provided with $28.8 billion in total budgetary resources. This was a $2.0 billion plus increase over the FY1999 level. The FY2000 Appropriations Act continued the dramatic growth in FHWA funding that has resulted from passage of TEA21 in 1998. By way of comparison, funding for FY2000 was over $10 billion more

Figure 3. Federal Highway Administration Appropriations



than what was available in FY1995. A final adjustment to FY2000 FHWA spending was a reduction of just over $105 million pursuant to the government wide rescission (P.L. 106-113) of 0.38% that occurred at the end of the first session.

The FY2000 Act largely followed the provisions of TEA21 in terms of overall funding distribution (a discussion of the TEA21 program structure follows this section). The principal change in the FY2000 Act was in the distribution of RABA funds for programs under the direct control of the FHWA. These so called “allocated” funds go to programs such as the Federal Lands Highway Program and the Highway Beautification Program. The effect of the Act’s provisions was to transfer a significant portion of the RABA funds designated for the allocated funds to core highway programs (surface transportation program, national highway system program, etc.) for distribution to the states on a formula basis. The other major change in the Act was a significant increase in the number of specific projects and funding levels detailed in the legislation. This earmarking is a common feature in other parts of the transportation appropriations Act, but had been absent from the highway section of the Act for several years. H.R. 4475 also includes significant earmarking for FY2001.

The 0.08% Blood Alcohol Concentration (BAC) Provision. The Senate-passed version of H.R. 4475 includes a provision that would reduce the amount of highway trust funds that a state receives if it does not adopt and enforce a"0.08 blood alcohol concentration (BAC)" law. Such a statute makes it illegal (by definition) to operate a motor vehicle at or above a 0.08 BAC. Under the Senate provision, the DOT Secretary would be required beginning in FY 2004 to withhold 5% of certain federal aid highway funds for any state that has not yet adopted and enforced a 0.08 BAC law. Beginning in FY 2005, that amount increases to 10%. The withheld funds would be reapportioned to a state if it adopts and enforces a 0.08 BAC law within three years from the date that the funds were initially withheld. Those supporting this approach often assert that the incentive specified in TEA-21 (see section 163 (a) of chapter 1 of title 23of the U.S. Code), which provides additional federal aid funds to those states that enact and enforce a 0.08 BAC law, has not proven sufficient to encourage many additional states to implement the 0.08 BAC limit and that stronger measures are needed. Those against the approach specified in the Senate bill typically maintain that each state should determine its own traffic safety laws without federal pressure or dictates. Some also argue that the weight of evidence documenting the effectiveness of a 0.08 BAC law needs to be strengthened before the federal government forces enactment of this measure on all states.

The TEA21 Funding Framework. TEA21 created the largest surface transportation program in U.S. history. For the most part, however, it did not create new programs. Rather, it continued most of the highway and transit programs that originated in its immediate predecessor legislation, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA, P.L. 102-240). Programmatically, TEA21 can be viewed as a refinement and update of the ISTEA process. There are a few new funding initiatives in TEA21, such as a Border Infrastructure Program, but the vast majority of funding is reserved for continuing programs.

There are several groupings of highway programs within the highway firewall. Most of the funding is reserved for the major federal aid highway programs, which can be thought of as the core programs. These programs are: National Highway System (NHS), Interstate Maintenance (IM), Surface Transportation Program (STP), Bridge Replacement and Rehabilitation, and Congestion Mitigation and Air Quality Improvement (CMAQ). All of these programs are subject to apportionment on an annual basis by formula and are not subject to program-by-program appropriation.

There is a second category of highway funding within the firewalls. This so called "exempt" category consists of two elements, an additional annual authorization of minimum guarantee funding ($639 million per fiscal year) and emergency relief ($100 million per fiscal year). These funds are not subject to the annual limitation on obligations.

A further set of programs, which are also within the firewall, are known as the "allocated" programs. These programs are under the direct control of FHWA or other governmental entities. These programs include: the Federal Lands Highway Program, High Priority Projects (former demonstration project category), Appalachian Development Highway System roads (formerly ineligible for trust fund contract authority), the National Corridor Planning and Border Infrastructure Program, and several other small programs.

As discussed earlier, TEA21 provides a link between the highway generated revenues that flow into the highway account and highway spending. The Act requires that the Secretary of Transportation make an annual evaluation of revenues into the highway account during the previous fiscal year vis-a-vis spending authorized within the highway firewall for the new fiscal year. If revenues go up, program spending is increased. Conversely, spending can go down if revenues go down. TEA21 specifies a formula to determine the direction and amount of highway funding adjustment. Known as RABA, this mechanism was employed beginning in FY2000.

FHWA Research, Development, and Technology (RD&T) Programs. The FHWA proposed increasing funding for various RD&T activities from $437.2 million in FY2000 to $658.8 million in FY 2001. These funds were to be used primarily to advance and deploy technologies intended to improve pavements, highway structures, roadway safety, highway policies, and intelligent transportation systems (ITS). The largest requested increases, in dollar amounts, were in FHWA's Surface Transportation R&D and the Intelligent Transportation Systems (ITS) programs. More specifically, FHWA requested increased funding for its surface transportation R&D program from $98 million in FY2000 to $138 million in FY2001. The Administration also requested $238 million for ITS deployment, which is $120 million above the amount of contract authority specified in TEA21. The ITS deployment program provides funds for states and local governments to use advanced communication and information systems to improve the management and safety of their surface transportation systems. The source of the proposed additional funding was to be new contract authority that would be added to the contract authority already authorized under TEA21. Because a legislative change to Title V of TEA21 would have been required to add this additional contract authority, it was uncertain whether the additional funding requested by FHWA for RD&T would be provided. In H.R. 4475, the House Committee on Appropriations recommended $437.2 million, including $98 million for surface research program and $118 million for ITS deployment, the amounts authorized in TEA-21. The Senate Committee on Appropriations recommended identical amounts. The House and Senate-passed versions of H.R. 4475 provide for the committee recommended levels.

An issue associated with the ITS deployment program is the earmarking of funds. During the last few years, the appropriators have designated a substantial portion of the incentive funds used to accelerate ITS deployment. For example, in FY1999 the appropriators earmarked the entire deployment account by specifying which cities or states would receive those funds and the amounts to be obligated. The conference agreement accompanying P.L. 106-69 also earmarked the FY2000 deployment account. TEA21 also specifies several projects which are to receive some of the ITS deployment funds. Some Members and proponents of ITS would prefer to have the deployment funds competitively awarded. Numerous earmarks for ITS deployment projects are specified in the FY 2001 House and Senate Reports.

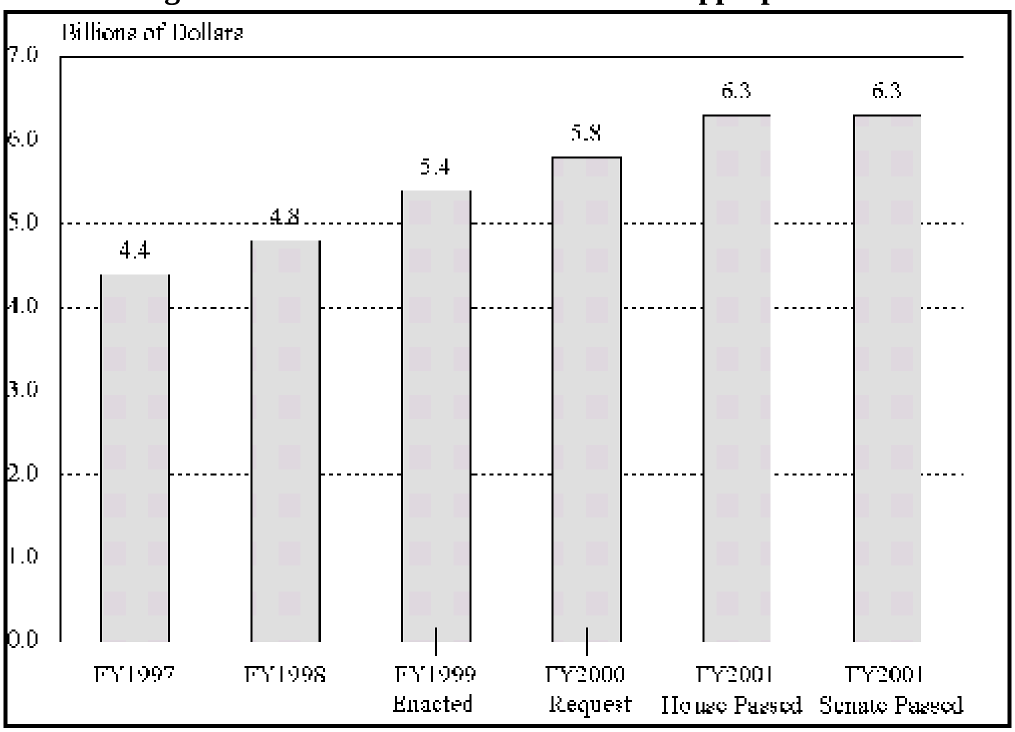
Federal Transit Administration (FTA)

[http://www.fta.dot.gov/]

Both the House and Senate-passed FY2001 appropriations bills (H.R. 4475) provide $6.3 billion in total budgetary resources for FTA. This is essentially the TEA21 guaranteed level. The two versions of the bill agree on all major funding categories. This funding level compares with an FY2000 appropriation of almost $5.8 billion.

For FY2001, the Administration proposal would have funded FTA programs at nearly the same $6.3 billion level as the House and Senate, with much of the difference being the addition of $75 million from RABA, mostly for the job access and reverse commute program. Congress has rejected the Administration's proposed use of some RABA funding for transit.

Figure 4. Federal Transit Administration Appropriations



In FY2000, most of the discussion on the budget submission focused on the Clinton Administration's proposal to divert a large chunk of RABA funding to transit. Congress basically ignored this proposal and funded the program at the TEA21 transit guarantee funding levels.

As mentioned above, the FY2000 Act provided a total of $5.8 billion for FTA. Almost all FTA programs received funding increases. The transit appropriations shown in **Figure 4** illustrate the significant increase in funding for FY1999 to FY2000 and proposed for FY2001, following the enactment of TEA21 in 1998. As **Figure 4** shows, transit funding under TEA21 reached its highest funding level to date in FY2000.[6] The $ 6.3 billion (an 8.4% increase over FY2000), provided for FY2001 in the House and Senate-passed versions of H.R. 4475, continues the impact of TEA21 on transit spending.

FTA Program Structure and Funding. There are two major transit programs: the Major Capital Investment Program and the Urbanized Area Formula Program. There are also several smaller formula and planning and research programs.

The Major Capital Investment Program (Section 5309—formerly known as Section 3) is comprised of three major components: new transit starts, fixed guide way modernization, and bus and bus facilities. For FY2001, the Clinton Administration proposed funding of this program at $2.65 billion. This is slightly higher than the FY2000 level of $2.5 billion. These funds are allocated on a discretionary basis by FTA or earmarked by Congress. The House and Senate-passed bills both provide $2.65 billion for the program for FY2001.

The Administration FY2001 budget proposes that 12 new rail transit projects be considered for full funding grant agreements. Rail transit project selection is always a controversial exercise because there are more potential projects listed in TEA21 than can be funded within the transit guaranteed funding level. The Senate report (S. Rept. 106-309) language expresses the opinion that DOT should reassess its request for the 12 new projects given the number of projects deemed eligible for funding under TEA21. The House and Senate bills provide $1.058 billion for new starts.

The Urbanized Area Formula Program (Section 5307—formerly known as Section 9) provides for the urbanized area capital and, in some cases, operating needs. These activities include bus and bus-related purchases and maintenance facilities, fixed guide way modernization, new systems, planning, and operating assistance. For FY2001, the Administration requested $3.45 billion, a slight increase over the $3.05 provided in FY2000. These funds are apportioned on a complicated formula process based, in part, on population and transit service data. The House and Senate-passed bills provide $3.45 billion for the Section 5307 program for FY2001.

Section 5307 contains several specific formula set asides: urbanized areas (areas with populations of 50,000 or more), nonurbanized areas (less than 50,000), grants for elderly and individuals with disabilities, clean fuels, and over-the-road bus accessibility. Slightly less than 90% of the Administration FY2001 Section 5307 proposal is for urbanized areas (urbanized areas over 1,000,000 population receive two-thirds of the funding; urbanized areas with populations under 1,000,000 receive the remaining third) and just over 6% of this is designated for nonurbanized areas.

TEA21 authorized a new discretionary Job Access and Reverse Grant Program. This program provides transportation assistance for welfare recipients and low income persons

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[6] Pursuant to the government wide 0.38% rescission at the end of the 1st Session, FTA programs were cut by $17.6 million from the level provided in the FY2000 Act.

to find and get to work in suburban areas. The Administration proposed that this program be funded at a level of $150 million in FY2001, with $50 million coming from redistributed RABA funds. The House and Senate bills both rejected the use of $50 million in redistributed RABA funds and provide $100 million for the program. The FY2000 funding level for this program was $75 million, although the Administration had requested $150 million.

With the enactment of TEA21, operating assistance funding was eliminated for urbanized areas (UZAs) with 200,000 or more population. However, preventive maintenance, previously eligible for funding from operating assistance, is now eligible under an expanded capital grants formula program. Urbanized areas under 200,000 population, including rural areas (under 50,000 population), can use all of the formula funds for either capital or operating purposes.

The earmarking of transit projects could be an issue in conference, given the differences in the report language of the House report (H. Rept. 106-622) which lists, for example, dollar amounts for bus and bus facilities, and that of the Senate report (S. Rept. 106-309) which does not.

Federal Aviation Administration (FAA)

[http://www.faa.gov/]

Administration Request. For FY2001, the Administration proposed funding the Federal Aviation Administration (FAA) at $11.2 billion, which would have been $1.2 billion, or 12% more than was enacted last year. In FY2000, the agency was, for the first time, funded in full from the airport and airway trust fund with no general fund support. The Administration again proposed full funding from the trust fund, supplemented with $1.5 billion in new user fees not yet enacted. The issue of no general fund support for the FAA is highly controversial, however. Historically, a significant portion of the agency's budget comes from general fund revenues, the rationale being that the public at large realizes some benefit from aviation whether it uses the system or not.[7]

The Administration is again calling for the creation of a semiprivate air traffic control system supported by fees on airlines but still under the jurisdiction of the federal government. Specifically, the Administration wants Congress to replace the current excise tax on airline passengers with a system in which the actual commercial users of air traffic control services pay, based on the cost of those services. The FAA intends to use existing authority to create a performance-based organization for air traffic control services headed by a chief operating officer. Last year, the same structure drew opposition from airlines and the general aviation lobby, which represents owners of small private planes. Such plans

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[7] General fund appropriations have varied substantially, both in dollar terms and as a percentage of FAA appropriations as a whole, from year to year. Over the last 12 years the share has ranged from 0% to 47%. See table 1, in CRS Report RS20177, *Airport and Airway Trust Fund Issues in the 106th Congress*, by John W. Fischer.

have been consistently rejected by Congress. The Administration's proposal for Air Traffic Control reform was outlined by FAA Administrator Jane Garvey in testimony before the House Committee on Transportation and Infrastructure, Subcommittee on Aviation, on March 1, 2000 [http://www.faa.gov/apa/testimony/2000/301tejg.htm].

Operations and Maintenance (O&M). Primarily for salaries, the $6.6 billion requested for operations was almost 12% more than last year's appropriation and was to cover mandatory cost increases and additional staffing. The increase included funding for 202 additional field maintenance staff and $129 million to maintain traffic control and navigation equipment now being delivered as part of the modernization of the air traffic control system. The request also was for funding 64 additional staff for air carrier and aircraft certification and safety surveillance, and 94 additional staff to inspect hazardous goods shipments and monitor the performance of airport security measures. An additional $25 million was included for initiatives to protect FAA's computer systems from criminal intrusion, as part of a larger $91 million FAA-wide effort.

Facilities and Equipment (F&E). The $2.5 billion F&E request was 22% more than the FY2000 appropriation and was to be used to improve and modernize the national air space system infrastructure. The request includes:

- $1.1 billion for procurement and modernization of air traffic control facilities.

- $614 million for engineering, development, test, and evaluation of advanced systems. This account included $220 million for FAA's Free Flight program, which is a satellite-based air traffic management concept intended to give pilots greater control over the routes they fly, saving airlines fuel and time. Wide area augmentation, a key element of the program, was zeroed out last year because of concerns that the Administration had not adequately justified the program and was moving too fast. The Administration requested $111 million for wide area augmentation this year.

- $586 million for mission support, including systems engineering technical support, contractor oversight of equipment installation, and expenses related to FAA employees who manage and implement FAA projects.

- $202 million for procurement of facilities and equipment to support missions other than air traffic control, including $97.5 million to continue implementation of explosive detection devices.

Research, Engineering and Development (RE&D). The RE&D request of $184 million was 18% above the amount appropriated last year. It included $49 million for continued research in aircraft structures and materials, and $49 million for explosive detection and other security research. The remaining research funding provides for improvements in weather information, resolution of environmental issues, human factors, and support of the FAA laboratories.

Grants-in-Aid for Airports. The Airport Improvement Program (AIP) provides grants for airport development and planning. The President's FY2001 budget proposes AIP spending of $1.95 billion. This is the same level enacted in the FY2000 appropriations bill (P.L. 106-69). However, for FY2000 AIP funding was reduced by $54.4 million as part of the 0.38% across-the-board rescission required by P.L. 106-118.

FAIR21 (P.L. 106-181), which reauthorizes AIP, was signed into law by the President on April 5, 2000. For FY2001, FAIR21 authorizes $3.2 billion, a 68 % increase over FY2000, if AIP is funded at the fully authorized level. FAIR21 includes so-called funding "guarantee"language that supporters believe will assure AIP funding at the fully authorized level. The House-passed FY2001 appropriations bill, H.R. 4475, conforms with the FAIR21 guarantee of $3.2 billion for AIP in FY2001. In the Senate version of H.R. 4475, the bill's conformance has been questioned because of a provision that allows for $120 million of the $3.2 billion of AIP contract authority be made available for "air traffic services to maintain aviation safety."

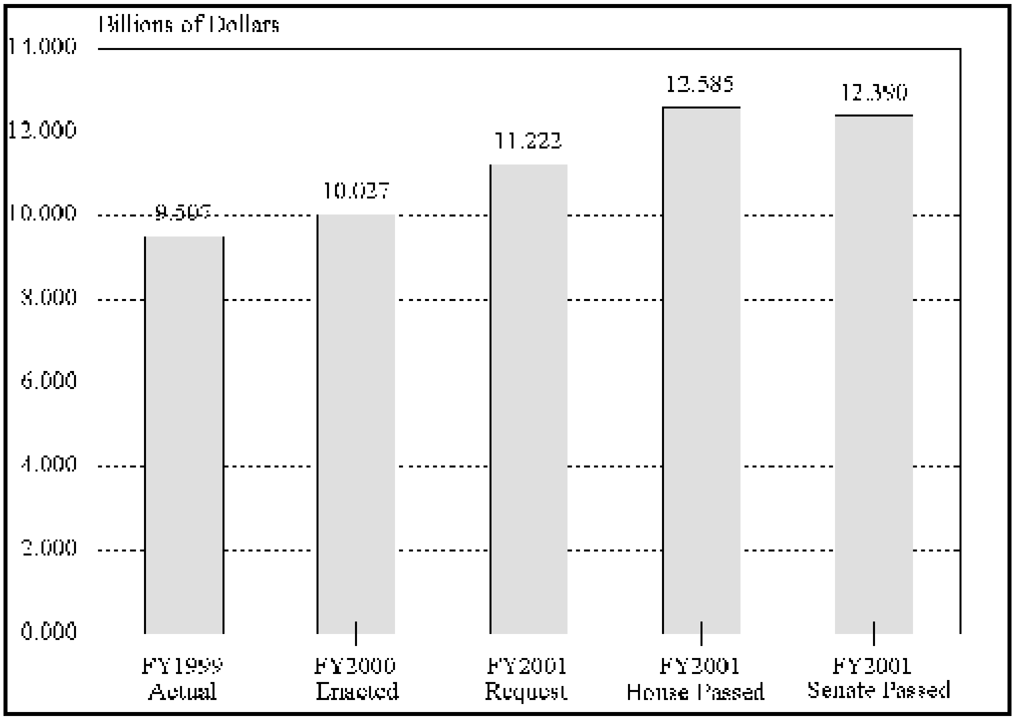
If the provision is included in the enacted legislation, there could be programmatic ramifications for the distribution of AIP grants. In FAIR21, most of the new funding formulas are designed to adjust for the much larger amounts of money to be distributed and have an AIP funding trigger level of $3.2 billion. If $3.2 billion is cut by the $120 million transfer, the old funding formulas might remain in effect. If this happens, it could cause a significant shift of monies away from formula program grants and a relative increase in the monies available for discretionary grants.

Although neither the House report (H. Rept. 106-622) not the Senate report (S. Rept. 106-309) earmark specific amounts of AIP discretionary funding to individual airports, both bills "place-name" a large number of Airports and direct the FAA to consider project grant applications at these airports as priority projects. Place-naming could become an issue in conference, either because of the large number of airports place-named, or because some conferees might wish to add specific dollar amounts to place-named projects. Traditionally appropriations bills have not added specific dollar earmarks to place-named airports.

Both the House and Senate-passed FY2001 appropriations bills (H.R. 4475) include a rescission of $579 million in FY2000 contract authority made available in FAIR21. The rescission will have no programmatic impact on the AIP funding available for FY2001 .

House Action on FY2001 FAA Appropriations. The House Appropriations Committee reported H.R. 4475, the FY2001 DOT appropriations bill, on May 17, 2000 (H.Rept. 105-622). The measure passed the full House on May 19, 2000, with little debate. Under the House bill, FAA funding will increase to $12.585 billion, which is about

Figure 5. Federal Aviation Administration Appropriations



$2.5 billion more than last year's amount and $1.363 billion more than the Administration request. Concerns that the operations account might have to be cut because it was not protected by FAIR21 were unfounded, at least in the House bill.

The facilities and equipment account mark is $2.657 billion, roughly the same as called for by FAIR21. This is an increase of $582 million over last year, and $162 million more than the Administration request. Funding for the Airport Improvement Program is increased to $3.2 billion. This is almost 70% more than was appropriated last year, and in line with the increase called for by FAIR21. The operations account is raised to $6.544 billion, an increase of $644 million (11%) over this year's level, but $48 million under the Administration request. About 70% of the operations budget ($4.4 billion) is reportedly drawn from the Aviation Trust Fund with the balance coming from the general fund. This is roughly the ratio envisioned by FAIR21. The $184 million mark for FAA's research, engineering, and development program matches the Administration's request, but does not meet the FAIR21 authorized level of $237 million.

Senate Action on FY2001 FAA Appropriations. The Senate Appropriations Committee reported H.R. 4475 on June 14, 2000 (S. Rept. 106-309), and the bill passed unanimously on June 15, 2000. The Senate bill provides a total of $12.540 billion for the FAA, including $6.470 billion (adjusted for the $120 million transfer from AIP) for operations, $2.656 billion for facilities and equipment, $183 million for research, engineering and development, and $3.2 billion (excluding the transfer to operations) for the Airport Improvement Program.

While the total appropriation represents a substantial increase over last year's amount, the Senate mark for FAA operations is $120 million less than the Administration's request (the House mark is about $50 million under the request). An even larger shortfall in the operations account was avoided when the Senate Appropriations Committee redirected $120 million in airport grants to air traffic services. According to press accounts, FAA Administrator Jane Garvey has said that the funding shortfall will prevent the agency from hiring 170 more safety inspectors and medical certification staff, and result in 10,000 fewer safety inspections than last year. The Senate Appropriations Committee has indicated that the budget pinch in the operations account is due in part to FAA's "failure to manage its workforce." The situation, it said, "will necessitate a comprehensive reevaluation of the agency's approach to operational functions." (S. Rept. 106-309, p. 46.)

Impact of FAIR21 on the FAA FY2001 Budget. The recently enacted FAA reauthorization act, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21, P.L. 106-181), will have a significant impact on the DOT budget and appropriations debate for FY2001. This is because the so-called funding "guarantees" and point-of-order enforcement provisions in the Act make it more difficult than in previous years for appropriators to fund the FAA below the authorized level. Funding at the fully authorized level of $12.7 billion would exceed the Administration's request by $1.5 billion (13% higher) and would be $2.7 billion above (17% higher) the FY2000 enacted level.

The funding guarantee enforcement provisions require that all annual aviation trust fund revenues be spent on aviation and that the AIP and F&E accounts must be fully funded at the authorized level before any legislation to fund the O&M or RE&D accounts can be considered (See introductory section for a more detailed explanation). This arrangement provides the capital portions of the FAA budget, AIP and F&E, with stronger procedural protection from reductions during the appropriations process. However, by implication it may leave the O&M and RE&D budgets more at risk from reductions which might otherwise have been made agency-wide. The assumption by supporters of FAIR21 is that, because the O&M account is mostly for salaries for air traffic controllers and other safety-related personnel, it is a difficult target for "budget hawks" to cut. Therefore, by protecting AIP and F&E, FAIR21 leaves the more difficult targets available for cuts.

FAIR21 authorizes the O&M budget at $6.592 billion, the same as the Administration request. AIP is authorized at $3.2 billion, F&E at $2.657 billion, and RE&D at $237 million. The levels for these three accounts are all significantly higher than the amounts requested by the Administration.

Aviation trust fund revenues alone will not sustain the level of funding called for by FAIR21. To be fully funded at FAIR21 authorized levels, resources must be appropriated from the general fund. For FY2001, trust fund revenues are projected to be $10.6 billion. AIP and F&E must be fully funded first, at $5.9 billion. This leaves a balance of $4.7 billion of the year's trust fund revenues to fund FAA's O&M and RE&D accounts. This balance is roughly $2.1 billion below both the Administration request and the FAIR21 level of approximately $6.8 billion for those accounts. The $2.1 billion difference could be dealt with by: providing funding from the general fund; cutting from the unprotected budget accounts, O&M and FE&D; drawing down unexpended trust fund balances; or a combination of the three.

The FAA's FY2000 budget relied solely on aviation trust fund revenues. FAIR21 clearly assumes that general fund revenues will be appropriated. For FY2001 the Administration has again proposed funding FAA entirely from the aviation trust fund with the aid of a proposed new user fee. Some members of the House and Senate would also prefer to make the FAA's budget self-sustaining.

The House-passed appropriations bill (H.R. 4475), by fully funding AIP and F&E, conforms with the FAIR21 requirements. By providing for $2.14 billion from the general fund, the bill makes only a modest reduction in the O&M budget request. The Senate-passed version (H.R. 4475 as amended by S. 2720), as discussed in the Grants-in-Aid to Airports discussion, may not conform to FAIR21 because of a provision that allows for $120 million of AIP contract authority to be used for air traffic services. If this is interpreted as cutting the $3.2 billion level "guaranteed" for AIP, some would argue that the Senate bill does not conform to FAIR21.

Research and Special Programs Administration (RSPA)

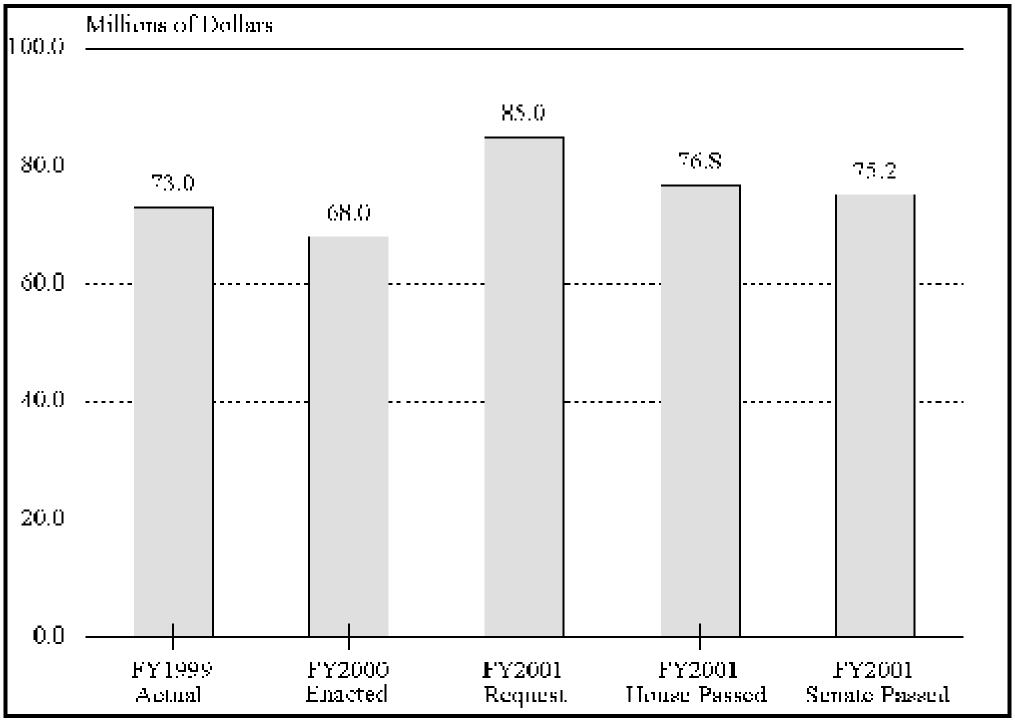
For FY2001, RSPA requested $99.2 million in budget authority, compared to $83 million provided in FY2000.[8] Most of RSPA's budget is allocated to activities seeking to promote transportation safety. For pipeline safety, RSPA was seeking $47.1 million, an increase of $10.5 million over FY2000; and for hazardous materials transportation safety, the agency requested $18.8 million, an increase of $1.1 million over FY2000. In H.R. 4475, the House Committee on Appropriations recommended $76.789 million for RSPA, including $18.773 million for the hazardous materials transportation program. For the pipeline safety program, the Committee recommended $40.137million. The Senate Committee on Appropriations recommended $75.214 million for RSPA, including $18.620 million for the hazardous materials transportation program. For the pipeline safety program, the Committee recommended $43.144 million, including $2.5 million to be drawn

[8] The Administration's budget includes a number of offsets to adjust for proposed but unauthorized user fees that would require authorizing legislation outside the jurisdiction of the appropriations committees. The House Appropriations Committee figures on the Administration's budget request factor out the impact of these non-existent user fees. Because of this difference, the figures in the textual discussion of the President's FY2001 request will differ from the figures in the tables and charts of this report that rely on the House Appropriations Committee budget tables. The appropriations committee tables put the Administration's RSPA request at $85 million. Of the Administration's $99 million figure, $14 million is linked to a legislative proposal for a user fee to finance hazardous materials safety activity that requires authorizing legislation. Under current law, the emergency preparedness grants are funded by permanent appropriations.

down from the reserve in the Pipeline Safety Fund. The House and Senate-passed bills adhered to their committee report recommendations.

RSPA's budget request included several proposed enhancements of existing programs and some new initiatives. For example, RSPA was seeking to increase funding for: state efforts to prevent damage to underground facilities, including gas and liquid pipelines, by outside forces (e.g., by a construction crew), grants to support state efforts

Figure 6. Research and Special Programs Administration Appropriations



to improve pipeline safety, and its Office of Emergency Transportation. RSPA also is seeking to initiate a new R&D program on transportation infrastructure assurance, and to obtain funding for the proposed University Marine Transportation Research Program. The House Committee approved increased funding for each of these initiatives, except funds for the proposed university marine research program were not approved.

National Highway Traffic Safety Administration (NHTSA)

[http://www.nhtsa.dot.gov/]

The National Highway Traffic Safety Administration was established as a separate organizational entity in the Department of Transportation in March 1970. The agency's responsibilities include establishing minimum safety standards for automotive equipment, serving as a clearing house and information source for drivers, identifying and studying emerging safety problems, and encouraging state governments to enact laws and implement programs (through safety grants) to reduce drunk driving and to encourage the use of safety devices. Once again, the Administration has emphasized that, "Improving transportation safety is the number one Federal Government transportation objective." NHTSA plays a key role in implementing this objective.

In its policy statements, the Department of Transportation, through NHTSA, has targeted specific program activities that have potential for reducing highway deaths and injuries. Included among these are programs to: reduce drunk and drugged driving; reduce the incidence of aggressive driving and "road rage"; aid in the development of "smart air bags" that will continue to provide protection to occupants, while reducing risk associated with the bags themselves; reduce the likelihood of child automobile trunk entrapment; enhance infant and child safety in vehicle crashes; and explore transportation options and safety programs for an aging population. In their respective appropriations committee reports, the House and Senate have suggested that they also share a concern for these NHTSA initiatives.

For FY2001, the NHTSA requested an appropriation of $499 million, approximately a 37 percent increase over the enacted amount for FY2000. In its submittal, the agency requested an infusion of $70 million from the Revenue Aligned Budget Authority (RABA). Both the Senate and the House, however, denied the agency's proposal to transfer RABA money from highway projects to safety programs.

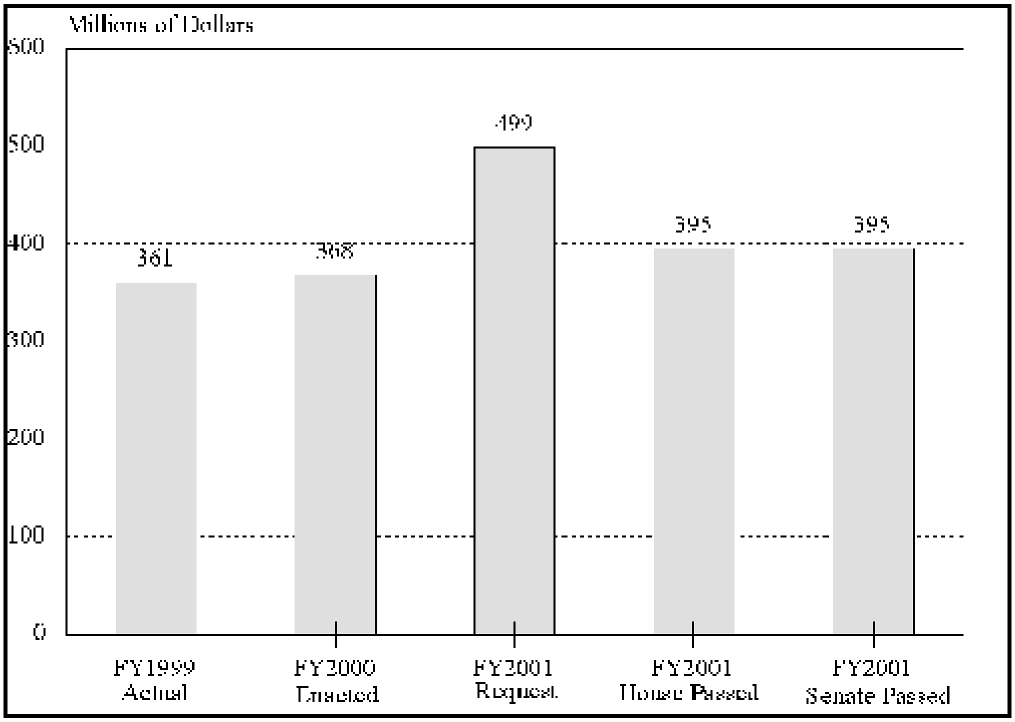
The House-passed legislation (H.R.4475) provides $395 million total budgetary resources for NHTSA, a significantly smaller amount than requested, but still an increase of 7 percent over the FY2000 enactment of $368 million. The Senate-passed funding legislation likewise provided total resources of $395, reducing the chance for debate during the conference on NHTSA funding.

More specific program areas and their recommended amounts include the following:

- Operations and Research: Administration request – $286 million total; House-passed legislation provides – $182 million; Senate-passed legislation – $182

- Highway Traffic Safety Grants (Highway Trust Fund): Administration Request – $213 million (obligation limitation) total. House-passed legislation (no change from requested amount) – $213 million, distributed to the following programs: $155 million for State and Community Highway Safety Grants; $36 million for Alcohol-Impaired Driving Countermeasures Incentive Grants; $13 million for Occupant Protection Incentive Grants; and $9 million for State Highway Safety Data Grants. The Senate-passed legislation also provides $213 million for the Traffic Safety Grants initiative, using the same general breakdown, by program.

Figure 7. National Highway Traffic Safety Administration Appropriations



Federal Motor Carrier Safety Administration (FMCSA)

The FMCSA was created by the Motor Carrier Safety Improvement Act of 1999 (MCSIA), P.L. 106-159.[9] This agency became operational on January 1, 2000, and assumed the responsibilities and personnel of DOT's Office of Motor Carrier Safety.[10] FMCSA issues and enforces the Federal Motor Carrier Safety Regulations, which govern the operation and maintenance of commercial truck and bus operations and specify requirements for commercial drivers. Most of the funds used to conduct FMCSA activities are derived from the federal highway trust fund. The FY2001 budget request for FMCSA administrative expenses and operations was $82.6 million, which is a $12.1 million increase compared to the FY2000 appropriated level of $70.5 million. FMCSA also conducts a research program that is intended to improve the truck and bus safety regulations and associated safety and compliance activities conducted by both federal and state enforcement officers. During FY2000, the appropriation for the motor carrier research program was $6.4 million. The FY2001 request was $9.6 million. In H.R. 4475, the House Committee on Appropriations recommended $92.2 million for the administrative expenses of the FMCSA, including $8.7 million for research. The bill passed in the House

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[9] During various hearings held in the first session of the 106th Congress, a variety of organizations, including DOT's Inspector General, the General Accounting Office, and many industry associations raised numerous concerns regarding the effectiveness of the federal truck and bus safety program. In response to these concerns, Congress created the FMCSA.

[10] DOT's Office of Motor Carrier Safety, which operated from October 9 through December 31, 1999, replaced the Office of Motor Carriers of the Federal Highway Administration of the DOT.

with no change to the recommended numbers. The Senate-passed version of H.R. 4475 included the Senate Committee on Appropriations recommendation of $92.2 million for the administrative expenses of the FMCSA, including $9.85 million for research.

During the conference on the House and Senate-passed bills, conferees will address a provision in the Senate-passed version of H.R. 4475 that prohibits the Department from spending funds to consider, adopt or enforce any proposed rule or proposed amendment to the existing hours of service regulation that governs the driving and work hours of commercial drivers. The House-passed bill does not include such a provision. During recent administrative hearings held by FMCSA, numerous groups representing various aspects of the motor carrier community raised a wide variety of concerns or objections to DOT's proposal. Strong support for FMCSA's proposal was limited.

In addition to the funds used to conduct its motor carrier safety program, FMCSA's budget request includes funds for Motor Carrier Safety Grants and information systems, which are proposed to increase from $105 million in FY 2000 to at least $187 million in FY 2001.[11] Most of that additional increase will come from the increase in grant funding authorized in the MCSIA. Additional funds are proposed to be diverted from the RABA to support a $10 million request for activities to improve the Commercial Driver's Licensing Program. The House Committee on Appropriations recommended $177 million for the Motor Carrier Safety Grants and information systems, but it did not approve the $10 million to be transferred from other RABA sources. The Senate Committee took identical action.

Several congressional committees are conducting oversight on DOT's implementation of P.L. 106-159. Interest is likely to focus on the amount of resources and number of personnel that FMCSA has requested to conduct its responsibilities as specified under the MCSIA, as well as the plans of the FMCSA to implement recommendations of the General Accounting Office and the Inspector General of the DOT. The Appropriations Committees are expected to decide the amount of funding to support FMCSA operations as well as whether to increase the research and development program for motor carrier safety as requested by the FMCSA.

[11] The expected distribution from RABA, as specified under current law, may increase the contract authority amount for the motor carrier safety grant program by roughly $16.3 million during FY2001.

Table 3. Budgetary Resources of Selected Agencies and Selected Programs
(in millions of dollars—totals may not add) [a]

Agency	Final FY2000 Enacted [b]	FY2001 Request	House Passed	Senate Passed	Conference Report	FY2001 Enacted
FHWA	28,802	30,358	30,701	30,701	–	–
(Limitation on Obligations)	27,701	29,319	29,662	29,662	–	–
(Exempt Obligations)	1,207	1,040	1,040	1,040	–	–
NHTSA	368	499	395	395	–	–
FRA	[f] 735	1,056	689	705	–	–
Amtrak (total)	571	521	521	521	–	–
Amtrak Reform Council	0.75	1	0.450	0.495	–	–
FTA	5,785	6,321	6,271	6,271	–	–
Formula Grants, (Capital, Plan.., & Limited Operating) (general funds)	620	669	669	669	–	–
Formula Grants, (Capital & Plan.) (trust funds)	2,478	2,676	2,676	2,676	–	–
Capital Investment (general funds)	490	529	529	529	–	–
Capital Investment (trust funds)	1,967	2,117	2,117	2,117	–	–
FAA	[c] 10,027	11,222	12,585	[c] 12,390	–	–
Operations (trust fund & general fund)	5,900	6,592	6,544	[c] 6,350 (+120 transfer)	–	–
Facilities & Equipment (F&E) (trust fund)	[c] 2,075	2,495	2,657	2,657	–	–
Grant-in-aid Airports (AIP) (trust fund) (limitation on obligations)	1,896	1,950	[c] 3,200	[c] 3,200 (-120 transfer)	–	–
Research, Engineering, & Developmt (RE&D) (trust fund)	156	184	184	183	–	–
USCG[d]	4,022	4,609	4,617	4,359	–	–
Operating Expenses	2,781	3,199	3,192	3,039	–	–
Acquisition, Construction, & Improvements	389	520	515	408	–	–
St. Lawrence Seaway	12	13	13	12	–	–
OIG	45	48	[e]53	[e] 49	–	–
RSPA	68	[g]85	77	75	–	–
OST	[f] 76	88	78	76	–	–
Essential Air Service (trust fund)	50	50	50	50	–	–
STB[g]	17	17	17	16	–	–
NTSB (Budg Auth)	57	[j] 53	63	59	–	–
FMCSA	150	279	269	269	–	–
Budgetary Resources Grand Total[h]	50,027	54,630	55,239	[i] 54,767	–	–

Sources and notes:

[a] Unless otherwise noted, figures in **Table 3** were taken from tables provided to CRS by the House Committee on Appropriations. Numbers within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

[b] FY2000 budget reductions pursuant to the government wide rescission (P.L. 106-113) that were too small to be reflected in the FY2000 column in **Table 3** are as follows: Federal Railroad Administration, $-179,000; Transit Planning and Research, -$243,000; Coast Guard alteration of bridges, -$57,000; and environmental compliance and restoration, -$65,000; Saint Laurence Seaway, -$46,000; OIG, -$170,000; STB, -$58,000; and Office of the Secretary, -$28,000.

[c] The Senate-passed FY2001 bill includes provision for a transfer from AIP to Operations of $120 million "if necessary to maintain aviation safety." The Senate and House bills for FY2001 also provide for a rescission of $579 million of FY2000 AIP contract authority. The FY2000 Facilities and Equipment appropriation included a rescission of $30 million of FY1998 budget authority. These rescissions have no impact on the budgetary resources available for FAA programs for FY2001 and are not subtracted from the FAA totals. The supplemental appropriations act of 2001 (P.L. 106-246) added $75 million to the FY2000 O&M budget.

[d] In general, the Coast Guard total budgetary resources includes substantial funding from the Department of Defense and from emergency supplemental appropriations. For more detail, see CRS report RL30246, *Coast Guard: Analysis of the FY2000 Budget*. For FY2000, Congress appropriated an additional $200 million as emergency funding contingent on an official budget request being made. Thus, the total FY2000 appropriation could be interpreted as being $4.224 billion. FY2001 figures are budget authority.

[e] The House figure includes $4.5 million in transfers from other agencies. The Senate passed figure includes $38.5 million by transfer.

[f] $5 million in offsetting collections from a proposed fee to finance hazardous materials transportation safety activities would increase the total funding to $104 million.

[g] Includes Surface Transportation Board estimated offsetting collections for FY2000 and estimated collections for FY2001.

[h]The DOT and related agencies appropriations does not fund the Maritime Administration (MARAD) or the Federal Maritime Commission (FMC) and their budgets are therefore not included in this report. They receive funding from the Commerce, Justice, State appropriations bills.

[I] This figure is taken from the table in S. Rept. 106-309. The House Committee on Appropriations total for the Senate version of H.R. 4475 is $54.785 billion. The difference appears to emerge from the score keeping sections of the tables.

[J] The Administration proposed that an additional $10 million be raised from user fees. P.L. 106-246, the emergency supplemental appropriations act provided $19.7 to cover expenses connected with the Egypt Air 990 and Alaska Air 261 accidents.

For Additional Reading

CRS Issue Briefs

CRS Issue Brief IB10026. *Airport Improvement Program,* by Robert S. Kirk.

CRS Issue Brief IB10032. *Transportation Issues in the 106th Congress*, coordinated by Glen Moore.

CRS Issue Brief IB10030. *Federal Railroad Safety Program and Reauthorization Issues,* by Paul F. Rothberg and Anthony J. Solury.

CRS Issue Brief IB90122. *Automobile and Light Truck Fuel Economy: Is CAFÉ Up to Standards?*, by Rob Bamberger.

CRS Reports

CRS Report 98-749 E. *The Transportation Equity Act for the 21st Century (TEA21) and the Federal Budget*, by John W. Fischer.

CRS Report RL30096. *Airport Improvement Program Reauthorization Legislation in the 106th Congress*, by Robert S. Kirk.

CRS Report RS20176. *Surface Transportation Board Reauthorization and the 106th Congress*, by Stephen Thompson.

CRS Report RS20177. *Airport and Airway Trust Fund Issues in the 106th Congress*, by John W. Fischer.

CRS Report RL30068. *Automobile Air Bags: Current Issues Associated With New Technology*, by Duane A. Thompson and John R. Justus.

CRS Report 98-890 STM. *Federal Traffic Safety Provisions in the Transportation Equity Act for the 21st Century: Analysis and Oversight Issues*, by Paul F. Rothberg and Anthony J. Solury.

CRS Report 98-63E. *Transportation Trust Funds: Budgetary Treatment*, by John W. Fischer.

CRS Report 98-646 ENR. *Transportation Equity Act for the 21st Century (P.L. 105-178): An Overview of Environmental Protection Provisions,* by David M. Bearden.

CRS Report RL30246. *Coast Guard: Analysis of the FY2000 Budget*, by Martin Lee.

Selected World Wide Web Sites

Department of Transportation Budget Site
[http://www.dot.gov/ost/budget/]

Department of Transportation, Chief Financial Officer
[http://ostpxweb.dot.gov/budget/]

House Appropriations Committee
[http://www.house.gov/appropriations]

Interactive Budget Web Site
[http://ibert.org/civix.html]

Maritime Administration (financial reports)
[http://marad.dot.gov/finstatm.htm]

National Highway Traffic Safety Administration (budget & planning)
[http://www.nhtsa.dot.gov/nhtsa/whatis/planning/perf-plans/gpra-96.pln.html]

Office of Management and Budget
[http://www.gpo.gov/usbudget/fy1998/fy1998_srch.html]

Senate Appropriations Committee
[http://www.senate.gov/committees/committee_detail.cfm?COMMITTEE_ID=405]