

## RESCISSIONS AND RESTORATION

### *Fighting for priority*

In September 2009, Congress *rescinded*, or cancelled, \$8.7 billion<sup>1</sup> worth of unspent transportation funds from State DOTs. In March 2010, the HIRE Act restored those funds.<sup>2</sup> Bicycling and walking advocates should strongly encourage Departments of Transportation to make bicycling and walking projects a priority and quickly spend the restored funding.

Rescissions are essentially a book keeping measure when properly administered. It allows USDOT to recoup unspent funds. However, some state DOTs have turned into an opportunity to gut neglected bicycle and pedestrian funding sources in order to preserve favored programs.

All funding programs should receive equal consideration to others: they should be spent proportionally and rescinded proportionally. Instead, some of the strongest programs for bicycle and pedestrian projects – Transportation Enhancements (TE), Congestion Mitigation & Air Quality (CMAQ) – suffered higher rescission rates than other programs. In some states, Safe Routes to School and Recreational Trails also had higher rates of rescissions. The figure on page 4 shows how rescissions disproportionately targeted TE funding, for example.

The rescissions unfairly targeted these programs. The funds have been restored to the programs from which they were rescinded.<sup>3</sup> Now DOTs should prioritize these programs and use them to implement bicycle and pedestrian projects.

Advocates should:

- 1) Identify cities, towns, and Municipal Planning Organizations (MPOs) that have benefited from TE, CMAQ, SRTS, and Rec Trails projects and highlight them to show the DOT, the state legislature, and the governor's office their importance
- 2) Urge the head of state DOTs and governors to ensure bicycle and pedestrian projects get their fair share of funding from these funding sources quickly. In some case, state legislatures can be helpful as well. If you are doing any public events, such as ribbon cuttings, you can use that opportunity to encourage elected officials to invest more in bicycle and pedestrian projects
- 3) Meet with state DOT personnel<sup>4</sup> to review USDOT guidance on each funding source as it relates to bicycle and pedestrian projects and make sure they are implementing good projects and programs<sup>5</sup>

Most states should have eligible projects already in the pipeline. For example, the MPO in Chicago has a waiting list of CMAQ projects that are pre-selected to receive funding made available by dropped or delayed projects or additional available obligation authority. If your state does not have such projects

lined up, ask them why they haven't prepped these popular projects. In those states that don't have new projects ready, current projects should be expanded. States could also use this funding education programs, or for planning and engineering of projects to make them 'ready to go' for next years funding.

Bicycle and pedestrian projects from rescission-restored programs like Transportation Enhancements and CMAQ **must be a priority** to:

- Support local economies<sup>6</sup>
- Ensure the safety of America's families<sup>7</sup>
- Develop transportation choices and provide alternatives to congestion,<sup>8</sup> and
- Foster livable communities and satisfy the demand for bike/ped facilities

Help programs compete for obligation authority by finding political and agency champions who will make sure these programs are expertly administered. Push for these signs of excellence:

1. Timely and regular call for projects and selection of projects
2. Selection of projects that are as ready-to-go as possible
3. Multi-year project programming so complex projects can be staged to use appropriation and obligation authority when ready (to see how this is managed well, look at any of the big highway funding programs, like NHS and state STP)
4. Transparent decision-making process with meaningful public involvement
5. Clear criteria for selecting the best projects
6. Project sponsors (local governments) offering good cost-effective projects that invest in proven facilities and programs that will grow cycling and walking (and project sponsors being forthright and accurate about project implementation timetables)

## Apportionment, Obligation Authority and Rescissions

It is important for advocates to understand how much money is available in funding programs like Enhancements and CMAQ so they can help bicycle and pedestrian projects compete. Unfortunately it is complex.

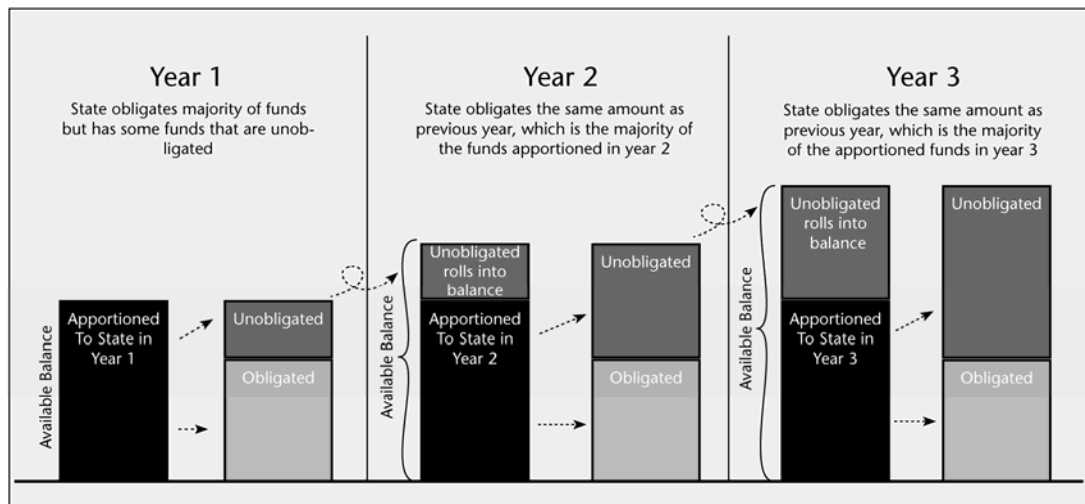
There are two things that limit the money available in a program: apportionment and obligation authority.

**Apportionment** is the amount annually allotted to each spending program based on the transportation authorization bill and annual appropriations approved by Congress.

**Obligation Authority** is a limit on total spending by a state in a given year across all programs. Because Congress doesn't have enough money to fully fund all apportionments they limit the total amount that a state can spend. This is the actual maximum that can be spent overall; it is not program specific.

This is where the trouble begins. This means that the balance for many programs keeps growing and states will never have enough obligation authority to spend the balances in all their programs (see Figure 1.) Ideally the obligation authority should be spread proportionately among programs, but this never happens. States favor some programs over others and the programs that provide greatest opportunity for bicycle and pedestrian projects often get the least priority for obligation authority.

**Figure 1: How TE Funds Accumulate**



Source: National Transportation Enhancements Clearinghouse / [www.enhancements.org](http://www.enhancements.org)

**Rescissions** simply take away portions of unused program balances. When rescissions are reversed those balances are restored. This is good news but advocates still need to help critical programs compete for obligation authority.

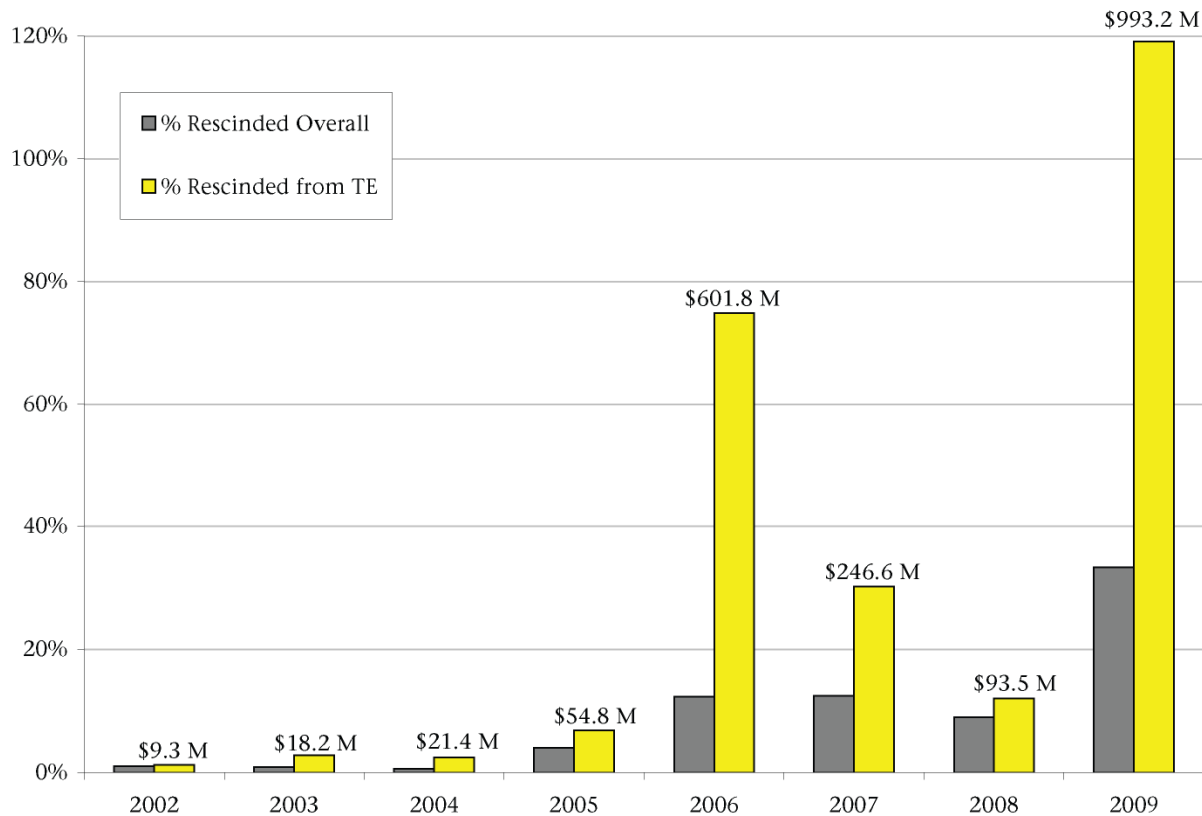
The bottom line is that money has been restored to programs that matter to bicyclists and pedestrians. This money is available to be spent. These projects are popular and immensely beneficial to communities. State Departments of Transportation must make them a priority.

See the table on page 5 for the list of rescissions in your state by funding program.

Visit [www.enhancements.org/Stateprofile.asp](http://www.enhancements.org/Stateprofile.asp) to see your state's record on Transportation Enhancements obligations and rescissions. Read the spending report or see your state's [profile](#). Call the National Transportation Enhancements Clearinghouse (NTEC) at 1-888-388-NTEC.

**Questions or feedback?** Please contact Darren Flusche at [Darren@bikeleague.org](mailto:Darren@bikeleague.org) or 202-621-5456.

Figure 2. Overall FHWA versus TE Rescissions by Fiscal Year<sup>9</sup>



Source: National Transportation Enhancements Clearinghouse / [www.enhancements.org](http://www.enhancements.org)

<sup>1</sup> FHWA: <http://www.fhwa.dot.gov/legsregs/directives/notices/n4510711.htm>

<sup>2</sup> <http://www.opencongress.org/bill/111-h2847/show>

<sup>3</sup> <http://www.fhwa.dot.gov/legsregs/directives/notices/n4510724.htm>

<sup>4</sup> State Bicycle/Pedestrian Coordinators can direct you – <http://www.walkinginfo.org/assistance/contacts.cfm>

<sup>5</sup> <http://www.fhwa.dot.gov/environment/bikeped/bp-guid.htm>,

<http://www.fhwa.dot.gov/environment/bikeped/cmaqfunds.htm>

<sup>6</sup> [http://www.bikeleague.org/resources/reports/report\\_economics.php](http://www.bikeleague.org/resources/reports/report_economics.php)

<sup>7</sup> [http://www.bikeleague.org/resources/reports/highway\\_safety\\_improvement\\_program.php](http://www.bikeleague.org/resources/reports/highway_safety_improvement_program.php)

<sup>8</sup> [http://www.bikeleague.org/resources/reports/congestion\\_mitigation\\_air\\_quality.php](http://www.bikeleague.org/resources/reports/congestion_mitigation_air_quality.php)

<sup>9</sup> National Transportation Enhancements Clearinghouse / [www.enhancements.org](http://www.enhancements.org)

Source: America Bikes, April 2010

| <b>Rescissions Funds to be Restored by State</b> |                    |                    |                           |                   |
|--|--------------------|--------------------|---------------------------|-------------------|
| <b>STATE</b>                                     | <b>TE</b>          | <b>CMAQ</b>        | <b>Rec Trails Program</b> | <b>SRTS</b>       |
| AL   | \$ 843,237         | \$ 99,395          | \$ -                      | \$ 401,012        |
| AK   | \$ -               | \$ 4,770,074       | \$ 494,302                | \$ -              |
| AZ   | \$ 4,990,004       | \$ 12,613,214      | \$ 425,254                | \$ 502,198        |
| AR   | \$ 3,074,805       | \$ 3,030,827       | \$ 385,233                | \$ 263,960        |
| CA   | \$ 42,352,427      | \$ 175,552,103     | \$ 2,660,083              | \$ 3,001,867      |
| CO   | \$ 13,996,152      | \$ 45,494,457      | \$ 541,610                | \$ 387,404        |
| CT   | \$ 4,113,278       | \$ 15,587,831      | \$ -                      | \$ 309,694        |
| DE   | \$ 929,872         | \$ 2,784,257       | \$ 245,127                | \$ 221,857        |
| DC   | \$ 1,302,350       | \$ 3,530,354       | \$ 333,336                | \$ 221,857        |
| FL   | \$ 24,734,424      | \$ 2               | \$ 1,610,047              | \$ 1,294,522      |
| GA   | \$ 32,994,077      | \$ 65,616,981      | \$ 1,666,984              | \$ 370,053        |
| HI   | \$ 1,097,185       | \$ 2,697,583       | \$ 252,335                | \$ 221,857        |
| ID   | \$ 4,592,230       | \$ 972,139         | \$ 126,515                | \$ 183,806        |
| IL   | \$ 25,475,572      | \$ 83,578,010      | \$ 1,543,217              | \$ 1,034,474      |
| IN   | \$ 15,060,452      | \$ 30,892,157      | \$ 929,940                | \$ 533,870        |
| IA   | \$ 3,655,523       | \$ 3,353,024       | \$ 452,951                | \$ 271,578        |
| KS   | \$ 2,846,975       | \$ 2,643,922       | \$ -                      | \$ 267,406        |
| KY   | \$ 10,718,784      | \$ 10,432,924      | \$ 1,171,948              | \$ 228,166        |
| LA   | \$ 5,215,267       | \$ 4,427,351       | \$ 331,251                | \$ 398,530        |
| ME   | \$ 1,178,056       | \$ 4,385,725       | \$ 713,992                | \$ 221,857        |
| MD   | \$ 3,517,693       | \$ 14,517,892      | \$ 331,244                | \$ 45,906         |
| MA   | \$ 8,627           | \$ 6,358,443       | \$ 358,849                | \$ 501,229        |
| MI   | \$ 21,081,084      | \$ 14,270,507      | \$ 3,071,458              | \$ 584,522        |
| MN   | \$ 6,008,645       | \$ 10,318,964      | \$ 676,398                | \$ 351,145        |
| MS   | \$ 11,133,389      | \$ 228,489         | \$ 1,352,589              | \$ 289,262        |
| MO   | \$ 16,275,265      | \$ 17,477,402      | \$ 1,262,964              | \$ 477,133        |
| MT   | \$ 1,738,304       | \$ 3,689,816       | \$ 379,384                | \$ 193,348        |
| NE   | \$ 6,063,062       | \$ -               | \$ 174,823                | \$ 222,921        |
| NV   | \$ 6,156,187       | \$ 4,374,394       | \$ -                      | \$ 3,808,056      |
| NH   | \$ 2,680,896       | \$ 6,930,577       | \$ 387,593                | \$ 214,856        |
| NJ   | \$ 5,078,757       | \$ 25,236,948      | \$ 359,079                | \$ 706,185        |
| NM   | \$ 2,190,626       | \$ 3,205,157       | \$ 6,295                  | \$ 227,293        |
| NY   | \$ 34,760,624      | \$ 49,228,478      | \$ 3,471,087              | \$ 1,405,457      |
| NC   | \$ 25,851,464      | \$ 55,083,065      | \$ -                      | \$ 693,300        |
| ND   | \$ 1,685,010       | \$ -               | \$ 0                      | \$ 221,857        |
| OH   | \$ 8,503,736       | \$ 27,542,671      | \$ 561,941                | \$ 911,941        |
| OK   | \$ 5,181,745       | \$ 3,673,728       | \$ 372,543                | \$ 315,855        |
| OR   | \$ 6,939,872       | \$ 12,130,301      | \$ 1,162,512              | \$ 299,626        |
| PA   | \$ 7,895,229       | \$ 24,970,429      | \$ 682,169                | \$ 930,650        |
| RI   | \$ 931,648         | \$ 2,489,525       | \$ 252,524                | \$ 221,857        |
| SC   | \$ 7,026,349       | \$ 5,202,916       | \$ 355,909                | \$ 362,480        |
| SD   | \$ 2,538,641       | \$ -               | \$ 266,580                | \$ 221,857        |
| TN   | \$ 19,941,279      | \$ 37,104,928      | \$ 1                      | \$ 341,444        |
| TX   | \$ 35,804,471      | \$ 67,737,548      | \$ -                      | \$ 1,989,669      |
| UT   | \$ 0               | \$ 2,621,971       | \$ 392,553                | \$ 272,893        |
| VT   | \$ 1,357,289       | \$ 472,054         | \$ 449,573                | \$ 221,857        |
| VA   | \$ 15,916,386      | \$ 217,770         | \$ -                      | \$ 22,463         |
| WA   | \$ 10,628,876      | \$ 28,539,199      | \$ -                      | \$ 504,726        |
| WV   | \$ 1,782,395       | \$ 3,263,209       | \$ 323,279                | \$ 221,857        |
| WI   | \$ 5,289,302       | \$ 7,130,906       | \$ 766,946                | \$ 452,383        |
| WY   | \$ 922,959         | \$ 2,776,712       | \$ 303,542                | \$ 221,857        |
| <b>FINAL</b>                                     | <b>474,060,476</b> | <b>909,256,328</b> | <b>31,605,960</b>         | <b>27,791,853</b> |