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Broward County MPO Federal Update February 2017

CONGRESSIONAL UPDATE

House Transportation and Infrastructure Committee Agenda: On January 31, the House Transportation Committee announced its [authorization and oversight plan for the 115th](#) Congress:

- Implementation of the FAST Act, including the areas of: streamlining project delivery; freight mobility; competitive grant programs; federal credit assistance programs; safety programs and regulations; transit program requirements; and research and transportation technologies activities.
- Implementation of MAP-21 as there are still significant provisions that are not fully implemented. As a result, the committee will focus on the following areas: streamlining project delivery; performance management; transportation planning; motor carrier safety regulations; and transit safety oversight.
- Monitor the status and solvency of the Highway Trust Fund, and its ability to fully fund the programs authorized under the FAST Act and to meet future surface transportation investment needs.
- The Federal Aviation Administration's (FAA) authorization expires on September 30, 2017. The House Transportation Committee has planned five hearings to discuss reauthorization. Aviation Subcommittee Ranking Member Rick Larsen (D-WA) said the hearings will address major sections of the FAA bill, including air traffic control privatization. The committee recently held a hearing on February 15 on *Building a 21st Century Infrastructure for America: State of American Aviation Manufacturing*.

House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) has stated that congressional leaders remain committed to President Trump's promise to rebuild American infrastructure. Rep. Shuster commented that Speaker Paul Ryan will be looking to develop an infrastructure plan in the late spring, financed by tax reform. He expects to lay out a plan after the fiscal year (FY) 2018 budget process is complete, which is expected in late April or early May. The committee's first infrastructure hearing—*Building a 21st Century Infrastructure for America*—was on February 1st. Members discussed methods of funding infrastructure investment, and how Congress can enact legislation on fixing existing infrastructure.

On February 7, Ranking Member Peter DeFazio (D-OR) sent the President a letter offering “three simple solutions that could be a critical part of your commitment to invest \$1 trillion in infrastructure, without increasing the size of the budget deficit.” They are:

- “Invest in America” bonds: The Treasury would issue 30-year bonds that would be repaid with the revenues from annually indexing gasoline and diesel taxes beginning in 2017. The proceeds from each year’s bond issuance would be deposited in the Highway Trust Fund.
- Harbor Maintenance Trust Fund: Spend the accrued balances and all new revenues in the Harbor Maintenance Trust Fund which would provide more than \$27 billion for ports.
- Passenger Facility Charge (PFC): Increase or remove the PFC cap for airport development.

Senate Hearing on Modernizing our Nation’s Infrastructure: The Senate Committee on Environment & Public Works (EPW) held a hearing on February 8 on [Oversight: Modernizing our Nation’s Infrastructure](#), which focused on the country’s infrastructure needs, particularly in rural areas. The witnesses were:

- William T. Panos – Director, Wyoming Dept. of Transportation
- Michael McNulty – General Manager, Putnam Public Service District, West Virginia
- Cindy R. Bobbitt – Commissioner, Grant County, Oklahoma
- Anthony P. Pratt – Administrator, President, Delaware Department of Natural Resources & Environmental Control, American Shore & Beach Preservation Association
- Shailen P. Bhatt – Executive Director, Colorado Dept. of Transportation

Witnesses testified about the challenges rural areas face when securing infrastructure funding, such as the generalization of funding, which ultimately does not address rural needs. Senator John Barrasso (R-WY), Chairman of the Senate EPW Committee, [stated](#) that he would ensure rural priorities are incorporated in any infrastructure package considered by Congress. Witnesses noted that public-private partnerships/Build America Bonds are not effective funding mechanisms in rural areas because many projects will never directly generate revenue.

Cindy Bobbitt, a commissioner of Grant County, Okla., who was representing the National Association of Counties (NACo), told committee members that "simply stated, the tax exemption of municipal bond interest from the federal income tax represents one of the best examples of the federal-state-local partnership."

House Transportation and Infrastructure Committee Hearing: On February 1, the House Transportation and Infrastructure Committee held its first infrastructure hearing. The witnesses were:

- Frederick W. Smith, Chairman and Chief Executive Officer of the FedEx Corporation
- David W. MacLennan, Chairman and Chief Executive Officer of Cargill, Incorporated
- Ludwig Willisch, President and Chief Executive Officer of BMW of North America |
- Mary V. Andringa, Chair of the Board of the Vermeer Corporation
- Richard L. Trumka, President of the AFL-CIO

The witnesses all agreed that direct spending/projects need to be included in any infrastructure proposal. Proposals for funding were also discussed during the bipartisan hearing, but it is still

unclear how Congress and the administration will come up with the \$1 trillion investment Trump promised.

Witnesses and representatives also agreed that an infrastructure bill must focus on improving existing structures rather than building new ones. Following the hearing, the committee [launched](#) on February 6, the informational campaign entitled “Building a 21st Century Infrastructure for America,” or #building21. Part of the initiative includes a [website](#) “featuring perspectives from Chairman Shuster and Committee Members, as well as a vision statement for the initiative.”

House Hearing on FAA Reauthorization: The House Transportation and Infrastructure Subcommittee on Aviation held its first hearing on Federal Aviation Administration (FAA) reauthorization on February 17. The hearing was focused on the state of American aviation manufacturing, and had witnesses from the FAA and representatives from airlines and aviation stakeholders. Subcommittee Chairman Frank LoBiondo (R-NJ) addressed the importance of aviation manufacturing for the economy, and explained that the challenges the industry faces are an obstacle to its success. He highlighted inefficient FAA rules as one of the chief challenges. Committee Ranking Member Peter DeFazio (D-OR) introduced the topic of issue fees for safety certification charged by European aviation regulators. He suggested the U.S. charge fees identical to those of European manufacturers, and also reiterated Chairman LoBiondo’s points regarding aviation’s importance to the economy. Witnesses discussed workforce issues, the importance of free trade, and certification reform, as well as a consistent regulatory environment.

House Leaders Outline Process for Study to Remove Earmark Ban: During a closed-door GOP conference meeting on February 14, House Speaker Paul Ryan (R-WI) and House Rules Committee Chairman Pete Sessions (R-TX) discussed the process to study whether or not the House should bring back earmarks. As previously reported, the GOP Conference last November was close to voting to bring earmarks back but Speaker Ryan asked at that time to delay the vote until the first quarter of 2017.

Chairman Sessions explained that the House Rules Committee will hold public hearings on the matter and then the panel will release its recommendation before the July recess. The process will include testimony from a wide array of members, experts, and representatives from the administration. It will also include an effort to rebrand earmarks

Ryan and many Republican leaders have opposed undoing the ban, citing earmarks as a source of wasteful spending, and a system that is often abused. House Financial Services Committee Chairman Jeb Hensarling (R-TX) warned fellow members that it could cost the GOP the House in the next election.

While it is unclear how the process will unfold in the House, the Senate voted on Senator Jeff Flake’s (R-AZ) amendment to the Senate rules continuing the earmark ban in the Senate for the 115th Congress last month. Should the House decide to overturn the ban, the Senate might need to reconsider its ban.

TRANSPORTATION FUNDING

Highway Trust Fund Bill: On February 1, Senator Deb Fischer (R-Neb.), chairwoman of the Senate Commerce Subcommittee on Surface Transportation, introduced S. 271, the Build USA Infrastructure Act. This bill has been referred to the Senate Homeland Security and Governmental Affairs Committee.

According to the March 2016 projections by the Congressional Budget Office (CBO), by the year 2026, the Highway Trust Fund (HTF) will face a cumulative shortfall of approximately \$107 billion. The Highway Trust Fund provides funding for highway and transit. Senator Fischer introduced this legislation to provide additional funding for the Highway Trust Fund and to expedite surface transportation projects.

The legislation would divert \$21.4 billion annually in Customs and Border Patrol (CBP) collected revenues on freight and passengers to address the shortfall for five years following the expiration of the surface transportation authorization bill, the FAST Act, which will be in October 2020.

To expedite projects, the bill establishes voluntary “state remittance agreements” with the Federal Highway Administration (FHWA). As part of these agreements, states may choose to exchange a portion of their federal highway dollars for greater control over certain aspects of federal regulatory approval for highway projects. The states would exchange their National Highway Performance Program and Surface Transportation Block Grant (STBG) program funding.

- The National Highway Performance Program is used by states and localities to construct and improve roads on the National Highway System (NHS). An example of a NHS road is the 101.
- The STBG program is the most flexible federal transportation program that states and localities utilize to preserve and improve the conditions and performance on any federal-aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects, including intercity bus terminals.

In return for the states remitting 10 percent of their federal-aid highway dollars, states would receive control over federal approval for the design, environmental permitting, and construction aspects of federal highway projects. The remitted funds would be deposited into the Highway Trust Fund to help address its growing deficit.

At this time, there are no co-sponsors to the legislation. The bill has been referred to the Homeland Security and Governmental Affairs Committee, and Senator Fischer is not a member. She will have to secure support from these committee members for the bill to be considered.

Although the American Association of Port Authorities (AAPA) has not taken an official position on the bill, they did raise concerns over diverting CBP funding to pay for the FAST Act in a letter submitted to the FAST Act conferees in November 2015 and testified before the Senate Commerce Committee last year on the need to increase CBP funding to improve freight fluidity and avoid port congestion

GAO Releases Report on Long-Term Surface Transportation Funding: On February 15, the Government Accountability Office (GAO) issued a report stating that the lack of a sustainable

long-term plan to pay for surface transportation upgrades is a failure by Congress, and is a high-risk public policy area. In the [report](#), traditional funding sources, such as the federal gas tax and truck-related taxes that support the Highway Trust Fund, are cited as eroding, because Congress and the administration have not agreed on a long-term plan in years. The GAO reported that adding general fund revenues to the Highway Trust Fund is not sustainable due to competing demands and federal fiscal challenges. The report also added that key challenges, such as deteriorating infrastructure and increasing congestion, have not been addressed by implemented programs. The agency suggests moving to improve surface transportation programs by “establishing links to performance, measuring progress toward clear national goals, and enhancing the management of discretionary grant programs.”

ADMINISTRATION UPDATE

Trump Nominates Neil Gorsuch for Supreme Court: President Trump nominated Judge Neil Gorsuch to the Supreme Court bench on Tuesday, January 31. Judge Gorsuch, [known for](#) his originalist views and strict interpretation of the Constitution, clerked for Supreme Court Justice Anthony Kennedy and Justice Byron White. Gorsuch served in the Justice Department during President George W. Bush’s administration at which time he was appointed by Bush to serve on the U.S. Court of Appeals for the 10th Circuit in Denver, Colorado. His appointment was confirmed by voice vote in the Senate.

Senate Minority Leader Chuck Schumer (D-NY) has insisted that Gorsuch will need at least 60 votes for confirmation. Republicans currently hold 52 Senate seats; they would need eight Democratic votes to confirm Gorsuch since Democrats are expected to filibuster Gorsuch’s nomination. However, Senate Majority Leader Mitch McConnell (R-KY) could change the number of votes required for confirmation in order to prevent a filibuster, also known as the nuclear option.

Republicans hope to vote on Gorsuch in April, before the two-week spring recess, to allow him to join the Court before the term ends in June. His hearing date has been set for March 20.

Cabinet Shakeups: President Trump’s choice for Labor Secretary, [Andrew Puzder](#), withdrew his nomination on February 15. The move came after Senate Republicans did not have enough votes to confirm him. Trump has named Alexander Acosta, an attorney and dean of the Florida International University College of Law, as Puzder’s replacement. A hearing date has not been announced.

Over the past month, the Senate has confirmed the following key cabinet nominees.

- **Sen. Jeff Sessions (R-AL)** was confirmed by a vote of [52-47](#) on February 8 as Attorney General of the United States. Senate Democrats were concerned that Sessions would not act independently of the president. Democrats used the maximum amount of time allowed for debate, during which Republicans voted to rebuke Senator Elizabeth Warren (D-MA) for violating Senate rules and personally attacking Senator Sessions. Senator Warren was reading a letter from Coretta Scott King that denounced the nomination of Sessions for federal judgeship when Senate Majority Leader Mitch McConnell objected.

- **Steve Mnuchin** was confirmed in a nearly strict party line [53-47](#) vote on February 13, and sworn in as Treasury Secretary the same day. Democrats sought to block the nomination, with [objection](#) over Mnuchin’s Wall Street ties, but Republicans have supported him and his 30 years of financial sector experience.
- **Rep. Mick Mulvaney (R-SC)** was confirmed by a [51-49](#) vote on February 16 to serve as Director of the Office of Management and Budget (OMB). Senate Republicans invoked a cloture rule to limit debate on his confirmation in order to override Democrats’ protest of Mulvaney. Senator John McCain (R-AZ) was the lone Republican to vote against Mulvaney, [citing](#) disagreements over defense spending. Democrats criticized Mulvaney for failure to pay taxes for a household employee between 2000 and 2004, with Senate Minority Leader Chuck Schumer (D-NY) calling the issue “disqualifying.”
- **Scott Pruitt** was confirmed as Administrator of the Environmental Protection Agency (EPA) on February 17, by a [52-46](#) vote. His confirmation was one of the most heavily debated; Democrats raised [opposition](#) to his past career suing the agency’s major environmental rules and his ties to the fossil fuel industry. Senator Susan Collins (R-ME) was the only Republican to vote against Pruitt. Democrats held the Senate floor the night of February 16 in an effort to delay the confirmation vote, but their efforts were unsuccessful.