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Broward Metropolitan Planning Organization
FEDERAL UPDATE
July 2015

The House adjourned for August recess on July 29. The Senate is expected to adjourn by August 7. This week, the Senate is debating cybersecurity legislation.

FY 2016 Appropriations Update: The current fiscal year ends next month on September 30. When Congress returns from the August recess on September 8, the House will only have ten legislative days and the Senate will have only 15 legislative days to deal with the matter. At this point, the only option on the table within a short timeframe is to pass a continuing resolution (CR) which would extend current spending. The House Appropriations Committee staff have started to draft a CR but are waiting for more direction from leadership as to whether the CR will be a "clean" CR or have any policy riders. Additionally, last week, several House conservatives wrote a letter to leadership indicating that they would not support a CR without language prohibiting funding directed to Planned Parenthood. Leadership will have to determine whether or not a CR with such language will be able to muster enough votes to pass.

Surface Transportation Reauthorization Bill/Highway Trust Fund Update: On July 31, the President signed into law legislation extending the Highway Trust Fund for three months. The extension to fund the Highway Trust Fund (H.R. 3236) was approved by a vote of 91-4 in the Senate on July 30 and on July 29 in the House by a vote of 385-34. The extension bill would authorize the Highway Trust Fund until October 29, 2015. The legislation also includes provisions aimed at boosting hiring of veterans and to allow the Department of Veterans Affairs (VA) to cover costs of private medical services after May 1 from the Veterans Choice Fund which was created to address wait times at VA hospitals.

Last week, the Senate passed a six-year surface transportation reauthorization bill, the DRIVE Act (H.R. 22) by a vote of 65 to 34. A brief summary can be found below.

Federal highway, safety and transit programs would be reauthorized through fiscal year 2021, and Amtrak and other rail programs would be reauthorized through fiscal year 2019. The funding is enough to cover the Highway Trust Fund through fiscal year 2018, according to the Congressional Budget Office (CBO).

Highways: The measure would provide a total of $256.2 billion in contract authority for the highway programs for fiscal years 2016 through 2021, including a new national freight program. The bill also creates a new major projects program where the Federal Highway Administration (FHWA) would award grants of at least $50 million to states, local governments, and transportation agencies.

The measure shifts the funding allocations for the core highway programs slightly, providing more for National Highway Performance Program (NHPP) and less for Surface Transportation Program (STP) and Highway Safety Improvement Program (HSIP). The bill revises the set-aside for bridges under STP, including those that are not on the National Highway System (NHS). States would be required to obligate 15 percent of their STP funding for such bridges or 110 percent of funding from fiscal 2014, whichever is greater. The measure increases funding for Transportation Alternatives Program (TAP), by setting aside $850 million per year, or $5.1 billion for the six years.

The bill provides a total of $11.7 billion for the National Freight Program for fiscal years 2016 through 2021. The bill directs the Department of Transportation (DOT) to establish the program to assist states in directing resources to improve system performance for efficient movement of freight on highways. The bill requires FHWA to redesignate the primary highway freight system so that it includes all NHS freight intermodal connectors. States would be able to increase the number of miles in the system within their borders and could designate public roads as part of a critical rural or urban freight corridor. The measure would set standards for how states could use funds for projects based on how much of the primary highway freight system is located in the state. The measure also authorizes a $1.2 billion grant program for high-cost freight infrastructure projects. Grants would range from $10 million to $100 million.

The ferry funding formula is modified in the bill to make the following changes:

- Increases the allocation based on ferry passengers from 20 percent to 35 percent;
- Reduces the allocation based on vehicles from 45 percent to 35 percent;
- Reduces the allocation based on nautical miles served by the ferry from 35 percent to 30 percent.

The ferry program is authorized at $80 million annually. Each state receives a minimum of $100,000. To receive formula monies, data must be submitted to the National Ferry Database. Of the $80 million provided annually, $500,000 is set aside to maintain the data base. A further change was made to the statute to not allow any federal funding to be used for the construction or purchase of a private ferry boat or ferry boat terminal.

Transit: The measure would increase funding for the transit formula grant programs, providing a total of $59.3 billion in contract authority for fiscal years 2016 through 2021. The formula funding would be allocated among the grant programs, including:

- $29.3 billion for the Urbanized Area program for transit capital and operating assistance
- $15.4 billion for the State of Good Repair program for upgrading older rail and bus systems in urbanized areas
- $4 billion for public transportation in rural areas
- $3.18 billion for bus and bus facility repairs and purchases

An additional $1.12 billion in discretionary funding is authorized for competitive grants for bus and bus facilities.

The measure authorizes $14.6 billion over six years for New Starts. The bill establishes a pilot program that would allow projects with local financing and limited federal funding to be considered under expedited review.

Rail: The legislation extends the positive train control (PTC) deadline to December 31, 2018. Railroads are currently required to implement PTC by December 31, 2015, under the 2008 passenger rail reauthorization.

The bill requires Class I railroads to generate data on the amounts of hazardous materials transported along their rail lines, points of origin and destination for the train, and emergency response information. The bill requires DOT to issue a notice of proposed rulemaking to require railroad carriers that transport certain flammable liquids to maintain a comprehensive oil spill response plan.

The measure also would require a study of electronically controlled pneumatic (ECP) brake requirements on trains. If DOT does not make a determination that the rules are justified, they could be repealed.

The bill also requires intercity or commuter rail passenger carriers to install audio and image recording devices in all controlling locomotive cars. The DOT Secretary would be directed to issue regulations requiring intercity and commuter rail carriers to post warning signs for train crews in areas leading to locations identified as high-risk for "overspeed" derailment, and to install a "working alerter" in the controlling car of each passenger train.

Next Steps: The House still needs to draft its surface transportation reauthorization legislation so the House and Senate can meet in conference to reconcile the differences between the two bills. After the House passed the three-month extension, House Ways and Means Committee Chairman Paul Ryan (R-Wis.) and House Transportation and Infrastructure Committee Chairman Bill Shuster (R-Pa.) reiterated their commitment before the vote to working out a long-term deal in the intervening months.

<u>DOT Tiger Grant Update</u>: On July 17, Holland & Knight informed the MPO on where DOT was in the review process of the TIGER grant applications. Holland & Knight had learned that DOT was just beginning that week to review applications and now was the time for elected officials from the County to weigh in with the Office of the Secretary. At this critical time, we secured the support letter from Senator Bill Nelson (D-Fl.). Last week, DOT announced that 625 applications were received for the latest round of TIGER grant applications, totaling more than $9.8 billion. However, the total allocation that DOT has available to dispense is only $500 million. According to a statement from Transportation Secretary Anthony Foxx, 60% of applications were for road projects; 18% for transit projects, 8% for rail projects, and 6% for port and bicycle-pedestrian applications. There were 565 applications in 2014. DOT recently indicated that the Secretary will be announcing the winners late September or early October.

<u>Funding Deadline Update</u>: The deadline for proposal submissions under the Federal Transit Administration (FTA)'s Pilot Program for Expedited Project Delivery has been extended until

early September 2015. The extension is due to a technical error with the submission email account.

Senate Finance Committee Marks Up Tax Extenders Legislation: On July 21, the Senate Finance Committee voted 23 to 3 to approve legislation extending a series of tax provisions that were allowed to expire at the end of 2014. Senators Dan Coats (R-Ind.), Mike Enzi (R-Wyo.), and Pat Toomey (R-Pa.) were the dissenting votes. Overall, the tax provisions total roughly $95.2 billion and include dozens of provisions aimed at individuals, businesses, and energy-related deductions and tax credits. The provisions extend the following for two years:

- increase in the monthly exclusion for employer-provided mass transit from $130 to $250 to match the same exclusion for employer-provided parking benefits
- 50 cents per gallon alternative fuel tax credit and alternative fuel mixture tax credit
- railroad maintenance tax credit for Class II and Class III railroads
- 20 percent traditional research tax credit and the 14 percent alternative simplified credit
- 9 percent credit rate freeze (applicable rate) for the low-income housing tax credit program
- temporary 15-year cost recovery period for certain building improvements and new restaurant buildings
- New Markets Tax Credit, with an maximum annual amount of qualified equity investments of $3.5 billion
- Work Opportunity Tax Credit
- empowerment zone tax incentives, such as the wage credit, expensing of qualifying equipment, tax-exempt bond financing, and deferral of capital gains on qualified assets

Senate Finance Committee Chairman Orrin Hatch (R-Utah) said in a statement, “By allowing Committee members to work their will, the Committee succeeded in passing a number of widely-supported tax provisions that will provide some certainty in the tax code for the next two years.” He added, “We look forward to continuing to work together in a bipartisan fashion to enact tax extenders legislation.” Committee Ranking Member, Senator Ron Wyden (D-Ore.), called the provisions “nobody’s idea of perfect economic policy,” but acknowledged that “Congress needs to get these provisions back in place.”

It is unclear how quickly the House will move on comparable legislation to approve the expired tax provisions. House Ways and Means Committee Chairman Paul Ryan (R-Wis.) had previously indicated that he would like to act on the extenders “as early as possible in the fall”.