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## **Broward Metropolitan Planning Organization Federal Update June 2018**

### **APPROPRIATIONS**

With government funding set to expire on September 30, Congress is working quickly to pass FY 2019 appropriations spending bills. Senate Majority Leader Mitch McConnell (R-KY) and House Speaker Paul Ryan (R-WI) have already coordinated on part of the summer's spending bill schedule, and are working to package some bills into minibuses to move them across the floor.

On June 8, the House passed its first “minibus” package of three appropriations bills—Energy-Water, Military Construction-Veterans Affairs (VA), and Legislative Branch spending measures—by a vote of 235 to 179. The measure was opposed by most House Democrats, and 16 Republicans. Despite increases in funding for several programs, including veterans' health care, Democratic leaders opposed the boosts to security-related programs that would be offset by reductions to other domestic programs.

On June 25, the Senate passed its first minibus package by a vote 86 to 5. Like the House minibus, it included Energy-Water, Military Construction-VA, and Legislative Branch Appropriations bills. Despite their efforts, however, it is likely that Congress may need to package the appropriations bills as an omnibus to get a final spending package through both chambers by the end of the year.

**FY 2019 Transportation/HUD Appropriations:** On June 7, the Senate Appropriations Committee unanimously approved the FY 2019 Transportation/HUD Appropriations bill which provides funding for the Department of Transportation (DOT) and Department of Housing and Urban Development (HUD). The measure would fund the DOT at \$26.6 billion, \$698 million less than enacted for FY 2018. The bill includes funding for Amtrak, transit grants, airports, and BUILD (formerly TIGER) grants, all areas that the administration had targeted for cuts or elimination. The House Appropriations Committee approved its FY 2019 Transportation/HUD Appropriations bill on May 23. Summary of the DOT funding is in the chart below.

# TRANSPORTATION

## FY 2019 FEDERAL FUNDING PRIORITIES

	FY 2018 Enacted	FY 2019 President's Request	FY 2019 House	FY 2019 Senate
<b>TRANSPORTATION, HUD, AND RELATED AGENCIES</b>				
<b>Department of Transportation</b>	<b>\$27.414 B</b>	<b>\$16.408 B</b>	<b>\$27.9 B</b>	<b>\$26.767</b>
<b>BUILD</b>	\$1.5 B	\$0	\$750 M	\$1 B
• Planning Grants	\$15 M	\$0	\$0	\$15 M
<b>Federal Aviation Administration (FAA)</b>	\$18.115 B	\$16.122 B	\$17.69 B	\$17.701 B
• Airport Improvement Program (AIP)	\$4.35 B	\$3.35 B	\$3.85 B	\$4.1 B
<b>Federal-Aid Highways (FAST Act levels)</b>	\$44.23 B	\$45.268 B	\$45.268 B	\$45.268 B
<b>Highway Infrastructure</b> (funded from General Fund rather than HTF)	\$2.525 B	\$0	\$4.25 B	\$3.3 B
Federal Motor Carrier Safety Grants	\$561.8 M	\$381.8 M	\$381.8 M	\$381.8 M
<b>National Highway Traffic Safety Administration</b>	\$914.375	\$947.204	\$981.577	\$981.577
• Highway Traffic Safety Grants	\$597.629 M	\$610.208 M	\$610.208 M	\$610.208 M
<b>Federal Railroad Administration (FRA)</b>	\$3.091 B	\$854.025 M	\$3.153 B	\$2.768 B
• Amtrak	\$1.941 B	\$737.891 M	\$1.941 B	\$1.941 B
• Magnetic Levitation Technology Deployment (MAGLEV) Program	\$0	\$0	\$150 M	\$0
• Federal-State Partnership for State of Good Repair	\$250 M	\$0	\$500 M	\$300 M
• Consolidated Rail Infrastructure Safety Grants	\$592.547 M	\$0	\$300 M	\$255 M
<b>Federal Transit Administration (FTA)</b>	\$12.4 B	\$11.22 B	\$13.621 B	\$13.513 B
• Transit Formula Grants (FAST Act levels)	\$10.3 B	\$9.9 B	\$9.9 B	\$9.9 B
• Transit Infrastructure (funded from Treasury rather than HTF)	\$834 M	\$0	\$800 M	\$800 M
• Capital Investment Grants**	\$2.644	\$1 B	\$2.613 B	\$2.552 B

○ New Starts Projects with signed FFGAs		\$835.7 M	\$835.7 M	\$835.7 M
○ New Starts Projects		\$0	\$500 M	\$480 M
○ Signed Core Capacity Projects		\$200 M	\$200 M	\$200 M
○ New Core Capacity Projects		\$0	\$550 M	\$343 M
○ Small Starts	\$400 M	\$0	\$502.15 M	\$568 M
○ Project Delivery Pilot Program	\$0	\$0	\$0	\$100 M

*\*The FY 2018 Omnibus Appropriations bill did not include the same categories for the Capital Investment Grant program as the House and Senate FY 2019 THUD bills.*

The Senate THUD Appropriations bill includes report language related to the MPO’s transportation priorities—BUILD, project streamlining, and New Starts/Small Starts:

- **BUILD Grants:** “The National Infrastructure Investments program has become integral to the economic success of communities throughout the country for 10 years. The Committee is concerned with the Department’s use of this flexible and popular program to insert controversial policies from the administration’s infrastructure proposal, which the administration has acknowledged will not be enacted this year. These policies have not been agreed to or voted on by Congress, and there is clear bipartisan opposition to some of them.

In fiscal year 2018, the Committee explicitly prohibited the Department from using Federal share as a selection criteria in awarding projects and the Committee continues that prohibition. Despite this prohibition, the Department chose to use an applicant’s ability to generate non-Federal revenue as selection criteria in the most recent notice of funding opportunity [NOFO], in defiance of the intent of Congress. Favoring applicants that have recently generated non-Federal revenue is detrimental to areas that have high State and local gas tax levels. The NOFO also fails to recognize that transportation agencies that apply for funding under this NOFO are not able to raise revenue without enactment of a law by an independent legislative body. Holding transportation agencies responsible for raising revenue is unrealistic and detrimental to this grant program. The Committee recommendation prohibits the Department from using these criteria and directs the Department to use selection criteria from the fiscal year 2016 NOFO.”

- **Financing for Transportation Oriented Development (TOD):** “The Committee recognizes the potential of TOD to facilitate economic development, the construction of affordable housing, and more livable and healthier communities within walking distance of, or accessible to, public transit. Unfortunately, the Department has administered programs where TOD is an eligible activity with an impracticable, narrow definition of TOD that leads to near universal rejection of applications for Federal assistance. The Committee directs the Secretary to encourage the use of the Department’s financing

programs for TOD, where eligible, by issuing clear guidance and working with applicants to ensure projects meet the congressional intent of eligibility.”

- **Highway Infrastructure:** Of the \$3,300,000,000 from the general fund (Funding is available until September 30, 2022):
  - \$2,389,200,000 is for road and bridge projects eligible under the surface transportation block grant program (STBG)
  - \$15,800,000 is for the Puerto Rico highway program
  - \$5,000,000 is for the territorial highway program
  - \$90,000,000 is for the railway-highway crossings program,
  - \$800,000,000 is for a national program to improve and replace bridges in poor condition
  
- **Transit Infrastructure:** Of the \$800 million available for in transit infrastructure grants from the General Fund:
  - \$400,000,000 is available for buses and bus facilities grants
    - \$209,104,000 is provided for formula grants
    - \$161,446,000 is provided for competitive grants
    - \$29,450,000 is provided for low or no emission grants
  - \$362,000,000 is available for state of good repair grants
  - \$30,000,000 is provided for high density State apportionments
  - \$2,000,000 is provided for the bus testing facility
  - \$6,000,000 is provided for bus testing facilities
  
- **Capital Investment Grant Project Pipeline:** “The Committee is concerned with unnecessary delays for projects seeking advancement into engineering or a grant agreement. These delays are costly for local project sponsors and create uncertainty for transit planners and providers across the country. The Committee directs the Secretary to continue to advance eligible projects into project development and engineering in the capital investment grant evaluation, rating, and approval process pursuant to 49 U.S.C. 5309 and section 3005(b) of the FAST Act in all cases when projects meet the statutory criteria. The Committee also directs the Secretary to provide notice to the House and Senate Committees on Appropriations of not less than 90 days prior to altering or rescinding any rule, circular or guidance relating to the evaluation, rating and approval process pursuant to 49 U.S.C. 5309.”
  
- **Delays in Grants:** “The Committee is concerned with the increased number of programmatic decisions that have been elevated to the Office of the Secretary, leading to delays in funding and lack of cohesive policies between the Department and the modes. The Committee is particularly concerned with the slow pace of awarding and obligating funding from competitive discretionary programs appropriated in fiscal year 2017 and fiscal year 2018. The Committee directs the Department to abide by both the will and intent of Congress in all funding and policy decisions, and to consult with the House and Senate Committees on Appropriations prior to issuing all notices of funding opportunities.”

- **Advanced Transportation Congestion Mitigation Technology Deployment:** “For several years, various elements of Connected, Automated, Vehicles and Infrastructure Systems [CAVIS] have been developed on a limited basis in controlled environments to test systems for collision avoidance or signal preemption for emergency vehicles such as a city in Ann Arbor, MI and the Aberdeen Test Center. While such efforts in proving grounds and test facilities are valuable, the full benefits of this technology will be realized when integrated CAVIS are broadly deployed into real-world environments. This could translate into improved safety, mobility, and commerce for many communities across the country. The Committee supports the planned transition of this technology into real world settings in partnership with Federal, State, and local agencies, academic institutions, and the private sector. The Committee strongly encourages DOT to include small and medium sized communities in this plan, especially in States that have developed State-supported, mobile platform traffic applications for the public that could be integrated into CAVIS systems.”
- **Categorical Exclusions:** “The Committee notes that the purpose of categorical exclusions is to achieve cost savings and speed projects to construction. The Committee directs FHWA to work with stakeholders, including State DOTs, to determine how best to minimize the bureaucratic burden of qualifying a project as a CE.”

Rescissions Legislation: On June 20, the Senate voted [48-50](#) against discharging the Administration’s \$14.7 billion rescissions legislation from the Senate Appropriations Committee. Senators Susan Collins (R-ME) and Senator Richard Burr (R-NC) voted against.

## **ADMINISTRATION**

FTA Announces Final Rule to Encourage Private Sector Investment: The Federal Transit Administration (FTA) finalized a rule on May 30 to encourage greater use of public-private partnerships (P3) in capital projects. The rule, [Private Investment Project Procedures](#), goes into effect on June 29. It sets private investment project procedures that FTA grantees can utilize to petition for waivers or modifications from mandatory agency rules, guidance, or practices that may hinder their ability to use P3s to help finance transit projects. The new rule will help the federal government develop more effective approaches to spur private participation and investment in project planning, development, finance, design, construction, maintenance and operations, according to the FTA.

Under the rules, those who receive federal funding will be able to identify rules, practices, procedures or guidance that impedes the use of a P3 or private investment. They can then ask the FTA to grant a waiver or modification of a requirement if certain criteria are met. The rule does not list which FTA requirements can be waived, but FTA is allowed to modify or waive labor standard or NEPA.

White House Proposes Structural Realignment of the Executive Branch: On June 21, the White House Office of Management and Budget (OMB) released a [plan](#) to reorganize the federal government. The plan was criticized by both Republican and Democratic members. The suggested reforms include:

- Combining the Department of Labor and the Department of Education into a new Department of Education and Workforce.
- Dividing the Army Corps of Engineers so that its port, inland waterways, and dredging functions would go to the Department of Transportation (DOT) and its water supply functions would move to the Department of Interior (DOI).
- Removing food stamps and other nutrition programs from the Department of Agriculture (USDA) to the Department of Health and Human Services (HHS), which would be renamed Department of Health and Public Welfare.
- Moving rural housing assistance programs from the USDA and combining them with the urban housing assistance programs at the Department of Housing and Urban Development (HUD).
- Moving the Food and Drug Administration (FDA) from the HHS to the USDA's Food Safety and Inspection Service.
- Merging the Department of Commerce's National Marine Fisheries Service and DOI's Fish and Wildlife Service (FWS) into one department.
- Merging the DOI's Central Hazardous Materials Program and the USDA's Hazardous Materials Management program into the Environmental Protection Agency (EPA)'s Superfund program.
- Transferring FEMA's port security and rail/transit security grant programs to DOT.

White House Seeks Comment on NEPA Changes: The White House Council on Environmental Quality (CEQ) is seeking public comment on various potential procedural changes under the National Environmental Policy Act (NEPA). A notice will be published in the Federal Register on June 27, asking 20 specific questions about changing NEPA policy. These changes range government-wide, and include such policies as changing rules on the timing of agency actions, and requiring that reviews involving multiple agencies be conducted in “concurrent, synchronized, timely, and efficient” manner. The notice also suggests changing the definitions of key phrases such as “major federal action,” “effects,” and “significantly” to decrease the number of federal actions required in environmental reviews. CEQ will take public comment on the notice for 30 days after it is published, and subsequently will propose the procedural changes. After this, the agency will once again be required to accept public comment before finalizing the new procedures.

## CONGRESS

Meeting the Needs of Self-Driving Cars: With the year's legislative calendar practically full, lawmakers overseeing transportation and infrastructure policy are looking ahead to the next ‘big bill’ – surface transportation. Current funding goes through 2020 but some are already thinking about what may be included in the next surface transportation bill they will write and need to pass next year. At the top of the list is autonomous vehicles.

The Senate Environment and Public Works Committee held a hearing on June 13<sup>th</sup> on the Effects of Emerging Autonomous Technologies on America's Roads and Bridges. A bill to put a federal framework in place for encouraging research and experimentation in self-driving technology, the [AV START Act](#) (S. 1885) has stalled in the Senate, in part over worries in larger cities of less

control of their streets. The bill would regulate self-driving cars and trucks lighter than 10,000 pounds, such as those developed by companies including Ford Motor Co. and Alphabet Inc.'s Waymo. While panelists agreed that automated vehicles could potentially reduce injuries and deaths on American roadways, there is much infrastructure work yet to be done, and these upgrades do not have a clear way to be paid for currently. Highway markings, signage, lighting and shared road information databases across cities and states were among changes needed to ensure the vehicles don't put other road users at risk.

## **LEGISLATIVE LANDSCAPE**

With only 17 legislative days left before the August congressional recess, Senate Majority Leader Mitch McConnell (R-KY) and Minority Leader Chuck Schumer (D-NY) have identified their parties' priorities for the summer. The Senate is expected to consider the Farm Bill after passing the first minibus appropriations bill, and then will consider the Water Resources Development Act (WRDA) of 2018. The Senate will be in session through much of August, with McConnell citing the need to move legislation and Administration nominees. For the week of August 6, the Senate will be in recess, and will then return to Washington on a revised schedule. McConnell has noted that he hopes to use the time to confirm administration nominees and work on appropriations bills. While Democrats criticized McConnell's decision to cancel the August recess, which they claimed was to prevent them from using the time to return to their states for election campaigning, Schumer said that the party would use the work period to focus on a renewed push to reform health care. Schumer identified five priorities for measures that Democrats will focus on:

- Expanded access to Medicare;
- Increasing tax credits to help families afford the cost of health care;
- Creating a National Insurance Program to lower premiums;
- Ensuring that individuals with pre-existing conditions are not denied or priced out of insurance; and
- Lowering the cost of prescription drugs.

Health care, immigration, appropriations, and nominations are likely to consume the majority of Congress' summer work. However, when they return in September for the final work period before midterm elections in November, issues such as net neutrality, and other controversial legislative lightning rods may come up.