

# Holland & Knight

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## **Broward MPO Federal Update October 2017**

Appropriations Update: Congress has until December 8 to finalize the fiscal year (FY) 2018 appropriations bills. While the House has passed all 12 FY 2018 bills, the Senate has proceeded at a slower pace. The Senate Appropriations Committee was expected to mark up the ninth and tenth of the 12 total spending bills during the week of October 16—Interior Appropriations and Homeland Security Appropriations—but hearings were postponed due to Appropriations Committee Chairman Thad Cochran’s illness, and the hearings have not yet been rescheduled.

Senate Passes FY 2018 Budget Resolution: On October 19, the Senate passed its FY 2018 [budget resolution](#) in a [51-49](#) party line vote, which paves the way for Republicans to pass tax reform through reconciliation—a procedural tool that requires a simple majority vote threshold (50 votes) instead of the 60 votes normally required under regular order. No Democrats voted in favor, and only one Republican Senator voted in opposition, Senator Rand Paul (R-KY). The House passed its [budget resolution](#) by a party line vote of [219-206](#) on October 5. No Democrats voted in favor of the budget resolution.

The Senate bill included a last minute amendment from Senate Budget Committee Chairman Michael Enzi (R-WY) that modifies the House budget resolution to allow it to bypass a conference committee so the House can consider the Senate budget resolution this week. Chairman Enzi’s amendment also modified the House budget resolution to eliminate the \$203 billion in mandatory spending cuts it offered, and replaced the House’s deficit neutral tax cut with a cut that would add \$1.5 trillion to the deficit over the next ten years. The amendment was adopted in a [52-48](#) party line vote.

The Senate eliminated a House provision that would allow Rep. Bill Shuster’s (R-PA) air traffic control privatization reform legislation to be considered in the House as several Republican Senators oppose it. However, the proposal may still be considered in the House, due to the inclusion of procedural language that allows the House Rules Committee to reserve the right to change or waive rules in the budget laws. However, this is not a procedure that is often employed.

The Senate budget resolution includes two provisions to allow infrastructure legislation. One provision that allows the House to adjust its budget funding levels for legislation “that invests in national infrastructure, to the extent that such measure is deficit neutral for the total of fiscal years 2018 through 2027.” The other provision allows the Senate to adjust its budget funding levels for legislation relating to “infrastructure, transportation, and water development...to the extent that such legislation would not increase the deficit over either the period of the total of fiscal years 2018 through 2022 or the period of the total of fiscal years 2018 through 2027.”

Senate Committee Advances Autonomous Vehicle Legislation: On October 4, the Senate Commerce Committee unanimously approved autonomous vehicle legislation, [S. 1885, the AV START Act](#). Committee Chairman John Thune (R-SD) said the bill “underscores the bipartisan desire to move ahead with self-driving vehicle technology.” The legislation does not cover trucks due to lack of support. Senator Jim Inhofe (R-OK) withdrew an amendment proposing the inclusion of trucks under the bill. He said that the exclusion of trucks would hinder efforts to develop and adopt newer and safer technology. Groups advocating for the inclusion of trucks have said it was “inconceivable” to exclude one type of vehicle. However, opponents of the amendment have said autonomous trucks pose a threat to commercial drivers and the industry.

More than two dozen [amendments](#) were adopted, including proposals addressing data and cybersecurity issues, as well as child safety. The legislation will allow automakers to seek safety exemptions for vehicles based on production volume, and provides states with control over rules regarding registration, licensing, insurance and safety. Companies will be limited to selling 15,000 vehicles in the first year after this legislation is enacted, 80,000 vehicles in three years, and an unlimited amount in the fourth year.

Since the House has already approved its version of the bill—[the SELF DRIVE Act, H.R. 3388](#), Chairman Thune is hopeful that the two chambers can reconcile the bills’ differences quickly. If so, lawmakers have said that the legislation can be passed as a standalone, instead of combining it with a different legislative package. However, there are significant differences between the two bills including federal preemption of state and local laws—the House bill and exemptions to Federal Motor Vehicle Safety Standards (FMVSS).

House Committee Hearing on Highways and Transit Infrastructure: The House Transportation and Infrastructure’s Subcommittee on Highways and Transit held a hearing on October 11 to discuss needs for highway and transit with stakeholders. The “Building a 21st Century Infrastructure for America: Highways and Transit Stakeholders’ Perspectives” hearing witnesses were:

- [Patrick McKenna](#), Director, Missouri Department of Transportation; on behalf of American Association of State Highway and Transportation Officials (AASHTO)
- [Jim Roberts](#), President & CEO of Granite Construction, Inc.; on behalf of Transportation Construction Coalition
- [Brent Booker](#), Secretary-Treasurer, North America’s Building Trades Unions
- [Ray McCarty](#), President and CEO of Associated Industries of Missouri and Executive Director of the Missouri Transportation and Development Council; on behalf of the National Association of Manufacturers (NAM)
- [Peter Rogoff](#), CEO, Sound Transit

During the hearing, Democrats expressed frustration over a perceived lack of action from the Administration on infrastructure. House Transportation & Infrastructure Committee Ranking Member Peter DeFazio (D-OR) said the committee should take the lead, forcing the House to act on infrastructure. However, Subcommittee Chairman Sam Graves (R-MO) responded to this criticism by saying that the hearings serve as guidance in advance of the Administration’s plan. There was also disagreement between committee members over the source of funding for an

infrastructure package, with Democrats advocating for direct federal investment, and Republicans advocating for the pursuit of public-private partnerships and infrastructure asset recycling. The committee agreed that the Highway Trust Fund must be updated and overhauled, focusing on the gas tax. Members and panelists underscored the pressing need to go beyond the FAST Act and invest in surface transportation infrastructure that addresses both urban and rural needs, including roadways, public transit, airports, rail, and ports.

Members and panelists discussed funding mechanisms, particularly public-private partnerships, gas taxes, vehicle fees, and direct funding streams for freight. Panelists also discussed the need to cut bureaucratic hurdles to permitting and delivery.

House Rail Subcommittee Hearing on Infrastructure: On October 4, the House Transportation & Infrastructure Committee's Subcommittee on Railroads, Pipeline and Hazardous Materials held a hearing to gather input from rail stakeholders as the Administration is drafting its infrastructure proposal. The witnesses were:

- [Edward Hamberger](#), President and CEO, Association of American Railroads
- [Charles "Wick" Moorman](#), Co-CEO, Amtrak
- [Linda Darr](#), President, American Short Line and Regional Railroad Association
- [Tom DeJoseph](#), Senior Advisor of Industry Relations, Loram Maintenance of Way
- [Larry Willis](#), President, Transportation Trades Department, AFL-CIO

Mr. Moorman, Co-CEO of Amtrak discussed Amtrak's recent success in ridership and revenue growth, mostly in the Northeast Corridor. He did say that funding is needed to maintain state of good repair and to expand service. Traffic has doubled on the Northeast Corridor whose assets are over a century old. He said that an infrastructure proposal needs a "generational investment" and rebuilding and expanding the Northeast Corridor is the first priority.

Mr. Hamberger stated that freight rail infrastructure is in its best condition. Freight railroads have been investing more in their infrastructure and equipment than ever before –\$135 billion between 2012 to 2016. Since these railroads are privately owned and operated on infrastructure that is built, maintained, and financed by the companies, the taxpayers should not have to fund these type of infrastructure.

Mr. Willis, with the AFL CIO, warned that the infrastructure legislation should not reduce safety or labor regulations to fast-track projects, although he does support reasonable reforms to permitting.

Mr. Hamberger stated that AAR's members had spent \$7 billion for positive train control (PTC) implementation last year and will spend another billion this year. By the time PTC is fully installed by the end of 2018, the cost will be \$10 billion, and PTC will be 51 percent operational. When asked about crude oil on trains, Mr. Hamberger said that the number of trains carrying crude oil has dropped significantly and that the January 1, 2018 deadline for removing the trains from service will be met.

FHWA, FRA, FTA Announce Program for Eliminating Duplication of Environmental Reviews: The Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA) announced a program that would implement FAST Act requirements to establish a pilot program for eliminating duplication of environmental reviews. The pilot program allows up to five states to conduct environmental reviews and make approvals for projects under state environmental laws and regulations instead of the National Environmental Policy Act. The rule would address application requirements and criteria to determine whether state laws and regulations are at least as stringent as applicable federal laws. It also would update the corrective action period that the agencies must provide to a state participating in the Surface Transportation Project Delivery Program. [A public comment period is open, and comments are due November 27, 2017.](#)

NHTSA Cites Rise in Traffic Deaths: The National Highway Traffic Safety Administration (NHTSA) [reported](#) that traffic deaths rose 5.6 percent last year, in the largest two-year consecutive jump in 20 years. The fatalities related to drunk driving, speeding, and failure to use seatbelts increased, as well as pedestrian, motorcyclist, and bicyclist fatalities. Additionally, more than 23,700 people died in passenger cars and light-duty trucks, marking the largest number since 2008.

Treasury Releases Totals for Highway Trust Fund: The Treasury Department released the [totals](#) for federal trust fund accounts that ended on September 30, 2017 – the end of FY 2017. The Highway Trust Fund had a \$13.4 billion deficit in the fiscal year, decreasing its end of the year balance from \$69.2 billion down to \$56.3 billion. The Trust Fund also gained \$383 million on interest on the balances that were deposited by the FAST Act. This allowed transfers of highway funding to mass transit to reach \$1.1 billion in 2017 (the same as 2016 levels). The Airport and Airway Trust Fund increased its balance to \$14.5 billion at the end of 2017, from its beginning of the year \$14.3 billion balance.