



# Information Alert

*State-Federal Relations Division*

## **Congress Approves 2019 Appropriations Package—Shutdown Averted**

Feb. 15, 2019

On Feb. 14, Congress approved a \$328 billion fiscal year (FY) 2019 [appropriations bill, 300-128](#) in the House and [83-16](#) in the Senate, which includes funding through Sept. 30 for the nine appropriations bills that were affected by the partial-government shutdown. Within those nine appropriations bills is funding for four of the major federal departments covered by NCSL’s Natural Resources and Infrastructure (NRI) Committee staff: the Department of Transportation (DOT), the U.S. Department of Agriculture (USDA), the Department of Interior (DOI), and the Environmental Protection Agency. A summary of key funding provisions affecting states is below.

In September 2018, Congress enacted a \$147.5 billion “minibus” that included three of the 12 annual appropriations bills, and which included FY 2019 appropriations for the Department of Energy and U.S. Army Corps of Engineers. For more details on those funding provisions [read NCSL’s Info Alert](#).

For more information either on the appropriations passed this week, or in September please contact NCSL staff [Kristen Hildreth](#) and [Ben Husch](#).

### **Environmental Protection Agency (EPA)**

Overall, the Environmental Protection Agency (EPA) is funded at \$8.8 billion, \$25 million above FY 2018 enacted levels.

The bill includes \$3.6 billion for the State and Tribal Assistance Grants program, which includes \$1.7 billion for the [Clean Water State Revolving Fund](#) and \$1.2 billion for the [Safe Drinking Water State Revolving Fund](#), both consistent with FY 2018 levels. The [Targeted Airshed Grant Program, which](#) aids local, state and tribal pollution control agencies in developing plans to reduce air pollution in nonattainment areas would receive \$54 million. Additionally, the [Water Infrastructure Finance and Innovation Act](#) grant program was funded at \$68 million, a \$5 million increase from FY 2018, with conferees encouraging the EPA to prioritize applicants for financing for projects that “address lead and emerging contaminants, including PFOA and PFAS.”

The bill also include provisions [encouraging](#) EPA to issue new guidance on states' Clean Water Act (CWA) Section 401 authority, which allows states or tribes to grant, grant with conditions, deny or waive certification for a permit or license of an activity that may result in a discharge to waters of the United States. For more information on NCSL activities related to preserving state authority on Section 401, read our [recent letter](#).

The text has a few other non-budgetary provisions including requiring the agency to treat air emissions from forest biomass as carbon neutral, prohibiting EPA from requiring CWA permits for certain agricultural practices, and barring the agency from using funding to regulate the lead content of ammunition, ammunition components or fishing tackle under the Toxic Substances Control Act or any other statute. It does not include a controversial provision repealing the 2015 Waters of the United States definitional rule. For more information on Waters of the United States, read our [recent update](#).

### **U.S. Department of Agriculture (USDA)**

Overall, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies title provides just over \$23 billion in discretionary funding, \$32 million above the FY 2018 enacted level, but above President Donald Trump's request.

Within this amount, agricultural research conducted by the U.S. Department of Agriculture's (USDA) Agricultural Research Service and the Food and Drug Administration's (FDA) National Institute of Food and Agriculture is funded at \$3.16 billion, an increase of \$405 million above FY 2018 enacted level and \$879 million above the president's budget request. The Animal and Plant Health Inspection Service received \$1.014 billion, an increase of \$29 million above FY 2018 and \$272 million above the president's request. USDA's Farm Service Agency is funded at \$1.711 billion for all its programs, \$84 million above the FY 2018 and \$220 million above the president's request. The Food Safety and Inspection Service is allocated \$1.049 billion, \$7.5 million below last year but \$17 million above the president's request.

The [Natural Resources Conservation Service](#), which aims to promote conservation operations to help farmers, ranchers, and private forest landowners conserve and protect their land, is funded at \$819 million, a decrease of \$55 million from FY 2018 but \$150 million above the president's budget request. Relatedly, the bill also includes \$160 million for the [Watershed and Flood Prevention Operations Program](#) and the [Watershed Rehabilitation Program](#) equal to FY 2018 and \$160 million above the president's budget request.

USDA's numerous rural development programs are allocated a total of \$3.64 billion for FY 2019 including \$625 million in funding dedicated for infrastructure investments in rural areas. This represents a total \$1.84 billion above the president's request. Within the \$3.6 billion, \$475 million is allocated for water and waste grants; although \$425 million below the FY 2018 enacted level it is \$475 million above the president's request. The bill also includes direct funding for the USDA's efforts to improve rural broadband access and speed, specifically \$550 million, which is \$50 million below the FY2018 enacted level but rejects the president's proposed elimination of the program. Funding is also provided to support the departments loan

programs covering rural infrastructure and housing, where the federal government uses its access to cheap credit to reduce costs to rural areas.

Two non-budget provisions of note include a directive from Congress that establishes a timeline regarding an agreement between USDA and FDA for how the agencies will regulate cell-based meat in order to identify and delineate their responsibilities. Second, the bill includes provisions that will likely slow USDA's efforts to move certain agencies within the department outside for the National Capital Region by requiring the agency to provide Congress with additional information supporting the changes.

For information on the Supplemental Nutrition Assistance Program and other human services programs under USDA authority, please contact NCSL's Health and Human Services Committee staff: Haley Nicholson ([haley.nicholson@ncsl.org](mailto:haley.nicholson@ncsl.org) or 202-624-8662).

### **Department of Interior (DOI)**

Overall, the Department of Interior would see a \$14 million increase from FY 2018 to \$13 billion. Within the DOI, the Bureau of Land Management would receive \$1.31 billion, \$14 million above FY 2018 levels. The National Park Service would receive \$3.22 billion, \$20 million above FY 2018 levels. The Fish and Wildlife Service (FWS) would receive \$1.58 billion, reduction of \$17 million from FY 2018, which includes a slight increase to State and Tribal Wildlife Grants. The bill funds the [Payments in Lieu of Taxes \(PILT\)](#) program at \$500 million. PILT provides funds for local governments to help offset losses in property taxes due to nontaxable federal lands within their counties. The [Land Water Conservation Fund](#) is funded at \$435 million, \$10 million above FY 2018 enacted levels. The U.S. Forest Service, which is technically under USDA was given \$3.08 billion, an increase of \$28 million above the 2018 enacted level, for non-fire expenses, and an additional \$3 billion for wildland fire management.

Within the Bureau of Land Management, \$80.5 million is allotted for wild horse and burro management—a slight increase from FY 2018, with [conferees reporting](#) that “significant management changes need to be made within the near future in order to control costs, improve range conditions and humanely manage wild horse and burro populations.”

The Office of Surface Mining Reclamation and Enforcement was allocated \$139 million for the [Abandoned Mine Reclamation Fund](#), \$115 million of which would be available to states and tribes for the reclamation of abandoned mine lands under the pilot program, which disperses \$25 million each to Pennsylvania, West Virginia and Kentucky; \$10 million each to Virginia, Ohio and Alabama; and \$10 million to American Indian tribes.

A provision included within the bill prohibits funding for FWS to write or issue a proposed rule to list the greater sage-grouse under the Endangered Species Act.

### **Department of Transportation (DOT)**

Overall, [DOT would receive \\$26.5 billion](#) in discretionary funding, approximately \$750 million below FY 2018. However, this still represents \$8 billion above FY 2017 levels due to an influx of general funds specifically for infrastructure that was included in the two year [2018 budget agreement](#).

Most importantly for states, the bill includes funding levels well above those authorized in [2015 FAST Act](#) (and funded via the Highway Trust Fund). For highways, the bill provides \$48.5 billion versus \$45.3 billion in the FAST Act; for transit, the bill provides \$10.6 billion, compared to \$9.9 billion in the FAST Act. Both of these increases are due to the supplemental infrastructure general funds called for in the [2018 budget agreement](#). Much of the additional highway funding is allocated to the [Surface Transportation Block Grant Program](#), which provides broad flexibility to states for allowable projects. This increase in transit funding is more evenly split up among existing programs, with the largest bumps going to [State of Good Repair](#) and Bus and Bus Facilities—both the [formula](#) and [discretionary](#) programs. Within the total amount allocated for transit, \$2.55 billion is allocated for the [Capital Investment Grant](#) program, which is then suballocated to \$1.27 billion for New Starts, \$635 million for Core Capacity and \$527 million for Small Starts.

The Federal Aviation Administration is funded at approximately \$17.5 billion, \$550 million below FY 2018, but well above FY 2017. This includes 3.85 billion for the [Airport Improvement Program](#), \$500 million below FY 2018, but well above FY 2017 due to the FY 2018 budget agreement. The Federal Railroad Administration is allocated \$2.9 billion, more than \$200 million below FY 2018. Amtrak was allocated \$1.94 billion, including \$650 million for Northeast Corridor grants and \$1.29 billion for the national network, which represents an increase compared to levels authorized in the FAST Act of nearly \$100 million and \$150 million respectively.

Additional significant funding was provided to a number of competitive grant programs, including \$900 million for the [BUILD program](#) (previously TIGER), less than the \$1.5 billion provided last year, but above the \$500 million provided in FY 2017. Additionally, DOT is directed to evenly divide awards between urban and rural areas.

Non-funding provisions important to states include a provision extending livestock and insect carriers' exemption from [electronic logging device requirements](#). The legislation also contains a provision allowing states to reprogram “dead earmarks” that are more than 10 years old (sec. 125). Finally, the bill includes a number of provisions that provide direct timelines to DOT for when applications concerning competitive grant funds should be opened as well as when awards should be allocated.