



TO: STEVE SMITH
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

FROM: MIKE McINTYRE

SUBJECT: FEBRUARY MONTHLY LEGISLATIVE UPDATE

DATE: FEBRUARY 15, 2018

MONTHLY LEGISLATIVE UPDATE

FY 2018 Budget and Appropriations

In the early morning hours of February 9, Congress passed a six-week Continuing Resolution (CR) to fund the federal government at enacted FY 2017 levels through **Friday, March 23, 2018**, after a brief eight-hour government shutdown. Included as an amendment to the CR was the *Bipartisan Budget Act of 2018*, a mammoth 652-page budget deal that sets budget caps for fiscal years (FYs) 2018 and 2019, adding an additional \$164.9 billion for defense and \$130.7 billion for non-defense discretionary (NDD) spending. The package also included \$89.3 billion in emergency supplemental appropriations to jurisdictions affected by recent hurricanes, wildfires and other disasters. Detailed summaries of the CR and emergency funding are available [here](#) and [here](#), respectively. With the new budget caps in hand, the House and Senate Appropriations Committees will now work to negotiate a single omnibus deal for the remainder of FY 2018 (September 30, 2018).

Other details of the deal include:

- **\$295.6 billion** in increased spending caps on discretionary appropriations over the two-year 2018-2019 biennium—\$164.9 billion for defense and \$130.7 billion for non-defense. This will allow the House and Senate Appropriations Committees to write an FY 2018 omnibus appropriations bill totaling \$1.208 trillion in regular appropriations next month instead of the \$1.065 trillion currently allowed by law.
- A further suspension of the statutory limit on the public debt through March 1, 2019, punting the debt issue to the next Congress.
- A one-year extension of more than 30 expired tax breaks that were not included in the December 2017 *Tax Cuts and Jobs Act*, including several energy related tax credits.
- A whole host of health care program extensions and amendments related to Medicare (Division E).
- Four additional years of extension of the Children's Health Insurance Program (through FY 2027) after the six year extension enacted last month runs out.
- Temporary reauthorization for the National Flood Insurance Program (NFIP), through March 23, 2018.
- **\$89.3 billion** in immediate emergency supplemental appropriations for natural disasters—mostly hurricanes affecting Texas, Louisiana, Florida, Puerto Rico and the Virgin Islands, but also wildfires in the West and remaining storm damage from events such as Hurricane Matthew. This funding includes:

- **\$28 billion** for the Department of Housing and Urban Development Community Development Fund to help communities rebuild damaged homes, buildings, and infrastructure.
- **\$1.65 billion** to the Small Business Administration to further support the disaster loan program, and \$600 million to the Department of Commerce for Economic Development Administration grants to support immediate relief efforts and long-term recovery projects in communities affected by recent disasters.
- **\$23.5 billion** for the Federal Emergency Management Agency (FEMA) Disaster Relief Fund (DRF), the primary funding source for *immediate* disaster response. Through the DRF, FEMA can fund authorized federal disaster support activities as well as eligible state, territorial, tribal, and local actions, such as providing emergency protection and debris removal. The DRF also funds: (1) the repair and restoration of qualifying disaster-damaged public infrastructure; (2) hazard mitigation initiatives; (3) financial assistance to eligible disaster survivors; and (4) Fire Management Assistance Grants. FEMA is still providing funding to damage that resulted from Hurricane Matthew; however, this will continue to decrease.
- **\$17.39 billion** for the U.S. Army Corps of Engineers—largely targeted for projects to reduce the risk of future damages from flood and storm events.

Unfortunately, the emergency supplemental appropriations described above are not openly available to just any project. The \$89.3 billion provided by this supplemental will mostly go to previously identified projects that have been assessed for damage due to natural disaster events. Damage assessments provided to Congress by federal agencies help Congress justify the total supplemental appropriations request number.

For example, the \$17.39 billion appropriation provided to the Corps of Engineers was calculated by the Corps after it tallied the total cost of damage to Corps projects after storm events. The majority of these projects are in states affected by Harvey, Irma, and Maria; however, some of this funding will be used for projects in states that with major disaster declarations between 2014 and 2017 that have yet to receive funding for repairs. The language in the legislation states that this funding is largely targeted for “projects to reduce the risk of future damages from flood and storm events” particularly because a large sum of the funding is going to the State of Texas for major levee repairs. Therefore, the funding provided to the Corps cannot be used for construction “new starts” under this emergency supplemental appropriation like the two WRRDA-authorized storm damage reduction projects on Topsail Island.

Trump Administration’s FY 2019 Budget Request to Congress

On February 12, the Trump Administration sent its proposed [FY 2019 Budget Request](#) to Congress, and top Administration officials are scheduled to testify before various congressional committees to discuss their requests over the next few weeks. In a break from a longstanding Republican goal, the plan will not balance the budget in 10 years. The Administration's request had to be adjusted to reflect the recently enacted agreement to raise defense and non-defense discretionary spending caps, which was part of the *CR/Bipartisan Budget Act of 2018* package approved on February 9. Below are highlights from the more detailed “budget-in-brief” documents provided by federal agencies of interest.

ARMY CORPS OF ENGINEERS

The FY 2019 [Corps Budget](#) provides \$4.8 billion for the Corps, a more than 20 percent decrease from the 2017 enacted level. The Corps **proposes no “new starts” for construction** and feasibility studies; the emphasis is on completing projects that are underway. Therefore, neither WRRDA-authorized Topsail Island project is included in the FY 2019 Budget Request. However, the Corps often does not include new

starts in its annual budget request because its topline budget number (in this case \$4.8 billion) is very restrictive. Congress almost always provides more funding to the Corps than the annual budget's request and provides separate funding for a certain amount of new starts. Therefore, the FY 2018 Budget Request is not always an accurate representation of the projects that are priorities to the Corps.

Other budget details include:

- \$872 million for Construction.
 - 26 projects
 - 12 flood risk management
 - 7 aquatic ecosystem restoration
 - 7 commercial navigation (including two for sediment management)
- \$83 million for Investigations.
 - 24 studies
 - 14 navigation
 - 9 flood risk management
 - 5 ecosystem restoration
 - \$25 million to provide technical and planning assistance to enable local communities to reduce their flood risk in conjunction with state floodplain management authorities.
- \$27 million for Flood Control and Coastal Emergencies (only available to state/federal efforts).
- \$224 million for the Aquatic Ecosystem Restoration program.
- \$ 1.491 billion for the Flood Risk Management Program.
- Gives priority to coastal harbors and inland waterways with the most commercial traffic. Also provides priority for maintenance of channels at small ports that support significant commercial fishing, subsistence, or public transportation benefits.
- Proposes establishing an annual fee to support infrastructure investment and economic growth by helping finance the users' share of future capital investment, as well as 10 percent of the operation and maintenance cost, in the inland waterways.
- The commercial navigation allocation is a reduction from the FY 2018 budget level. The new budget also proposes to use from the Harbor Maintenance Trust Fund \$375 million less than what the appropriations committees have planned for the current year.
- Proposes to reduce the Harbor Maintenance Tax rate an unspecified amount to better align estimated annual receipts from this tax with recent appropriation levels for eligible expenditures from the Harbor Maintenance Trust Fund.

DEPARTMENT OF HOMELAND SECURITY—FEDERAL EMERGENCY MANAGEMENT AGENCY

The FY 2019 [DHS Budget](#) includes \$46 billion in discretionary budget authority, a \$3.4 billion or 8 percent increase from the 2017 enacted level. The Budget requests \$1.9 billion for the Federal Emergency Management Agency (FEMA). In addition, \$6.9 billion is requested for FEMA's Disaster Response Fund to help communities impacted by major disasters.

Although there are minimal details provided in DHS's budget document, FEMA is requesting \$522 million to support a new, competitive, all-hazards preparedness grant program that would require grantees to measure results in reducing preparedness capability gaps. This new funding opportunity, if approved by Congress, could be of interest to Topsail Island communities.

DEPARTMENT OF COMMERCE—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The National Oceanic and Atmospheric Administration (NOAA) provides important services to coastal communities, including daily weather forecasts, severe storm warnings, climate monitoring to fisheries management, coastal restoration, and support for marine commerce. The [Department of Commerce Budget](#) provides \$4.6 billion for NOAA activities, which is a nearly 20 percent decrease from FY 2017 enacted levels. The Administration is proposing to zero-out funding for the National Sea Grant College Program, coastal management grants, the NOAA Office of Education, and many climate, weather, and air research programs. However, Congress is not expected to support these cuts.

White House Infrastructure Package

On February 12, the White House released Administration released its long awaited 55-page infrastructure proposal, titled “[Legislative Outline for Rebuilding Infrastructure in America](#).” The plan is based on six principles for rebuilding America’s infrastructure, including:

1. New investments in rural America.
2. Decision making authority returned to state and local governments.
3. Regulatory barriers that needlessly get in the way of infrastructure projects removed.
4. Permitting for infrastructure projects streamlined and shortened.
5. America’s workforce supported and strengthened.
6. \$200 billion in federal funds to spur at least \$1.5 trillion in infrastructure investments with partners at the state, local, tribal, and private level broken down as follows:
 - \$100 billion for incentives program to attract non-federal funds
 - The Department of Transportation, Army Corps and Environmental Protection Agency would administer these funds.
 - Aid targeted for roads, airports, passenger rail, ports, waterways flood control, water supply, hydropower, drinking water facilities, wastewater treatment, storm water, brownfields and Super Fund sites.
 - \$50 billion for rural infrastructure
 - 80 percent of funds would go to governors of each state via formula.
 - 20 percent would be for performance grants.
 - Aid is for transportation, broadband, water and waste, power and electric and water resources.
 - \$20 billion for transformative projects
 - Reserved for projects that would “fundamentally transform the way infrastructure is delivered or operated.”
 - These projects would be “ambitious, exploratory and ground-breaking.”
 - Commerce Department would administer funds.
 - \$20 billion set aside to “advance major, complex infrastructure projects” by expanding existing federal credit programs, such as:
 - TIFIA (Transportation Infrastructure Finance and Innovation Act);
 - RRIF (Railroad Rehabilitation and Improvement Financing);
 - WIFIA (Water Infrastructure Finance and Innovation Act);
 - RUS lending (Rural Utilities Service program); and
 - PABs (Private Activity Bonds).
 - \$10 billion federal capital financing fund
 - Federal agencies would use funds to finance large-dollar real property purchases.
 - Creates funding mechanism similar to capital budget but operates within traditional rules for federal budget.
 - Agencies would repay the fund in 15 equal amounts using discretionary appropriations.

The plan does not cover the following:

- The plan does not establish how much money will be designated to each individual mode of infrastructure. The plan outlines new grant programs for a variety of infrastructure projects, but the plan does not designate how much money will be sent to each agency; therefore, we do not know how much money each mode of infrastructure will receive.
- There is no “pay-for” included in the plan. Congress may feel the need to attach a specific pay-for to the legislation, but the Administration does not (though Administration officials have repeatedly said that no pay-for is off the table and that they would probably accept whatever Congress decides to do).

Although coastal infrastructure projects are not expressly stated as eligible activities under the new funding programs that are part of the plan, the plan does propose to broaden eligibility under the existing Water Infrastructure Finance and Innovation Act (WIFIA) program under EPA. The broadened eligibility would provide authority for **flood mitigation, hurricane and storm damage reduction**, navigation, environmental restoration, and restoration of aquatic ecosystems so these projects could compete for funding. The WIFIA program, which was established in WRRDA 2014, provides long-term, low-cost supplemental loans for regionally and nationally significant projects.

In our discussions with TISPC’s congressional delegation and relevant committee staff, we will express the importance of coastal infrastructure projects and encourage them to include such projects as eligible activities under new funding opportunities provided in an infrastructure package.

The White House expects at least six House committees and five Senate committees to be involved in the infrastructure push. Congress will now have ten months to draft, mark up, and pass legislation in order to move forward with enacting President Trump’s proposal prior to the end of the 115th Congress on January 3, 2019. We expect Congress to make many changes to the Administration’s proposal; however, what those changes will be will become clearer over the next several months.

Water Resources Development Act

Although not many details are known about what Congress plans to include in its 2018 Water Resources Development Act (WRDA), House and Senate committees with jurisdiction over WRDA have held several hearings this year in preparation for developing 2018 WRDA legislation. We will be in contact with TISPC’s congressional delegation as the committees of jurisdiction work to identify WRDA priorities. The Senate Environment and Public Works Committee will be soliciting WRDA requests from all Senate offices through late February and the House Transportation and Infrastructure Committee plans to do the same in the near future. We will work with TISPC’s congressional delegation to ensure that TISPC’s federal priorities are considered in this process.

Corps Soliciting Proposals for New Beneficial Use of Dredged Material Pilot Program

On February 9, the Army Corps of Engineers published a [request for proposals](#) for beneficial use of dredged material pilot projects pursuant to Section 1122 of WRDA 2016 (included as part of the Water Infrastructure Improvements for the Nation Act). Section 1122 requires USACE to establish a pilot program to carry out 10 projects for the beneficial use of dredged material. The pilot program can include projects for the purposes of:

- Reducing storm damage to property and infrastructure;
- Promoting public safety;
- Protecting, restoring and creating aquatic ecosystem habitats;
- Stabilizing stream systems and enhancing shorelines;
- Promoting recreation;

- Supporting risk management adaptation strategies; and
- Reducing the costs of dredging and dredged material placement or disposal, such as
- Projects that use dredged material for:
 - Construction or fill material;
 - Civic improvement objectives; and,
 - Other innovative uses and placement alternatives that produce public economic or environmental benefits.

Projects identified under Section 1122 must maximize the beneficial placement of dredged material from federal and non-federal navigation channels and ensure that the use of dredged material is consistent with all applicable environmental laws.

Proposals must be submitted to the on or before **March 12, 2018**. More information on the program and solicitation can be found in the Federal Register notice, 83 Fed. Reg. 5763 (Feb. 9, 2018). If you would like further assistance and information about this program, please let us know.

2018 TISPC FEDERAL ADVOCACY PRIORITIES

We have reviewed the 2018 advocacy program document sent by Chairman Smith on January 31. For the advocacy priorities that are a continuation of the 2017 advocacy program, we will provide an update below. For the advocacy priorities that are new, we will provide our feedback and suggestions for how to address each item.

1. North Topsail Beach – Continue to facilitate changes to the CBRA maps

In late January, staff from the offices of Senators Burr and Tillis met with the U.S. Fish and Wildlife Service (USFWS) to discuss S. 1745, the North Topsail Beach CBRA mapping bill. As a result of that conversation, Senate staff said that they came away with the beginning of a strategy to move the bill in the Senate; however, they requested some additional information that will help them respond to potential questions about the legislation from other in in the Senate. These questions are mostly related to historical precedent for such an action and potential costs to the federal government. We are working to answer these questions preliminarily but will likely need input from North Topsail Beach officials/staff to ensure our answers include the most up-to-date information/data. We will be contacting North Topsail Beach soon to discuss this request. Once this information is finalized and shared with the Senate offices, we will share the information with Representative Jones's office as well to help facilitate consideration of the House companion bill.

2. Topsail Beach – Support legislative that would allow the use of sand from inlet CRBA area for beach nourishment

During the week of February 12, we met with staff from the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment and the House Natural Resources Committee Subcommittee on Water, Power and Oceans to discuss finalizing a strategy and legislative language to address the CBRA sand use issue. Staff agreed that they would like to have final language ready to attach to whichever legislative vehicle is moving. The potential legislative vehicles could include the infrastructure package, WRDA, and even legislation that approves the USFWS pilot project maps.

Staff mentioned that they believe USFWS could resolve this issue administratively and that USFWS has the authority to do so. However, we strongly encouraged staff to proceed with legislative language because it would ensure that future administrations could not change their interpretations of CBRA with regard to sourcing sand from within a CBRA unit to outside a CBRA unit. We reiterated the importance of having stability and certainly with regarding to the interpretation of CBRA on this matter. Staff said they will work to finalize legislative language and will let us know if it is different than the language we suggested, so we can ensure it will effectively resolve the Topsail Beach issue, as well as other sand use issues that may arise in the future.

We will continue to stay in contact with Representative Rouzer's staff and relevant subcommittee staff on this issue as the process moves forward.

3. Island-wide – Obtain federal funding for approved federal beach nourishment projects (Surf City/North Topsail Beach & Topsail Beach)/remove the seven-year sunset clause

As you know, the federal government is operating under a CR through March 23. There is still no indication of when Congress will be able to come to an agreement on FY 2018 appropriations, and it is possible that there will need to be another CR by March 23. The timing of FY 2018 appropriations approval will have a direct impact on when the Army Corps of Engineers will release its FY 2018 Work Plan. Once FY 2018 appropriations are approved, the Army Corps of Engineers will have approximately

45 days to develop and release its FY 2018 Work Plan. We have been advocating for inclusion of funding for the Topsail Island WRRDA projects in the Work Plan, so we will look forward to its release to see if the Corps has provided funding to the projects.

Also, as we have previously reported, the Senate Appropriations Committee included language in its FY 2018 Energy and Water Development report recommending that one of the five new construction starts for FY 2018 be for a coastal storm damage reduction project—language we advocated for directly with Senate Appropriations Subcommittee staff. Similar language was not included in the House bill. Therefore, we will continue to work with relevant staff and committees to ensure that the Senate’s new starts language is adopted in the final FY 2018 appropriations package.

With regard to the seven-year sunset clause, we continue to uphold our 2016 and 2017 recommendations that TISPC advocate for federal funding for its two authorized projects rather than advocate for the removal or extension of the sunset provision. The House and Senate authorizing committees responsible for writing water resources bills established the requirement that construction be initiated within 7 years of authorization to try to encourage the Corps to make progress on a more expeditious basis on newly authorized projects. An extension of the seven-year sunset provision could take pressure off the Corps to act in a timely manner, potentially causing further delays to both projects.

If there is any concern that a deadline will not be met, then steps will need to be taken to ensure that the projects are not deauthorized and that there is a process in place to allow for extension of this statutory deadline for initiating construction. If it becomes apparent that an extension is needed, then we will follow up with the congressional delegation and the authorizing committees to discuss this concern. However, this should not be a pressing concern until at least 2019, two years before the seven-year sunset provision established in WRRDA 2014 takes effect.

4. Island-wide – We need total North Carolina congressional delegations committed to supporting programs for coastal management. We believe we are responsible for a national park; as we have visitors from all states using our coast. It is important that both North Carolina Senators and North Carolina Representatives are seen supporting coastal programs

We will express TISPC’s support for federal coastal programs to its congressional delegation and will urge the delegation to support such programs, including—but not limited to—programs established by the Coastal Zone Management Act of 1972, the Regional Coastal Resilience Grants Program, and other programs that support coastal research and technical assistance resources for coastal communities.

As we reported above, the Trump Administration’s FY 2019 budget proposal includes funding cuts to several important NOAA coastal programs. However, it is important to note that Congress makes the final decisions regarding federal spending. Currently, many of these NOAA programs enjoy strong bipartisan support in Congress; however, yet, it is important to keep pressure on the congressional delegation so they are aware of how vital these programs are to coastal communities.

5. Island-wide – Investigate and promote the idea that the shallow draft inlets, the Atlantic Intracoastal Waterway and beach shorelines are major infrastructure components of our national transportation system and storm mitigation barrier that should be maintained when legislation is written for the National Infrastructure Restoration bill

As we stated above (in the section of this report regarding the infrastructure package), in our discussions with TISPC’s congressional delegation and relevant committee staff, we will emphasize the importance of storm damage reduction projects and other coastal infrastructure projects and encourage them to include

such projects as eligible activities under new funding opportunities provided in an infrastructure package. Although these projects are not expressly stated as eligible activities under the new funding opportunities proposed by the Trump Administration, Congress is expected to make changes to the Administration's plan and has the authority to adjust the eligible project activities. We understand that there are Members of Congress on both sides of the aisle that are interested in providing more up-front investments in infrastructure that will reduce the impacts of natural disaster events, particularly flooding events. Therefore, there will likely be support for including such projects in an infrastructure package.

6. Island-wide – Assist with education of North Carolina congressional delegation of impact of current Community Rating System (CRS) is having on flood insurance cost and possible impact in other areas

In order for us to properly advocate on behalf of TISPC on this particular advocacy priority, please provide additional information/context regarding TISPC's decision to include this item on its agenda, along with what benefits CRS has to Topsail Island communities and/or issues communities are having with CRS. Please advise as to whether TISPC is generally expressing support for CRS or if TISPC has specific issues that need to be resolved with CRS.

7. Island-wide – Notify TISPC of any legislation that could impact Topsail Island activities on the ocean, inlet and sound

We will continue to include information on any legislation of interest to Topsail Island in the regular Monthly Legislative Update to TISPC.

MARCH 20-21 MEETINGS IN WASHINGTON

With regard to the upcoming series of meetings being scheduled with TISPC's congressional delegation and the appropriate committee and administration staff for March 20–21, we are planning for our meetings to be on that Tuesday afternoon, March 20, between 12:00 noon and 5:00 p.m. and on Wednesday, March 21, between 9:00 a.m. and 1:00 p.m. Chairman Smith has notified TISPC members of this upcoming trip so interested members can be available at those times for meetings. TISPC members should plan to be in Washington by 12:00 noon on that Tuesday.

TISPC members who plan to attend these meetings should notify Chairman Smith and Congressman McIntyre by no later than Thursday, February 22. As was the case last September, TISPC should plan to have approximately three to six persons representing Topsail Island.

We are requesting meetings with the following offices. More meetings may be added if time allows.

- The Office of Senator Burr
- The Office of Senator Tillis
- The Office of Representative Jones
- The Office of Representative Rouzer
- House Natural Resources Committee Subcommittee on Water, Power and Oceans
- House Transportation Committee Subcommittee on Water Resources and Environment
- Senate Environment and Public Works Committee Subcommittee on Fisheries, Water and Wildlife
- Army Corps of Engineers Headquarter (Chief of Civil Works Program Integration and South Atlantic Division Regional Integration Team Leader)