



**TO:** STEVE SMITH  
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

**FROM:** MIKE McINTYRE

**SUBJECT:** MARCH MONTHLY LEGISLATIVE UPDATE

**DATE:** MARCH 26, 2019

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## MONTHLY LEGISLATIVE UPDATE

The March Monthly Legislative Update provides information on the following topics:

- Budget and Appropriations
- Disaster Aid Package
- National Flood Insurance Program Reauthorization
- Trump Administration Reveals New Rate Setting System
- Bill Introduced to Boost Mitigation Funding
- Update on TISPC Federal Priorities

### **Budget and Appropriations**

On March 11, the Trump Administration released an outline of its FY 2020 Budget Request to Congress, which is titled “A Budget for a Better America: Promises Kept. Taxpayers First.” A week later, on March 18, the Administration released the full proposal with agency-by-agency line item and account details. At \$4.75 trillion, the Administration’s FY 2020 Budget Request is the largest in American history.

Overall, the budget proposal calls for significant budget increases to defense and border security along with substantial cuts to federal safety-net programs like Medicare, Medicaid, and the Supplemental Nutrition Assistance Program (SNAP). The Administration’s FY 2019 budget proposal similarly proposed increased defense spending and cuts to other departments. Congress did not act on the large majority of the recommendations. This year’s proposal is likely to face even more of an uphill battle with Democrats now in control of the House.

A full list of programs and agencies for which funding would be significantly reduced or eliminated can be found here: <https://www.whitehouse.gov/wp-content/uploads/2019/03/msar-fy2020.pdf>

*Poyner Spruill and The Ferguson Group are conducting an in-depth analysis of the budget proposal. We will send our analysis to TISPC once it is completed.*

### **Disaster Aid Package**

The Senate plans to vote on a disaster aid package during the week of March 25. Majority Leader McConnell has filed cloture on H.R. 268, a \$14.2 billion House-passed disaster aid bill. However, this is

reportedly just a place holder for at least three disaster aid bills. It is unclear which disaster aid package the Senate will ultimately consider on the floor. Whichever bill is considered, it must be sent to the House for final approval or further amendment.

### **National Flood Insurance Program Reauthorization**

The House Financial Services Committee, the committee with jurisdiction over national flood policy, held its first National Flood Insurance Program (NFIP) reauthorization hearing of the year two weeks ago. As you know, Congress is working against a tight deadline to reauthorize the program, which is set to expire on May 31, 2019.

During the hearing, the Committee considered four draft NFIP reauthorization bills. The Committee will likely vote on these bills in the coming weeks, but continued discussions with the Senate will likely result in changes to these proposals. One Senate lawmaker, Senator John Kennedy (R-LA), is trying to join forces with Representative Maxine Waters (D-CA), who chairs the House Financial Services Committee, after getting frustrated with the lack of movement on legislation in his own chamber. Senator Kennedy said the two recently met at his request to strategize.

Some of the proposals included in the package of bills include:

- A five-year reauthorization of the NFIP.
- Forgiveness of the NFIP's debt.
- A means-tested affordability program, where premiums would be discounted for households earning 80 percent of Area Median Income or less. Those premiums would be capped at 2 percent of Area Median Income.
- Allowance for premiums to be paid monthly.
- Creation of a state revolving loan fund for flood mitigation (see below section for more details).
- Increased coverage limits for homes and businesses, with limits for homes increasing from \$250,000 to \$500,000 and commercial policy limits increasing from \$500,000 to \$1,500,000.
- Increased Cost of Compliance (ICC) coverage doubled from \$30,000 to \$60,000, with the policy not subject to policy limits and with acquisitions of property an eligible expense.
- Improvements to the CRS program and increased support for communities for effective floodplain management.
- \$2 billion authorized annually for pre-disaster hazard mitigation funding.
- Improved mapping by requiring the use of the most up-to-date technology, including LIDAR, to make makes more granular and advanced.
- Improvements to the Federal Emergency Management Agency's (FEMA's) map appeals process for communities and policyholders.
- Allowance for communities to adopt portions of new flood maps while continuing to appeal other portions, or panels.
- Creation of a new flood map zones for levee-impacted and for agricultural areas.
- Improvements to the claims process.

A video of the hearing, witness testimony, and links to the four draft bills can be found [here](#).

## **Trump Administration Reveals New Rate Setting System**

On March 19, FEMA introduced a new NFIP premium rating system that could drastically change rates for millions of NFIP policyholders. FEMA will be implementing the new rate system in segments, with the first rates and rating structure to be effective October 2020 for single-family homes in the coastal Southeast (Texas to North Carolina). This is where FEMA has the most policies and most availability of up-to-date data. The order of rollout for additional segments will be determined by FEMA at a later date. FEMA plans to release the new flood insurance rates for single family homes in the coastal Southeast on April 1, 2020.

The new rating system will determine risk by incorporating multiple variables, such as different types of floods, the distance a building is from the coast or another water source, and the cost to rebuild the structure. This will be the first time FEMA incorporates into its flood insurance rates the cost of rebuilding a structure, which FEMA officials say will address an inequity where lower-value homes have paid the same rates as higher-priced homes. FEMA officials also contend that homeowners will see insurance rates that more accurately reflect the potential dangers they face and be better informed of their real flood risks.

FEMA provided an example of how the new system would work for two homes in the 100-year floodplain: The first home, at the edge of the 100-year floodplain, faces low risk of flooding from inland flooding or storm surge. The second home is located in a different location closer to the flood hazards and faces a higher risk from both inland flooding and storm surge. Under the current system, each home pays the same premium. Under the new system, the first home's premiums would decrease significantly, while premiums for the second home would increase significantly. It is important to keep in mind, however, that Congress has set limits on how much FEMA can increase premiums annually, and there are currently protections in place for grandfathered properties.

With some homeowners set to see higher rates, FEMA said it is evaluating ways to minimize financial burden and unintended harm, such as through a phased-in approach to transition policyholders to the new system. FEMA has admitted, however, that it does not yet fully understand the impact the new system will have on premiums.

Stakeholders are expressing concern that the new policy could hurt communities with the greatest perceived flood risk, and potentially cause issues in the housing market similar to the issues experienced after the Biggert-Waters NFIP reauthorization of 2012, which resulted in major premium increases for many policyholders. Members of the House and Senate are already pledging close scrutiny of the plans being rolled out by FEMA.

FEMA has yet to release any detailed information about Risk Rating 2.0. We are hopeful that FEMA will release more information in the coming weeks and months to provide policyholders greater clarity, and also so the NFIP's reauthorization process can be informed by Risk Rating 2.0.

*Poyner Spruill and The Ferguson Group will be analyzing the new Risk Rating 2.0 system. We will send TISPC our analysis once it is completed.*

## **Bill Introduced to Boost Mitigation Funding**

In early March, Representatives Charlie Crist (D-FL) and Roger Williams (R-TX) introduced legislation that would create a low-interest loan program to help property owners better floodproof their homes and businesses, protect property, and ultimately reduce post-disaster claims and recovery costs. The same legislation has been introduced in past congresses but did not move out of committee. This year, the proposal has been included in draft NFIP reauthorization legislation being considered by the House Financial Services Committee.

Modeled after the successful Clean Water and Drinking Water State Revolving Loan Funds, the *State Flood Mitigation Revolving Fund Act of 2019* (H.R. 1610) would establish a state revolving loan program to help fund flood mitigation projects for homeowners, businesses, nonprofits, and communities. The program would allow states to offer low-interest loans to NFIP participants for flood mitigation projects to better protect their properties, reducing post-disaster claims. For those participating in the program, FEMA would offer NFIP premium reductions in line with mitigation efforts taken. States have the option to provide an amortization period longer than 20 years, to a maximum of 30 years, if the amortization period is not longer than the expected design life of the project.

Examples of eligible projects include:

- Elevating structures
- Floodproofing
- The relocation or removal of buildings from the 100-year floodplain or other areas of flood risk, including the acquisition of properties
- Environmental restoration activities that directly reduce flood risk
- Any other activities listed under Section (c)(3) of the following [link](#) (42 U.S.C. 4104c).

Beach nourishment and renourishment would not be considered eligible activities under this program. We would need to work with TISPC's congressional delegation to add language to the bill that would make beach nourishment and renourishment activities eligible.

The *State Flood Mitigation Revolving Fund Act of 2019* has the [support](#) of over 30 national organizations and 100 community resiliency, environmental protection, and municipal organizations from states across the country.

## UPDATE ON TISPC FEDERAL ADVOCACY PRIORITIES

The current status of priority agenda items are outlined below. The meetings references are the meetings held in Washington, DC, on March 12 and 13 at which TISPC representatives were present along with Poyner Spruill and The Ferguson Group. We met with the following offices/agencies:

- Office of Representative David Rouzer
- Office of Senator Richard Burr
- Office of Senator Thom Tillis
- Army Corps of Engineers, Office of the Assistant Secretary of the Army
- Army Corps of Engineers, Civil Works
- Federal Emergency Management Agency, Intergovernmental Affairs Division
- House Appropriations Committee Subcommittee on Energy and Water (Majority and Minority)
- Senate Committee on Environment and Public Works (Majority and Minority)
- White House Office of Management and Budget, Energy, Science and Water Division

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

Below are brief summaries of the meetings held in Washington on March 12 and 13:

- Staff for Senator Burr and Senator Tillis expressed that both Senators are supportive of reintroducing the North Topsail Beach CBRA mapping bill with the slight amendments that were agreed to earlier this year (a copy of the amended language is attached). Timing for reintroduction is unclear at this time but could occur within the next couple of months.
- Senator Burr's staff said that they will work with Senator Tillis' office to revive discussions with the Senate Environment and Public Works Committee (EPW) and the U.S. Fish and Wildlife Service (FWS), if necessary.
- Staff for Representative Rouzer stated that they continue to support North Topsail Beach's efforts on this issue, and that they will consider our request to introduce the North Topsail Beach CBRA mapping bill in the House, particularly due to the current absence of representation for North Carolina's 3<sup>rd</sup> congressional district.
- The majority (Republican) staff for the Senate EPW Committee expressed that they want to continue to work with Senator Burr and Senator Tillis to resolve this issue. They said this should be a non-controversial fix. They expressed that it would be helpful to have support from the minority; however, it was not suggested that minority support would be required for the legislation to move forward.
- The minority (Democratic) staff for the Senate EPW Committee again expressed opposition to the proposed legislative fix for the North Topsail Beach CBRA mapping issue, stating that FWS continues to resist the change because it could set a precedent upon which other communities could seek changes to their CBRS boundaries. Minority staff said that they appreciated the "creative" idea to potentially swap removed acreage for Otherwise Protected Areas (OPA), which we told them is an idea that previously did not gain traction but one which North Topsail Beach could

consider revisiting. Staff said that they are willing to work with us to seek technical assistance from FWS regarding the OPA swap proposal, and are also willing to request all the documents that FWS currently has on the North Topsail Beach issue.

When discussing details of the CBRA statue, staff admitted that they have not looked at the underlying language recently. After briefly reviewing the language, and understanding that there is a disagreement with regard to the interpretation of the “full complement of infrastructure” definition, they asked why North Topsail Beach has not considered suing FWS. We discussed that there was a lawsuit filed in the 1980s, but that ultimately legal conclusions we have obtained suggest that a legislative solution is the best way to fix the issue. Staff requested additional information on the lawsuit from the 1980s, which Poyner Spruill and The Ferguson Group are currently compiling.

Staff suggested that they will remain in opposition until FWS and/or environmental groups change their position on the issue.

## **2. Topsail Beach – Support legislation that would allow the use of sand from inlet CRBA areas for beach nourishment**

Below are summaries of the meetings held in Washington on March 12 and 13:

- Staff for Senator Burr and Senator Tillis expressed that they will continue to support a legislative solution to the sand borrowing issue that is impacting Topsail Beach, and we discussed their most recent effort to attach legislative language to a natural resources package that was moving through the Senate.
- Due to time constraints, we were unable to discuss the sand borrowing issue with Representative Rouzer’s staff on March 12. However, Poyner Spruill and The Ferguson Group followed up with relevant staff in the days following, and continued our efforts to coordinate with other communities and organization. We discussed with Representative Rouzer’s staff that there may be a House Democrat from New Jersey that would be willing support our legislative efforts, and that a bipartisan effort could help facilitate action on legislation. Representative Rouzer’s staff is currently in discussions with staff from this New Jersey House District.

We are also working with others to reaffirm support for a legislative solution to this issue from the American Shore and Beach Preservation Association (ASBPA) and the Coastal States Organization (CSO), both of which expressed support in the previous Congress. We are also planning to meet with staff for Senator Tom Carper (D-DE), who is the Ranking Member of the Senate EPW Committee, in the coming weeks to discuss the issue.

- The majority (Republican) staff for the Senate EPW Committee expressed that they want to continue to work with Senator Burr and Senator Tillis to resolve this issue, but stated that minority support will make it easier to address. We said that we are continuing efforts to work with others to find a compromise solution but we are currently not in agreement on a path forward. We also told them that we are continuing efforts in the House as well, which may progress faster than efforts in the Senate.

- The minority (Democratic) staff for the Senate EPW Committee expressed concern with the proposed legislative language and said that the minority would not be able to support language that is not supported by at least the National Audubon Society (Audubon) and potentially other environmental organization. They said they will continue to oppose a legislative solution until an agreement on language is reached. Interestingly, staff said that they are motivated to find a solution to the issue as well because it is preventing them from moving FWS-approved maps. They said that there are many communities that do not want to support the “technical” changes made by FWS because in some cases FWS extends the CBRA zone into areas where communities source sand for federal projects, causing concern among many communities.

Staff reiterated their support for studying the issue prior to passing any legislation. We said that studying the issue would not be necessary because these projects are already extensively studied. We used the Topsail Beach Project as an example of a project that has been extensively studied, even by FWS, with findings that there are no negative environmental impacts and in some cases positive environmental impacts. Staff said there is a difference between academic research and engineering data. We disagreed that FWS and project engineers are currently not capable of properly assessing the environmental impacts of sand borrowing projects.

We said that we will keep staff apprised of our ongoing discussions with stakeholders and the House.

### **3. Island-wide – Obtain federal funding for approved federal beach nourishment projects (Surf City/North Topsail Beach & Topsail Beach)**

Below are summaries of the meetings held in Washington on March 12 and 13:

- Staff for Senator Burr and Senator Tillis continued to express the Senators’ support for the Surf City and North Topsail Beach Project. They expressed that they will again work with us to secure language in FY 2020 appropriations legislation that will direct a Corps of Engineers construction new start to a coastal storm damage reduction project, which will provide the Corps with an opportunity to provide new start funding to a coastal project in the FY 2020 Work Plan.
- Staff for Representative Rouzer stated that they too continue to support the Project and will work with us to secure the necessary language in FY 2020 appropriations legislation to direct a Corps construction new start to a coastal storm damage reduction project.
- We met with majority and minority staff for the House Appropriations Committee (HAC) Subcommittee on Energy and Water to discuss our request that a Corps of Engineers construction new start be provided to a coastal storm damage reduction project. HAC staff take direction from requests that Members of Congress provide for the appropriations bills, and therefore could not provide any certainty as to whether or not our requested language will be included in FY 2020 appropriations legislation. However, they expressed interest in the Surf City and North Topsail Beach Project and appreciated our efforts with Representative Rouzer in the House and Senators Burr and Tillis in the Senate to get this done.
- The Deputy Assistant Secretary of the Army for Project Planning and Review, the Deputy Leader for the South Atlantic Division (SAD), and the SAD Program Manager, all of whom we met with

at Army Corps of Engineer's Headquarters, expressed continued Corps Headquarters support for the Surf City and North Topsail Beach Project.

- The Deputy Assistant Secretary of the Army for Project Planning and Review said that the Project has his support. He said that the Project just needs funding, which is provided to the Corps by Congress. He also said that he will personally follow up with the White House Office of Management and Budget (OMB).
- The Deputy Lead for SAD and the SAD Program Manager said it is clear that the Project is ready for a new start and that the non-federal sponsors are motivated and prepared. They reiterated that OMB support is important to ensuring that the Project secures funding. They also said that the Corps understands that communities protected by strong beaches fair better during storms, and that the statics regarding the level of protection that could be provided by this Project are very compelling. They said that Surf City and North Topsail Beach have done everything right in their pursuit of federal funding and that they should continue to advocate for the Project at all levels of government.
- OMB personnel expressed genuine interest in the Surf City and North Topsail Beach Project and stated that it was helpful to hear more details. Though OMB did not and does not provide any definitive promises regarding which projects will ultimately be chosen for inclusion in Corps work plans, they said that they will keep this project in mind for the FY 2020 Work Plan. This is the most positive feedback we have received thus far from OMB with regard to the Project.

#### **4. FEMA Disaster Relief**

Below is a brief summary of the meeting held in Washington on March 12 with FEMA regarding the recovery of Topsail Island beaches:

- After discussing issues regarding the Towns' frustrations with the pace of beach recovery approvals with nearly a dozen FEMA personnel, some of which were on the phone and some of which were present at the meeting, it was agreed that separate calls with the three Towns would be scheduled to discuss what needs to be done to ensure that the Towns receive both construction approvals and reimbursements as quickly as possible. FEMA stated that they would produce "memos for the record" after these calls to recap what was discussed. It is our understanding that these calls have occurred.
- FEMA personnel reiterated that they have no agenda other than to secure approvals and reimbursements as soon as possible. FEMA assured the Towns that they will do "whatever [they] can to expedite the timeline."
- With regard to the cash flow issue, FEMA said that the Public Assistance program is set up to be a reimbursement program, not an advanced funding program. Fixing cash flow issues that cannot be fixed by ensuring that reimbursements are completed on a timely basis is an issue for Congress.
- Questions were raised regarding whether or not FEMA Hazard Mitigation Grant Program (HMGP) funding can be used for beach renourishment projects, but HMGP funding cannot be used for beach

renourishment projects. Existing statute would need to be amended to make beach renourishment an eligible activity under HMGP.