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FROM: MIKE McINTYRE

SUBJECT: MARCH/APRIL MONTHLY LEGISLATIVE UPDATE

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

- Washington News
 - Budget and Appropriations
 - FEMA Releases Proposed Policy for New Mitigation Funding Grant Program
 - Legislation Introduced to Establish State Revolving Fund for Mitigation Projects
- Advocacy Update

WASHINGTON NEWS

Budget and Appropriations

House Appropriations Committee Chairwoman Nita Lowey (D-NY) has assigned appropriations subcommittee leaders top-line funding number for their FY 2021 appropriations bills, a key first step in the drafting process for annual appropriations. Committee members are now remotely working to draft appropriations legislation with the goal of keeping the FY 2021 appropriations process on track despite the complications posed by COVID-19.

Appropriators held hearings with most, but not all, major Trump Administration officials on the President's FY 2021 Budget Request in February and March. The full committee announced plans in late February to hold markups on all twelve FY 2021 bills beginning April 21 and concluding on May 19, but it is unclear if these goals will be reached. In addition, future COVID-19 emergency stimulus legislation (or lack thereof) may have an impact on how the FY 2021 appropriations bills are written, which could further complicate the process.

FEMA Releases Proposed Policy for New Mitigation Funding Grant Program

A [proposed policy](#) is now available for public comment on the new FEMA Building Resilient Infrastructure and Communities (BRIC) Grant Program. BRIC was created in the Disaster Recovery Reform Act of 2018 (DRRA), which provided FEMA with a steady stream of funding year-to-year for pre-disaster hazard mitigation projects. DRRA allows FEMA to set aside six percent from the total amount of disaster assistance it provides for each disaster. *BRIC replaces the existing Pre-Disaster Mitigation (PDM) program* and is envisioned to support states, local communities, tribes, and territories

as they undertake hazard mitigation projects reducing the risks they face from disasters and natural hazards.

Stakeholders may view the policy and provide comments until May 11, 2020. Following the review of the comments received on the proposed policy, FEMA anticipates finalizing the policy and releasing the first Notice Of Funding Opportunity by the fall.

The process to apply for funds are expected to be the same as PDM. The funding will flow from the federal government through states; local governments will apply through their state emergency management agency. The cost share is also expected to remain the same at 75 percent federal/25 percent non-federal (distressed communities may receive up to 90 percent federal). The proposed policy outlines four main categories of funding: technical assistance; capacity-building assistance; mitigation projects; and management costs.

- **Technical Assistance:** FEMA may provide non-financial technical assistance to promote the program, identify potential projects, develop and review applications and mitigation plans, and provide training on grants management.
- **Capability- and Capacity-Building Activities:** FEMA may provide financial assistance in the allocation to applicants to expand or improve the administration of mitigation assistance; create and support partnerships that will mitigate risk; develop mitigation priorities and plans; pursue project-scoping activities; establish, adopt, and enforce codes and standards consistent with statutes; and identify and implement other hazard-mitigation activities that reduce vulnerability, enhance public safety, and improve the resiliency of communities and critical infrastructure to natural hazards.
- **Mitigation Projects:** FEMA may provide competitively awarded financial assistance to applicants to implement cost-effective mitigation projects designed to increase resilience and public safety and reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities.
- **Management Costs:** FEMA may provide financial assistance to reimburse the recipient and subrecipient for eligible and reasonable indirect costs, direct administrative costs, and other administrative expenses associated with a specific mitigation measure or project in an amount up to 15 percent of the total amount of the grant award, of which not more than 10 percent of the total award amount may be used by the recipient and 5 percent by the subrecipient for such costs.

The proposed policy is only 10 pages in length, so we suggest reviewing the policy at your convenience. Please note that beach renourishment is not currently an eligible activity under PDM and is not expected to be eligible under the BRIC program.

Legislation Introduced to Establish State Revolving Fund for Mitigation Projects

U.S. Senators Gary Peters (D-MI) and Ron Johnson (R-WI), the respective Ranking Member and Chairman of the Homeland Security and Governmental Affairs Committee, [introduced](#) bipartisan legislation to establish state revolving loan funds that could be used by local governments to carry out mitigation projects that reduce natural disaster risk, including shoreline erosion and rising water levels. *Unlike existing FEMA grants*, the low-interest loans created by the Safeguarding Tomorrow through

Ongoing Risk Mitigation (STORM) Act of 2020 ([S. 3418](#)) would allow local governments to invest in resiliency and mitigation projects that help reduce loss of life and property, the cost of insurance, and disaster recovery payments. These loans would reach the communities more quickly than FEMA's traditional grants and provide local communities with capital necessary to invest in more resilient infrastructure.

Similar legislation was introduced in Congress last year. (We reported on the introduced of this legislation in previous monthly reports.) However, this new legislative proposal is different because it explicitly makes shoreline protection and erosion project eligible, which is a significant and positive development for this legislative concept.

ADVOCACY UPDATE

Washington, DC, remains largely shutdown as the nation's capital continues to respond to the coronavirus, and access to the Capitol Hill complex continues to be restricted. House and Senate leadership have announced that neither chamber is expected to return in full until after May 4 (at the earliest). However, unanimous consent or voice votes may occur between now and May 4.

Since our last monthly report, Congress has approved three coronavirus relief packages: (1) the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123), which was signed into law on March 6; (2) the Families First Coronavirus Response Act (P.L. 116-127), which was signed into law on March 18; and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), which was signed into law on March 27. TFG and Poyner Spruill drafted summary memos on each piece of legislation, which can be found [here](#), [here](#), and [here](#), respectively. As soon as this week, Congress may consider a fourth relief package, but Democrats, Republicans, and the White House have been unable to come to an agreement on what should be included in the package. Republicans would prefer to approve a narrowly-focused package that would provide additional aid to small businesses by increasing the amount of funding provided to the Paycheck Protection Program (PPP), which is expected to run out of money as soon as Friday, April 17. Democrats agree that additional aid is needed for the PPP, but they also want additional aid for hospitals, state and local governments, and food assistance programs.

We also drafted a specific [report](#) on the Emergency Paid Sick Leave and Family and Medical Leave Programs created by the Families First Coronavirus Response Act. As you know, public agencies (including local governments and other political subdivisions) are required to provide the benefits of both the Emergency Paid Sick Leave and Family and Medical Leave Programs to their employees. However, public agencies are not eligible to receive the reimbursable tax credits from the federal government to offset the costs of these paid leave programs. We understand this is a serious issue for local governments, so TFG and Poyner Spruill are working with advocacy organizations and other stakeholders to fix the issue in forthcoming federal legislation.

We also understand that revenue loss is causing serious budgetary impacts for local governments. You may be aware that the CARES Act created a Coronavirus Relief Fund to provide money to state and local governments to help cover "unbudgeted" expenses related to COVID-19. Unfortunately, right now, revenue loss is not considered an eligible cost under the Coronavirus Relief Fund. This is another issue we are working to address in forthcoming legislation. It is important to note that the CARES Act Coronavirus Relief Fund only provides direct payments to states and to local governments with populations over 500,000. States, however, have the ability to direct the funding they receive to lower levels of government in their state. The uncertainty of how states will use their Coronavirus Relief Fund allocations has resulted in calls to create another Coronavirus Relief Fund to provide direct payments to local governments with populations of less than 500,000, which would presumably help smaller communities like those on Topsail Island (depending on how the program is implemented). Please know we are working to make sure smaller communities are not left out of the process, and that there are many stakeholders, advocacy groups, and Member of Congress working to address this issue.

In addition, there are calls for a forthcoming stimulus package to include additional funding for infrastructure. However, there is not yet clear plan on what would be included in such a package or timing for when this action would occur. There seems to be bipartisan support on Capitol Hill and support from the White House for the idea, but that support has not yet translated into legislation. We will continue to have discussions with your congressional delegation about additional funding or policy changes that could benefit TISPC's priorities, including the North Topsail Beach CBRA mapping issue, as this opportunity develops.

As you know, TFG and Poyner Spruill recently coordinated and scheduled a meeting with the North Carolina Association of Realtors (NCR) and the National Association of Realtors (NAR) to discuss the North Topsail Beach CBRA mapping issue after both organizations expressed interest in helping North Topsail Beach advocate for passage of H.R. 2834/S. 1406 in Congress. The conversation was both productive and positive. NCR said it plans to include the issue of resolving North Topsail Beach's CBRA mapping problem in a list of recommendations to its legislative committee for inclusion in NCR's policy platform. The legislative committee plans to meet in June to make its policy position decisions, so NCR will have a definitive answer as to its official position on the issue sometime in June. (This timing is subject to change given the uncertainty posed by COVID-19.) NAR, being a national organization, typically includes broader federal issues in their legislative platform so the platform is relevant to all the state-level realtors associations. Nevertheless, NAR expressed that it would be willing to work with us as the legislation moves through the process, and we plan to stay in contact with both NCR and NAR as legislative vehicles develop throughout this session of Congress.

Lastly, for your reference, TFG has created a webpage on our website specifically focused on providing coronavirus-related resources to local governments and public agencies. These resources include important documents from Congress, the White House, and federal agencies, as well as original content, including biweekly updates on federal coronavirus response efforts that are sent every Monday and Thursday. Please visit <http://www.thefergusongroup.com/Coronavirus> for more information.