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SUBJECT: APRIL MONTHLY LEGISLATIVE UPDATE

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

- Washington News
    - Status of Coronavirus Relief
    - Status of Infrastructure Stimulus Legislation
    - Status of the President's FY 2022 Budget Request to Congress
    - House Republicans Approve the Use of Earmarks for FY 2022 Spending Bills
- Advocacy Update

WASHINGTON NEWS

Status of Coronavirus Relief

On March 11, President Joe Biden signed the *American Rescue Plan Act* (ARPA) of 2021 (PL 117-2) into law. TFG published a Special Report on PL 117-2 that provides a summary of key funding programs and provisions of interest to local governments.

Many of the federal departments and agencies that received additional or new funding for programs and financial assistance will begin issuing guidance for this funding over the coming weeks. This guidance information will be posted in the "Administration" section of the TFG Coronavirus Update and on TFG's Coronavirus Federal Guidance webpage.

TFG has also created a live COVID-19 Grants Tracker that is updated weekly and includes information on competitive federal funding available for coronavirus pandemic activities.

Status of Infrastructure Stimulus Legislation

On March 31, the White House released a detailed fact sheet for President Joe Biden's $2.25 trillion, eight-year "American Jobs Plan" proposal. The President officially announced the proposal in a speech in Pittsburgh, Pennsylvania.

The wide-ranging infrastructure stimulus plan would pump federal funds into transportation, water, wastewater, resilience, housing, schools, broadband, and power grid infrastructure, among other priorities. A second package, planned for release in April, could seek an additional $1 trillion to expand social policies such as the child tax credit and paid leave. Below is a breakdown of top-line funding levels in the "American Jobs Plan" proposal (provided by the AP).

Infrastructure

- $115 billion to modernize the bridges, highways, and roads. The White House plan estimates 20,000 miles of roadways would be repaired, while economically significant bridges and 10,000 smaller bridges would be repaired.
- $85 billion for public transit, doubling the federal government's commitment to shorten the repair backlog and expand service.
- $80 billion to modernize Amtrak's heavily trafficked Northeast Corridor line, address its repair backlog, and improve freight rail.
- $174 billion to build 500,000 electric vehicle charging stations, electrify 20 percent of school buses, and electrify the federal fleet, including U.S. Postal Service vehicles.
- $25 billion to upgrade air travel and airports.
- **$17 billion for waterways and coastal ports.**
- $20 billion to address communities whose neighborhoods — typically non-white — were divided by highway projects.
- **$50 billion to improve infrastructure resilience in the aftermath of natural disasters.**
- $111 billion to replace lead water pipes and upgrade sewer systems.
- $100 billion to build high-speed broadband that provides 100 percent coverage for the country.
- $100 billion to upgrade the resilience of the power grid and move to clean electricity, among other power projects.
- $213 billion to produce, preserve, and retrofit more than 2 million affordable houses and buildings.
- $100 billion to upgrade and build new schools.
- $18 billion to modernize Veterans Affairs hospitals and clinics, and $10 billion for federal buildings.
- $400 billion to expand long-term care services under Medicaid.
- $180 billion invested in research and development projects.
- $300 billion for manufacturing, including funds for the computer chip sector, improved access to capital, and investment in clean energy through federal procurement.
- $100 billion for workforce development.

Tax Provisions

The proposal would finance projects by:

- Raising the corporate tax rate from 21 percent to 28 percent, one of the measures that over 15 years would cover the cost of the infrastructure program and then help to reduce the budget deficit.
- Imposing a 21 percent global minimum tax so companies cannot avoid taxes by shifting income to low-tax countries.
- Making it harder for businesses to merge with foreign companies to avoid U.S. taxes, a process known as inversion.
- Eliminating tax breaks for companies that shift assets abroad and denying deductions for offshoring jobs.

- Imposing a 15 percent minimum tax on the income that corporations report to shareholders.
- Eliminating tax preferences for the fossil fuels sector.
- Increasing IRS audits of large corporations.

On April 7, the Biden administration also released the details of the "America Tax Plan," which aims to raise as much as $2.5 trillion over 15 years to help finance the infrastructure proposal.

President Biden is hopeful that a bipartisan deal can be reached on infrastructure legislation. However, Democrats in Congress are already preparing for the possibility that a bipartisan compromise will not be reached. On April 5, a spokesman for Senate Majority Leader Chuck Schumer announced the Senate Parliamentarian ruled that Congress can once again use the budget reconciliation process to advance legislation this Congress, allowing Democrats to pass the American Jobs Plan by a simple majority vote in the Senate. However, Majority Leader Schumer's Office stopped short of confirming Democrats will use the reconciliation process to pass infrastructure stimulus legislation. "While no decisions have been made on a legislative path forward using [reconciliation] and some parameters still need to be worked out, the Parliamentarian's opinion is an important step forward that this key pathway is available to Democrats if needed."

Regarding the American Jobs Plan, House Speaker Nancy Pelosi (D-CA) said in a press release that President Biden's plan is "a visionary, once-in-a-century investment in the American people and in America's future." Speaker Pelosi also said she would like to pass infrastructure legislation in the House by July 4. Senate Majority Leader Chuck Schumer (D-NY) voiced similar approval for the plan. However, not everyone was receptive of the American Jobs Plan. Senate Minority Leader Mitch McConnell (R-KY) made clear his disappointment in the proposal, stating that "our nation could use a serious, targeted infrastructure plan. There would be bipartisan support for a smart proposal." Senator McConnell went on to say that "the latest liberal wish-list…is a major missed opportunity" and more like a "Trojan horse" for tax hikes that would eliminate jobs and depress wages.

Status of the President's FY 2022 Budget Request to Congress

On April 9, the Biden administration unveiled its proposed top-line spending numbers for the President's FY 2022 Budget Request to Congress. The full budget proposal is not expected until mid-May, at the earliest.

This "skinny" budget proposal provides for $1.5 trillion in discretionary spending that calls for a 16 percent increase for domestic programs and a 1.7 percent increase for defense accounts. The budget proposal is likely to be rejected by Republicans, which could cause issues for the FY 2022 appropriations process, especially given the 50-50 split in the Senate. Democrats can move forward with their own top-line numbers, but Republican support will be necessary to garner the 60 votes needed in the Senate to pass any appropriations bill to fund the government by the September 30, 2021, deadline.

The budget proposal suggests $769.4 billion in non-defense discretionary spending in FY 2022, a $105.7 billion increase over the FY 2021 level of $663.7 billion. Defense would increase to $753 billion, $12.3 billion greater than its current level of $740.7 billion. Overall, base discretionary spending would increase by $118 billion, from $1.4 trillion to $1.5 trillion, not including emergency spending.

House Republicans Approve the Use of Earmarks for FY 2022 Spending Bills

In March, House Republicans ended a decade-long Republican conference ban on allowing lawmakers to seek earmarks in annual appropriations bills, a move that could help break partisan gridlock on Capitol Hill. The House GOP conference voted 102-84 to join House Democrats in reviving "congressionally directed spending" requests.

Attention now turns to the Senate, where the parties have yet to reach an agreement on whether to embrace earmarks.

ADVOCACY UPDATE

Updates on TISPC's federal priorities are outlined below.

North Topsail Beach CBRA Mapping Issue

As you know, we have advised that the Town of North Topsail Beach again approve a resolution expressing the Town's commitment to resolving the CBRA mapping issue. We have been in contact with Alderman Leonard regarding this resolution, and we look forward to receiving a copy of the resolution once it is finalized so we can use it in our discussions with the Congressional delegation.

In addition, though not *directly* related to the North Topsail Beach mapping issue, we wanted TISPC to be aware of a new report released by the Government Accountability Office (GAO) titled, "Coastal Barrier Resources Act: Fish and Wildlife Should Better Ensure It Carries Out Required Consultation and Mapping Activities" (GAO-21-258). The review conducted by the GAO found that the U.S. Fish and Wildlife Service (FWS) "has not reviewed and updated maps as often as required because of resource constraints and competing priorities, according to agency officials." Additionally, GAO found that even though FWS has developed a process for responding to CBRA consultation requests from agencies like FEMA and the Corps of Engineers, FWS has declined to provide an opinion in response to some requests, as required by law. Of the 31 consultation requests analyzed by GAO, FWS declined to provide an opinion in 18 of those cases because of competing priorities, according to FWS. Two of the 18 CBRA consultation requests declined by FWS were FEMA requests related to North Topsail Beach CBRS Unit L06. (Refer to page 35 of the GAO report for more information on the specific North Topsail Beach CBRA consultation requests that were declined.)

Ultimately, based on its review, GAO recommends that FWS "(1) ensure its guidance directs staff to provide consultation when requested and (2) develop a strategy for complying with the CBRA requirement to review and, as necessary, update CBRS maps every 5 years."

Topsail Beach Sand Borrowing Issue

The same GAO report referenced above (GAO-21-258) also discussed the 2019 legal opinion by the Solicitor of the Interior that determined the exception provided in Section 6 of the CBRA for nonstructural shoreline stabilization projects is not limited to just shoreline stabilization projects occurring within the CBRS. The report acknowledges that the new legal opinion could affect certain Corps projects. The report explains,

"In April 2020, FWS issued a memorandum to the Corps informing it of the Interior Solicitor's 2019 opinion. The FWS memorandum said that this change does not guarantee that sand within the CBRS may be used for beach nourishment outside of the CBRS but makes such projects "eligible for consideration by federal agencies through the CBRA consultation process." Officials in the Corps' Office of Chief Counsel told [GAO] they will defer to the Interior Solicitor's opinion and follow FWS guidance when considering whether Corps projects meet the CBRA exception for shoreline stabilization projects and said they have advised division and district office staff accordingly. FWS officials told [GAO] that, at the time of our review, they had conducted two consultations on beach nourishment projects using this new opinion as guidance. Specifically, FWS had reviewed beach nourishment projects at Wrightsville and Carolina beaches in North Carolina and found that these projects qualified for the exception under CBRA for shoreline stabilization projects, provided the Corps takes other specified actions. Prior to the 2019 revised opinion, FWS had found that these projects did not meet this exception."

We will continue to monitor the Biden administration's review of the Interior Solicitor's 2019 legal opinion, as required by Executive Order 13990. It remains our understanding that all federal agencies are working to comply with the directive outlined in Executive Order 13990, but we do not yet have an update on the status of the 2019 CBRS policy change.

Surf City and North Topsail Beach Federal Project

We continue to be available to assist Surf City and North Topsail Beach as their discussions continue with the Corps regarding advancement of the federal project, which we successfully achieved.

Topsail Beach Flood Mapping Issue

We continue to be available to assist the Town of Topsail Beach with resolving its FEMA flood mapping issue. Topsail Beach is to keep us apprised as to the status of their efforts so we can engage the Congressional delegation, as needed and as discussed.

Support and Promote the Community Rating System and the Federal Flood Insurance Program

Congress is again starting to resume talks on the next National Flood Insurance Program (NFIP) reauthorization. The current reauthorization is set to expire on September 30, 2021, the end of the current federal fiscal year.

On April 14, the House Financial Services Committee held a hearing to consider draft NFIP legislation. The bills would, among other things, restrict FEMA's ability to sharply increase flood insurance rates as a result of the new Risk Rating 2.0 system (more on Risk Rating 2.0 below). Descriptions of each draft bill have been provided by the Committee:

- H.R. ____, the "National Flood Program Reauthorization Act of 2021," is a discussion draft to reauthorize the NFIP for five years, enacting a number of reforms to place the NFIP on sound financial footing and make the program more resilient, institute a cap on premium increases per year, and forgive over $20 billion in NFIP debt.
- H.R. ____, the "National Flood Insurance Program Administrative Reform Act of 2021," would modify the NFIP claims process for policyholders by establishing a pilot program for pre-inspection of homes that are covered through NFIP, strengthening protections for policyholders whose NFIP claims are denied, and enacting other reforms.

The draft legislation aims to address concerns from stakeholders and Members of Congress alike about the potential ratepayer impacts resulting from Risk Rating 2.0. The legislation would set a 9 percent limit on the amount that FEMA could increase premiums in one year. Federal law currently allows annual rate increases up to 18 percent. The legislation would not affect the 1.2 million policyholders who FEMA says will see their insurance premiums decrease under Risk Rating 2.0.

Please advise as to whether TISPC would like to more actively engage in the NFIP reauthorization process. We can assist TISPC in evaluating the proposed legislative provisions and provide feedback to the Congressional delegation and relevant Congressional committees.

Background on Risk Rating 2.0

As you know, in March 2019, FEMA introduced a new NFIP premium rating system called Risk Rating 2.0, which has the potential to change rates for millions of NFIP policyholders. FEMA originally planned to begin implementing the new rating system in October 2020 for single-family homes in the coastal Southeast (Texas to North Carolina) but FEMA delayed the implementation until 2021/2022 because "additional time [was] required to conduct a comprehensive analysis of the proposed rating structure," according to FEMA.

With some homeowners set to see higher rates, FEMA said it is evaluating ways to minimize financial burden, such as through a phased-in approach to transition policyholders to the new system:

> Phase I
>
> New policies beginning October 1, 2021, will be subject to the new rating methodology. Also beginning October 1, existing policyholders eligible for renewal will be able to take advantage of immediate decreases in their premiums.
>
> Phase II
>
> All remaining policies renewing on or after April 1, 2022, will be subject to the new rating methodology.

FEMA also explains what is *not* changing under Risk Rating 2.0. FEMA says it will uphold statutory requirements by:

- Limiting Annual Premium Increases
  Existing statutory limits on rate increases require that most rates not increase more than 18 percent per year.

- Using Flood Insurance Rate Maps (FIRMs) for Mandatory Purchase and Floodplain Management
  FEMA's flood map data informs the catastrophe models used in the development of rates under Risk Rating 2.0. That is why critical flood mapping data is necessary and essential for communities. It informs floodplain management building requirements and the mandatory purchase requirement.

- Maintaining Features
  FEMA is maintaining features to simplify the transition to Risk Rating 2.0 by offering premium discounts to eligible policyholders. This means:

- FEMA will continue to offer premium discounts for Pre-FIRM subsidized, newly mapped, and continuous coverage grandfathering.
- Policyholders will still be able to transfer their discount to a new owner by assigning their flood insurance policy when their property changes ownership.
- And, discounts to policyholders in communities who participate in Community Rating System will continue.

Risk Rating 2.0 Update

In March 2021, FEMA began releasing long-awaited information on the new Risk Rating 2.0 system and its potential impacts on policyholders. Based on the information provided by FEMA, in general, the percentage of policies that will see premiums increase by more than $240 per year ranges from 3-7 percent, depending on the state. FEMA also produced a summary of how Risk Rating 2.0 will impact North Carolina specifically.

The summary document for North Carolina states that:

- 26 percent (35,704 policyholders) of policyholders will experience a premium ***decrease***
- 65 percent (91,719 policyholders) will experience a premium ***increase*** of up to $10 per month or $120 per year
- 6 percent (8,482 policyholders) will experience a premium ***increase*** between $10-$20 per month or $120-$240 per year
- 3 percent (3,944 policyholders) will experience a premium ***increase*** greater than $20 per month or $240 per year.

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