

Monroe County, Florida 2019 Federal Legislative Agenda



Prepared by Thorn Run Partners for the

Monroe County Commission

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Monroe County 2019 Federal Legislative Agenda

Primary Issues

Hurricane Recovery

Support recovery efforts from Hurricane Irma, including funding for the Natural Resource Conservation Service Emergency Watershed Program, Community Development Block Grants-Disaster Recovery (CDBG-DR), Hazard Mitigation Grant Program, FEMA reimbursements, and other programs of importance to Monroe County. **Support** the expedited processing of FEMA reimbursements to local governments. **Support** the timely release of CDBG-DR mitigation funds. **Support** the ability to use CDBG-DR funds, both those for unmet needs and for mitigation, as a match for other federal programs, such as the Hazard Mitigation Grant Program.

Proposed Spending Reductions and Program Eliminations

Oppose funding cuts to non-defense discretionary programs of importance to Monroe County.

National Flood Insurance Program

Support efforts to improve the National Flood Insurance Program for the benefit of all participants.

Oppose reauthorization legislation that would be detrimental to policyholders and local governments.

Support the provisions of the Sustainable, Affordable, Fair, and Efficient National Flood Insurance Program (SAFE NFIP) Act. **Support** prohibition of the issuance of flood insurance for new development on properties in the Florida Keys that contain known or suitable habitat for federally-listed endangered species. **Monitor** FEMA's implementation of the Homeowner Flood Insurance Affordability Act.

Support the creation of a National Catastrophe Fund. **Support** increased funding for the Hazard Mitigation Assistance grant programs, including the Flood Mitigation Assistance Grant Program and the Pre-Disaster Mitigation Grant Program, as well as increased funding for the Disaster Relief Fund.

Water Quality

Support full funding of the Florida Keys Water Quality Improvements Program via the FY 2018 Army Corps of Engineers Work Plan. **Support** continued additional funding for Army Corps of Engineers environmental infrastructure projects in FY 2019 and future fiscal years. **Support** Monroe County's efforts and activities related to canal restoration.

Payments In Lieu of Taxes

Support full, long-term mandatory funding of the Payments In Lieu of Taxes (PILT) program, which enables local governments to rely upon PILT funds when budgeting.

Everglades Restoration and the Health of Florida Bay

Support efforts to improve the health of Florida Bay by restoring adequate fresh water flows through the Everglades, increasing water storage south of Lake Okeechobee, including the Everglades Agricultural Area Storage Reservoir Project, constructing the Central Everglades Planning Project, and completing the Modified Waters Delivery suite of projects and improved operational plan, including further modification to Tamiami Trail.

Oil and Gas Seismic Testing and Drilling

Oppose the inclusion of lease sales for oil and gas drilling within the boundaries of Florida's territorial seas in the Department of Interior's five-year National Outer Continental Shelf Oil and Gas Leasing Program. **Oppose** seismic surveying in these same areas or the Everglades. **Oppose** legislation that would prevent the Florida Department of Environmental Protection from blocking requests for offshore



drilling in federal waters off Florida's coast. **Oppose** efforts to ease restrictions on hydraulic fracturing and other oil and gas extraction activities.

Transportation

Federal Aviation Administration - Authorization and Issues

Support \$3.35 billion in annual appropriations for the Airport Improvement Program. **Support** Monroe County's grant proposals for funding through the FAA Airport Improvement Program. **Support** an increase in the passenger facilities charge cap from \$4.50 to \$8.50. **Support** annual full and dedicated funding for the FAA Contract Tower Program. **Oppose** the elimination of the Law Enforcement Officer Reimbursement Program. **Support** the removal or relocation of the non-directional beacon at Higgs Beach. **Support** continued efforts to establish a joint-use airport at Naval Air Station Key West. **Support** federal funding for sound attenuation activities around military air facilities.

Transportation Authorization

Monitor proposed changes to federal highway programs. **Monitor** efforts to enhance federal transportation revenue streams. **Support** the continuation of dedicated bridge funding through the Surface Transportation Program or other avenues. **Support** opportunities to secure funding for Monroe County's priorities via federal highway legislation or other means.

Infrastructure Investment

Support new federal investment in infrastructure. **Support** any and all opportunities to secure funding for Monroe County's infrastructure priorities.

Energy & Environment

Coral Reefs

Support legislation to reauthorize the Coral Reef Conservation Act and any efforts to address the current coral disease outbreak impacting South Florida and the Florida Reef Tract.

Climate Change and Sea Level Rise

Monitor federal climate change legislation and executive actions. **Support** federal efforts to address climate change and mitigate sea level rise. **Support** the federal legislative priorities of the Southeast Florida Regional Climate Change Compact.

Waters of the United States and Regulatory Reform

Monitor activity related to the implementation of the EPA and Corps' rule on Waters of the U.S. **Monitor** any new proposed rule regarding WOTUS proposed by the EPA and Corps'. **Monitor** activity related to regulatory reform.

Oil Spill Protection

Support revisions to the Oil Pollution Act of 1990 and other associated laws to ensure that local governments may act as first responders in an effort to protect local communities, and be reimbursed for their actions undertaken to protect their resources and restore damaged areas during oil spill events, and the Oil Spill Liability Trust Fund is capable of addressing Spills of National Significance where there is no financially viable or legally responsible party.

Land Acquisition

Support efforts by federal agencies to acquire appropriate properties to mitigate environmental resource or military encroachment concerns in Monroe County. **Support** reauthorization of the Land and Water Conservation Fund, full annual, mandatory funding for the program, and implementation of grant requirements by the National Park Service that enable future enhancement of parks awarded funds.



Support increased funding of the Department of Defense’s Readiness and Environmental Protection Integration program.

Property Assessed Clean Energy Legislation

Support legislation and guidelines that would allow for expansion of eligible uses of home and commercial property improvement projects financed by residential and commercial PACE programs to include flood mitigation.

RESTORE Act

Monitor federal implementation of the RESTORE Act to ensure continued benefit to Monroe County.

Support efforts to secure funding for Monroe County including any grant applications to the Gulf Coast Ecosystem Restoration Council.

Social Services

Continuum of Care Program – Federal Homeless Assistance

Support continued adequate annual funding for Department of Housing and Urban Development Homeless Assistance Grants, particularly for the Continuum of Care Program.

Aging Issues

Support continued adequate annual funding for Older Americans Act programs that support critical social service programs serving elder persons in Monroe County.

Social Services Block Grant

Support continued adequate funding for the Social Services Block Grant program.

Healthcare

Support expanded access to affordable healthcare insurance. **Support** increased funding for health services and programs. **Support** preservation of Medicare and Medicaid. **Support** legislation that responsibly expands treatment options and support for the mentally ill.

Public Safety

Public Safety Programs

Support continued funding for the wide variety of DOJ and DHS grants, i.e., Community Oriented Policing Services, Byrne Justice Assistance Grants, Emergency Management Preparedness Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency Response Grants, Urban Areas Security Initiative grants, and other security-specific grants. **Support** any Monroe County applications for these funds.

Naval Air Station, Key West Base Realignment and Closure

Monitor activities related to the Department of Defense Base Closure and Realignment Commission for potential impacts to Naval Air Station, Key West.

General Government Issues

Tourist Development Taxes

Oppose legislation that would exempt online travel brokers from paying taxes on the full room rate paid by the consumer, thereby costing Monroe County the opportunity to collect appropriate tourist development taxes from visitors to the region.

Tax-Exempt Bonds

Oppose legislation that would threaten the tax exemption on state and local bonds. **Support** the passage of legislation to reinstate advanced refunding of tax-exempt bonds.



Immigration

Oppose the routine separation of children and families as a part of immigration enforcement.

Siting of Wireless Facilities

Oppose legislation that would preempt local government control and force local governments to lease out publicly-owned infrastructure for the installation of “small cell” wireless towers.



FEDERAL ISSUE: Hurricane Recovery

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: In September 2017, Hurricane Irma made landfall as a Category 4 storm in Cudjoe Key, causing devastating damage across the islands to homes, business, the environment and public infrastructure. In the months after the storm, Congress passed three supplemental appropriations bills to attempt to assist in the recovery efforts from Hurricane Irma as well as several other hurricanes and wildfires. In total, these supplemental appropriations bills provided a total of \$141.05 billion in funding to impacted areas.

Monroe County has several needs for recovery assistance from the rebuilding of affordable housing, debris removal, marine debris removal, the repair of infrastructure and economic recovery, to name a few. The federal government provides assistance through a variety of different programs; this fragmented system means the County must deal with a myriad of federal agencies as well as coordinate with state and local partners.

FEMA Reimbursements

The Federal Emergency Management Agency (FEMA) assists local governments, through the state, after disasters with funding for recovery projects. This funding follows a specific process where counties seek reimbursement through the State Division of Emergency Management and FEMA for projects. It is essential that these reimbursements are processed in a timely manner to ensure the fiscal stability of local governments. Monroe County has submitted millions of dollars in project worksheets. The County has been working with FEMA and the County's Congressional delegation to process the remaining projects as quickly as possible.

CDBG-DR

Community Development Block Grants Disaster Recovery (CDBG-DR) are among the most flexible funding available through the federal government to recover from disasters. Once Congress has appropriated funding after a disaster, the Department of Housing and Urban Development will use their formula to determine the allocations between the jurisdictions that have been impacted by the disasters covered in that particular appropriation, which will then be published in the Federal Register. The funds that are allocated to any jurisdiction in Florida are administered by the Department of Economic Opportunity (DEO).

One important factor to consider when using these funds for disaster recovery is the underlying law of the CDBG program with respect to ensuring projects benefit low- to moderate-income (LMI) populations. 70% of funds must benefit LMI persons. This requirement can be dropped to 50% for specific activities via a waiver from HUD. Specifically, all funded activities are expected to meet one of the following three objectives:

1. Benefit persons of LMI
2. Aid in the prevention or elimination of slums or blight
3. Meet other urgent community development needs because of serious or immediate threat

Additionally, the third disaster supplemental appropriations bill included CDBG-DR funding for both unmet needs and a new mitigation program. The State of Florida will amend the current state action plan to account for the additional funds for unmet needs, however, the mitigation funds will need to wait for additional guidance from HUD prior to expenditure. HUD has not administered a CDBG-DR mitigation program in the past. HUD anticipates publishing guidance on the use of mitigation funds in the near future, which will then create a new resource for the County to pursue for vital mitigation and



preparedness activities. The CDBG-DR funds also allow for the use of CDBG-DR as a source of match money for the Hazard Mitigation Grant Program (HMGP).

NRCS

The Department of Agriculture Natural Resources Conservation Service (NRCS) administers a Watershed and Flood Prevention Operations Program that can be used to remove marine debris after natural disasters. Through the third disaster supplemental appropriations bill, NRCS was provided with \$541 million. The County has worked with NRCS to complete damage survey reports (DSR) for several canals. NRCS has approved work on 172 canals throughout Monroe County with a total dollar value of over \$49.2 million.

Future Disaster Changes

In October of 2018, as part of the Federal Aviation Administration reauthorization bill, the President signed the Disaster Reform Recovery Act into law. The DRRRA:

- Establishes a National Public Infrastructure Pre-disaster Mitigation Fund and authorizes the President to dedicate 6 percent of the total funds provided for future disasters to the fund, which will be made available on a competitive basis for mitigation projects, with priority given to jurisdictions that have adopted higher building codes and taken other actions to increase resiliency and preparedness. This priority should benefit Florida and Monroe County with the state's higher building code requirements and your local preparedness efforts.
- Incentivizes states to invest in preparedness by creating a sliding scale to increase the minimum federal share of disaster assistance up to 85 percent.
 - Federal cost share could still be increased above 85 percent on a case-by-case basis by the President.
 - Unlike the disaster deductible proposal, this would **not** create any situation where the federal investment would decrease below the current threshold or change the formula used to calculate when federal assistance would begin.
- Allows disaster mitigation funding to be used for authorized water resources development projects of the Army Corps of Engineers, if the projects also meet the goal of increasing resiliency.
 - These projects would still require their normal cost share and this would not provide any exemption from other requirements, such as the acquisition of easements.
 - Some floodplain and emergency management groups see this provision as negatively impacting funding for traditional mitigation activities.
- Authorizes states to administer temporary and permanent housing programs for disaster victims
- Establishes fixed rates for direct and indirect administrative expenses for state and local governments responding to a disaster
- Authorizes FEMA to provide incentives to state and local governments for timely closeout of disaster assistance
- Eliminates the restriction on duplication of benefits for those who receive a recovery loan through the Small Business Administration, making them eligible for other forms of federal disaster assistance

POSITION: *Support* recovery efforts from Hurricane Irma, including funding for the Natural Resource Conservation Service Emergency Watershed Program, Community Development Block Grants- Disaster Recovery (CDBG-DR), Hazard Mitigation Grant Program, FEMA reimbursements, and other programs of importance to Monroe County. *Support* the expedited processing of FEMA reimbursements to local governments. *Support* the timely release of CDBG-DR mitigation funds. *Support* the ability to use CDBG-DR funds, both those for unmet needs and for mitigation, as a match for other federal programs, such as the Hazard Mitigation Grant Program.



FEDERAL ISSUE: Proposed Spending Reductions and Program Eliminations

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: The Trump Administration has throughout its two budget proposals suggested cuts to or eliminations of many programs of importance to the County in both of their budget proposals since taking office. The County has engaged with members of your delegation to highlight the importance of many of these programs, and thus far, Congress has generally not gone along with the Administration's request. The President's next budget, for Fiscal Year (FY) 2020, is expected to be released in February 2019.

Among other things, following are several areas of concern to Monroe County in the President's first two budget proposals, many of which may reappear in the FY 2020 budget:

- The National Flood Insurance Program (NFIP) would have been impacted in two ways by the Administration's FY 2018 proposal. The first is a suggestion to restructure the program "to ensure that the cost of Government services is not subsidized by taxpayers who do not directly benefit from those programs". Although there is no additional detail provided, it is essential that flood insurance remain affordable for our citizens. The second change to the NFIP is a proposal to eliminate the appropriation for the NFIP's Flood Hazard Mapping Program and potentially pay for these activities by adding another surcharge onto NFIP policies. With over 30,000 NFIP policies in force in Monroe County, on both commercial and residential properties, the affordability and stability of the NFIP is of vital importance to the County. In the FY 2019 budget proposal, the Administration cuts funding for flood mapping by \$100 million.
- The proposed reduction of funding for Payment In Lieu of Taxes (PILT) in FY 2018 and FY 2019 would have a detrimental impact to the County. Approximately 19% of the County's land is eligible for compensation through PILT. In FY 2017, the County received just over \$1.2 million dollars in PILT payments.
- Reduced funding to the Army Corps of Engineers would directly impact projects important to the County, such as the Florida Keys Water Quality Improvements Program (FKWQIP) and the restoration of the Everglades.
- The elimination of nearly \$250 million in National Oceanic and Atmospheric Administration (NOAA) grants and programs for coastal and marine management, including the Sea Grant program, in FY 2018 and FY 2019 would detrimentally impact the condition of our coastline and the health of the marine ecosystem, especially in the Florida Keys National Marine Sanctuary.
- The elimination of the South Florida Geographic Program

Another threat to discretionary spending is sequestration. The Budget Control Act (passed in 2011) established budgetary caps in law for discretionary spending – one cap for defense accounts and another for non-defense accounts – through FY 2021. The penalty for spending over the caps is a sequestration of funds to ensure spending is in line with the budgetary caps established in law. Sequestration would result in a percentage-based cut to every account, program and project funded by discretionary spending. In February of 2018 Congress passed legislation to raise the budget caps for both defense and non-defense accounts for the next two years, avoiding the threat of sequestration for that time period. Budget caps will return in Fiscal Year 2020, meaning that appropriations bills considered by Congress in early 2019 will have to abide by the limitations of the Budget Control Act unless Congress devises a new workaround.

POSITION: *Oppose* funding cuts to non-defense discretionary programs of importance to Monroe County.



FEDERAL ISSUE: National Flood Insurance Program

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: In 1968, Congress established the National Flood Insurance Program (NFIP) to address the nation's flood exposure. A three-prong floodplain management and insurance program was created to (1) identify areas across the nation most at risk of flooding; (2) minimize the economic impact of flooding events through floodplain management ordinances; and (3) provide flood insurance to individuals and businesses. Until 2005, the NFIP was self-supporting, as policy premiums and fees covered expenses and claim payments. Today, the program is roughly \$25 billion in debt due to several large storms.

In mid-2012, Congress passed, and the President signed, the Biggert-Waters Flood Insurance Act (BW12), a 5-year reauthorization of the NFIP that attempted to restore the program to firmer financial footing by making several changes to the program that impacts the County's residents. Then, in early 2014, the Homeowner Flood Insurance Affordability Act (HFIAA), was enacted to address some of the so-called unintended consequences of BW12. While HFIAA delayed many of the premium increases implemented by BW12, in the long run, the only real difference between rate increases envisioned by the two bills is that HFIAA reinstated grandfathering. This provision originally ended by BW12 allows property owners to pay flood insurance rates based on original risk, not that which is determined by new community flood maps.

Authorization of the NFIP expires in May 2019.

In the 115th Congress, the House Financial Services Committee introduced and ultimately passed the 21st Century Flood Insurance Reform Act. This package of bills included several changes to the NFIP that would increase costs for consumers, put unfunded mandates on local governments, and undermine the integrity of the program. Although this legislation did pass the House, it was not taken up by the Senate. In the Senate, several Senators, including both Senators Nelson and Rubio, introduced their own version of flood insurance reauthorization, entitled the Sustainable, Affordable, Fair and Efficient National Flood Insurance Program Reauthorization Act (SAFE NFIP Act), that includes beneficial provisions from a significantly more consumer-friendly perspective. They include efforts to further limit premium rate increases, create new means-tested mitigation and affordability provisions, expand the Increased Cost of Compliance program, focus on existing pre-disaster mitigation programs and develop accurate flood maps, cap Write-Your-Own compensation, and offer a policyholder credit if they secure an elevation certificate.

Any legislation from the 115th Congress must be reintroduced in the 116th Congress for it to be considered or passed into law. That means that the SAFE NFIP Act will need to be reintroduced, which we expect to occur.

Monroe County Position

Monroe County supports reauthorization of the National Flood Insurance Program (NFIP) with legislative, policy and programmatic modifications to improve the affordability and transparency of the program through reforms in the following areas:

- 1) Affordability/Rate Structure
 - a. Maintain a focus on affordability; however, if rates must rise, provide a more reasonable glide path for all properties
 - b. Ensure rates are consistent for all properties, including second homes and businesses



- c. Ensure NFIP rates are not excessive or unfair by making the rate-setting process more transparent to the public
- 2) Programmatic Modifications to Enhance NFIP's Financial Sustainability
 - a. Consider Write-Your-Own reforms including reducing commissions while further incentivizing NFIP policy sales efforts
 - b. Encourage greater participation by those outside of the 100-year floodplain via expanded use of the Preferred Risk Policy
 - c. Further strengthen enforcement responsibilities to ensure those in the 100-year floodplain have and maintain flood insurance
 - d. Privatization that maintains affordability and requires whole profile of risk (no cherry picking)
- 3) Mitigation
 - a. Increase funding for existing flood mitigation programs
 - b. Establish tax credits for mitigation efforts
 - c. Consider voucher/loan programs to further emphasize mitigation, particularly for lower-income participants
- 4) Endangered Species Protection
 - a. Support prohibition of the issuance of flood insurance for new development on properties in the Florida Keys that contain known or suitable habitat for federally-listed endangered species.

Monroe County Endangered Species Considerations

In addition, Monroe County is home to over a dozen species that are listed by the federal government as either being threatened or endangered under the Endangered Species Act. This led to decades long litigation by environmental groups who challenged the issuance of flood insurance in the Keys on the basis that this insurance encourages and subsidizes development which ultimately jeopardizes the listed species. That litigation led to an injunction against the issuance of flood insurance on up to 50,000 parcels of property in the county which lasted for seven years. Amending the NFIA to prohibit the issuance of flood insurance for new development on known or suitable habitat for listed species would protect those species, conserve the expenditure of federal resources, and help the County reduce its exposure to property rights claims brought due to federal, state, and local regulations that have been developed to preserve this same habitat.

National Catastrophe Fund

One option that could be used in place of traditional flood insurance would be the creation of some sort of a national catastrophe fund. While this idea has often been touted by groups outside of Congress, the past several Congresses have passed with no meaningful action on, or discussion of the issue.

Mitigation Grant Programs

Separate from the NFIP, there are several federal assistance programs from which the County may benefit that provide funding to states and local governments for mitigation activities. Specifically, the Hazard Mitigation Assistance (HMA) grant programs offer the following opportunities:

- The Hazard Mitigation Grant Program (HMGP) provides grants to implement long-term hazard mitigation measures after a major disaster declaration by the President. HMGP funding is based on each disaster and is provided through FEMA's Disaster Relief Fund (DRF). The DRF was funded at \$7.9007 billion in FY 2018. For FY 2019, the House has proposed \$7.21 billion and the Senate has proposed \$6.652 billion.
- The Flood Mitigation Assistance Grant Program (FMA) assists states and local governments in their efforts to reduce or eliminate the risk of repetitive flood damage to buildings and structures



insurable under the NFIP. Both planning and implementation grants are available. For FY 2018, Congress provided the program with \$175 million. In FY 2019, the Senate and House have proposed level funding of \$175 million.

- The Pre-Disaster Mitigation Grant Program (PDM) provides resources to assist state and local governments reduce overall risk to life and property from future disasters. Congress provided \$249.2 million in FY 2018. For FY 2019, the Senate has proposed \$250 million with the House proposing \$249.2 million.

POSITION: *Support* efforts to improve the National Flood Insurance Program for the benefit of all participants. *Oppose* reauthorization legislation that would be detrimental to policyholders and local governments. *Support* the provisions of the Sustainable, Affordable, Fair, and Efficient National Flood Insurance Program (SAFE NFIP) Act. *Support* prohibition of the issuance of flood insurance for new development on properties in the Florida Keys that contain known or suitable habitat for federally-listed endangered species. *Monitor* FEMA's implementation of the Homeowner Flood Insurance Affordability Act. *Support* the creation of a National Catastrophe Fund. *Support* increased funding for the Hazard Mitigation Assistance grant programs, including the Flood Mitigation Assistance Grant Program and the Pre-Disaster Mitigation Grant Program, as well as increased funding for the Disaster Relief Fund.



FEDERAL ISSUE: Water Quality

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: As the population and tourism have increased in the Florida Keys, wastewater and stormwater practices have not kept pace, until recently. Research suggests that this has led to the degradation of water quality in canals and nearshore waters surrounding the Keys. Nutrients commonly found in wastewater and stormwater are one of the major contributors to the decline in water quality in the Florida Keys National Marine Sanctuary (FKNMS).

Florida Keys Water Quality Improvements Program

For these reasons, Congress directed the U.S. Army Corps of Engineers to assist with implementation of infrastructure improvements in the Florida Keys to improve nearshore water quality within the Sanctuary. In 2001, Public Law 106-554 authorized the Florida Keys Water Quality Improvements Program (FKWQIP), whereby the Corps may provide up to \$100 million in technical and financial assistance to carry out projects for the planning, design, and construction of treatment works to improve water quality in the Sanctuary. The primary purpose of this effort is to improve water quality in the Florida Keys through implementation of several wastewater and stormwater master plans previously prepared for Monroe County and various municipalities within Monroe County. The South Florida Water Management District is the non-federal Sponsor for FKWQIP. In September 2006, the Corps completed a Project Management Plan to guide the activities of FKWQIP.

To fund environmental infrastructure projects that are not budgeted for by the Administration, such as FKWQIP, Congress has provided additional funding for what Congress terms “Additional Funding for Ongoing Work.” Among these accounts, Congress has for the past several years provided money for Environmental Infrastructure projects such as FKWQIP. Most recently, the Corps provided \$4 million in additional funding for FKWQIP through their FY 2019 Work Plan. The County will continue to work to ensure that FKWQIP receives funding in future Work Plans.

Canal Restoration

Canals within the Florida Keys have received considerable attention from regulatory agencies due to poor water quality. 300 of the 500 canals do not meet the State’s minimum water quality criteria and are a potential source of nutrients and other contaminants to nearshore waters designated as Outstanding Florida Waters. As a result, a comprehensive Canal Management Master Plan (CMMP) was commissioned by Monroe County with financial assistance from the Environmental Protection Agency and with approval from the FKNMS Water Quality Protection Program (WQPP).

One of the main objectives of the CMMP was to prioritize the residential canals within Monroe County related to the need for water quality improvements. A process was developed that classified canals by water quality characteristics into “Good”, “Fair”, and “Poor” categories. Canals receiving a “Poor” classification were considered as potential candidates for certain restoration technologies. Restoration technologies reviewed in the CMMP include removal of accumulated organics, incorporation of weed gates or similar weed barrier structures, addition of culverts, construction of pumping systems, and backfilling. The ultimate goal of this work is to restore the environmental health of Monroe County’s canals, and subsequently its nearshore waters.

The County Commission previously approved moving forward with a series of six canal restoration demonstration projects. Those projects were complete by June 2016. The preliminary results have indicated immediate improvement to the water quality of the restored canals. The results will be used to



further define restoration costs and for information in future grant applications to state and federal sources.

To be eligible for federal funding, canal restoration efforts would require a new authorization through Congress. Under the Water Resources Reform and Development Act (WRRDA) of 2014, the Army Corps of Engineers is required to seek proposals for water resources studies and project modifications on an annual basis. From the proposals submitted by local sponsors, the Corps identifies those that meet certain criteria and recommend them to Congress for authorization within an Annual Report. The Report will also include an Appendix listing those proposals that are not recommended for authorization and the reasons for the lack of recommendation. Congress will then have the opportunity to authorize the recommended studies and project modifications through a yes or no vote, rather than a traditional Water Resources Development Act (WRDA). This process provides an opportunity to seek future assistance from the Corps for canal restoration activities.

Monroe County is also seeking funding for the CMMP through the RESTORE Act.

POSITION: *Support* full funding of the Florida Keys Water Quality Improvements Program via the FY 2018 Army Corps of Engineers Work Plan. *Support* continued additional funding for Army Corps of Engineers environmental infrastructure projects in FY 2019 and future fiscal years. *Support* Monroe County's efforts and activities related to canal restoration.



FEDERAL ISSUE: Payments In Lieu of Taxes

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Under law, federally-owned lands within a local government's boundary cannot be taxed, but these lands still create a demand for services, including firefighting and police protection, construction of roads, and search-and-rescue operations. Congress has created several programs in an attempt to compensate local governments, particularly counties, for these losses to their tax base. One of these programs from which Monroe County benefits is the Payments in Lieu of Taxes program (PILT).

Congress passed the Payments In Lieu of Taxes Act in 1976 (Public Law 94-565) to help offset the impact from these losses to local governments' tax bases through annual compensation. The PILT program is administered by the Department of Interior.

Payments are made annually for tax-exempt federal lands administered by the Bureau of Land Management, the National Park Service, the U.S. Fish and Wildlife Service, the U.S. Forest Service, and for federal water projects and some military installations. The authorized level of PILT payments is calculated under a complex formula that includes five factors affecting Monroe County's compensation: the number of acres eligible for PILT payments, the County's population, payments in prior years from other specified federal land payment programs, state laws directing payments to a particular government purpose, and the Consumer Price Index. The following are Monroe County's PILT payments for the last three fiscal years: \$1,180,195 in 2016, \$1,206,542 in 2017 and \$1,231,768 in 2018. A total of 454,861 acres, which is roughly 19 percent of the County's land, is eligible for compensation.

In 2008, Congress reauthorized PILT and changed it from a discretionary to a mandatory program through FY 2012. As a mandatory program, authorized eligible local governments are able to automatically receive their full PILT payments. As a discretionary program, however, PILT is subject to the annual, and often arbitrary, appropriations process.

As of now there is no concrete long-term nor short-term solution for providing additional PILT funding in future years. There has been some discussion of tying mandatory funding for the program to receipts from the Land and Water Conservation Fund (LWCF). The LWCF is currently a discretionary program that is routinely funded well below its authorized amount. Because of this, many believe the LWCF should also be moved to the mandatory side of the budget in order to provide as much funding as possible for the program without crowding out discretionary funding for other high-priority needs. Tying PILT, the LWCF, and other programs together as mandatory funding provides an opportunity for many programs to receive full funding on a regular basis, providing stability for local governments, as well as conservation opportunities. Because both programs tend to have support from a bipartisan coalition of lawmakers, the largest challenge for this proposal is how to pay for it.

POSITION: *Support* full, long-term mandatory funding of the Payments In Lieu of Taxes (PILT) program, which enables local governments to rely upon PILT funds when budgeting.



FEDERAL ISSUE: Everglades Restoration and the Health of the Florida Bay

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Florida Bay is a large shallow lagoon bordered to the north by the Florida peninsula and to the south and east by the Florida Keys. A portion of the bay is located within Everglades National Park and is protected by the National Park Service (NPS), with the remainder lying within the Florida Keys National Marine Sanctuary, which falls under the jurisdiction of the National Oceanic and Atmospheric Association (NOAA). The Bay provides unique and critical habitat for many plants and animals, including several endangered species such as the Florida Manatee.

The NPS began long-term monitoring of Florida Bay in 1988 in order to collect and analyze hydrologic and salinity data from the Bay. At this same time, the Bay was suffering from tremendous (approximately 23,000 acres) of sea grass die off from hyper saline conditions with resulting algal blooms. Salinity levels are considered the primary driver of ecological conditions within the bay. Salinity levels are also the driver to maintain the state-established Minimum Flow and Level (MFL) for Florida Bay, an ecosystem-based protective standard established under Florida law.

The construction of water control structures and facilities within the Everglades throughout the 20th century has altered the natural hydrologic patterns of water in the region. Overtime, this has reduced the flow of freshwater into Florida Bay and changed the ecosystem of the Bay and other connected coastal regions. Managing these water flows to reduce the severity and frequency of hypersalinity events and algal blooms are among the goals of the Comprehensive Everglades Restoration Plan (CERP).

There are a number of projects and studies under various stages of development that are expected to, in the long run, improve the health of Florida Bay. These include the Central Everglades Planning Project, Modified Water Deliveries, including the bridging of portions of Tamiami Trail, and the C-111 Spreader Canal project.

- The South Florida Water Management District secured a post-authorization change report to increase water storage south of Lake Okeechobee by constructing a reservoir in the Everglades Agricultural Area (EAA) which was authorized in the 2018 WRDA bill. Funding for the Planning, Engineering and Design phase of the project has yet to be requested by the Administration or provided via the Corps in one of their annual Work Plans. The next opportunity for funding will come in the Fiscal Year 2020 appropriations process.
- The Central Everglades Planning Project (CEPP) received its Corps of Engineers Chief's Report in 2015 and was authorized in the 2016 version of the Water Resources Development Act, included in another, larger piece of legislation. CEPP seeks to remove barriers to flow in the central Everglades to put the "river" back into the "River of Grass." The Corps can now move forward with a validation study to assess current environmental conditions and implementation of the first phase of construction for the southernmost features of the plan, which increase the inflows to Everglades National Park. Due to the magnitude of this project, CEPP construction is sequenced into three different phases, each requiring its own Project Partnership Agreement (PPA):
 - Phase 1, PPA South, consists of removing water flow barriers in the southern portion of the project's footprint, which will set conditions to flow more water south.
 - Phase 2, PPA North, consists of constructing the features needed to store additional water.



- Phase 3, PPA New Water, consists of constructing features that will enable additional water to flow south from Lake Okeechobee into the features constructed under PPA North and PPA South
- The overall purpose of the Modified Waters Delivery (MWD) to Everglades National Park (ENP) project is to restore the natural hydrologic conditions in ENP, which was altered by the construction of roads, levees, and canals. There are four major components of MWD: 8.5 Square Mile Area Flood mitigation, Tamiami Trail Modifications, Conveyance and Seepage Control Features, and Combined Operation Plan. All four components are necessary to provide substantial flow increases to ENP.
 - The most well-known portion of this project is the bridging of the Tamiami Trail. A one-mile bridge has been completed to date. In early 2015, the Department of Interior released a preferred alternative to bridge an additional 5.5 miles of the Trail called the Tamiami Trail: Next Steps project. The additional bridging will provide unconstrained flows of water to Northeast Shark River Slough (NESRS) in ENP. The resulting increased water volumes and improved flow distribution are expected to promote conditions conducive to the survival of myriad species of fish and wildlife. Groundbreaking for 2.6 of the 5.5 miles yet to be finished occurred in 2016.
 - Flood mitigation work to protect a residential area near the project (the 8.5 Square Mile Area) was completed in 2016.
 - Meanwhile, a set of significant changes to the operation of the local water management infrastructure that controls the flow of water to NESRS in ENP, known as Increment 1, began in 2015. The structural features of the MWD project finally allow this incremental increase in water flow. Planning and development of this field-test phase of the MWD project has been a complex, multi-year, interagency undertaking. Water flow into NESRS through the S-333 structure along the L-29 Canal will increase and water that seeps out of the park to the east will be returned to the park by use of the S-356 pump, also located along the L-29 Canal. Increment 1 is expected to continue for up to two years and is expected to produce small but important hydrologic benefits based on the additional water flow and seepage return. Water quality will be maintained because seepage water has low levels of total phosphorus and is of very good quality overall. Increased water flow and water quality are expected to improve habitat function and species composition and abundance, while promoting the build-up of soil and inhibiting soil loss. Increment 2 is expected to provide additional hydrologic and ecological benefits to NESRS, and data collected during the first two increments will be used in Increment 3 to design a new operational plan for the system.

POSITION: *Support* efforts to improve the health of Florida Bay by restoring adequate fresh water flows through the Everglades, increasing water storage south of Lake Okeechobee, including the Everglades Agricultural Area Storage Reservoir Project, constructing the Central Everglades Planning Project, and completing the Modified Waters Delivery suite of projects and improved operational plan, including further modification to Tamiami Trail.



FEDERAL ISSUE: Oil and Gas Drilling and Seismic Testing

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY:

Offshore Energy Development

Active energy drilling currently occurs in both the western and central Gulf of Mexico, while nearly the entire eastern Gulf is protected from drilling until 2022 by the Gulf of Mexico Energy Security Act of 2006 (GOMESA). Drilling does not currently occur off the Atlantic coast of Florida.

For many years, the federal government has developed five-year Outer Continental Shelf (OCS) Oil and Gas Leasing programs to guide energy exploration activities in federal waters. The most recent plan, developed for 2012-2017, did not propose to lease any areas in the Atlantic OCS for oil and gas drilling. On January 17, 2017, the Secretary of the Interior approved BOEM's finalized OCS Oil and Gas Leasing Program for 2017-2022 and issued a Record of Decision (ROD) for the programmatic Environmental Impact Statement (EIS).

Although typically a new five-year plan would not be developed for several years, in April of 2017, President Trump signed the America First Offshore Energy Strategy Executive Order. The Executive Order aims to increase domestic energy production and reduce the use of foreign oil by, in part, expanding offshore drilling. As a part of implementing that order, BOEM is in the process of developing a new 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program.

In July of 2017, BOEM released a Request for Information (RFI) as the first step in developing a new program. The County commented in opposition to the expansion of offshore drilling into Florida's waters. In January 2018, BOEM released a draft proposed program (DPP) for the National Outer Continental Shelf Oil and Gas Leasing Program for 2019-2024. The DPP includes 47 potential lease sales in 25 of the 26 planning areas, which is the largest number of lease sales ever proposed for a 5-year lease schedule. The DPP includes two sales in the Eastern Gulf of Mexico after the expiration of the moratorium and one sale in the Straits of Florida. The County has commented in opposition to these proposed sales and passed a resolution in opposition as well.

Governor Scott released a statement in reaction to the release stating his opposition to offshore drilling on Florida's coast and has stated that he has requested a meeting with Interior Secretary Zinke to discuss the proposal. Additionally, Senator Nelson, Senator Rubio and other members of the Florida delegation released statements criticizing inclusion of the Eastern Gulf in the DPP. Governor Scott met with Secretary Zinke to discuss the issue. After the meeting, Secretary Zinke stated that Florida was being removed from consideration for any new oil and gas platforms. His announcement did not include detail about what exactly that meant, whether it would apply to seismic testing as well as drilling, or provide a new draft of the DPP. The process of developing a final plan will likely take close to a year, and several entities have already stated their intention to file lawsuits due to the Secretary's treatment of Florida. There is some concern that with Secretary Zinke's departure from the Department of Interior at the end of the year, that DOI may not continue to honor his promise. After accepting comments on the DPP, BOEM will then need to draft and release a Proposed Program, which will be made available for an additional public comment period, so there will be several opportunities to weigh in before the program is finalized.

Seismic Testing

In November, the Trump Administration approved five requests for companies to conduct seismic surveys in the Atlantic in the waters between Delaware and Florida. These seismic surveys, which are used to



determine whether there is potential for oil and gas to be present under the ocean floor, are deafeningly loud and can harm wildlife. Seismic air gun blasts are thousands of times more intense than a jet engine. The use of seismic surveying can disrupt essential behavioral patterns such as eating, sleeping, breeding and migration, cause injury, and can prove lethal to marine life. In addition to the negative effects this could have on the ecosystem, air gun testing would also adversely affect activities such as dolphin and whale watching and commercial and recreational fishing. Additionally, the seismic testing is the pre-cursor to offshore drilling, which would have even further negative environmental and economic impacts. The County has opposed seismic testing and has submitted comments in opposition to testing to the Department of the Interior several times.

Onshore Energy Development (Hydraulic Fracturing)

The rapid expansion of oil and gas extraction using hydraulic fracturing — both in rural and more densely populated areas — has raised concerns about its potential environmental and health impacts. These concerns have focused primarily on impacts to groundwater and surface water quality, public and private water supplies, and air quality.

In Florida, the Burnett Oil Company submitted a proposal to the National Park Service (NPS) to conduct a seismic survey of 110 square miles within Big Cypress Preserve. Similar to offshore seismic testing, a seismic survey is a preliminary research technique used to determine the presence of oil and gas below the surface of the ground, which may lead to future harvesting in those areas found to be rich with resources. Senator Nelson sent a letter to the DOI on July 31, 2015, in strong opposition to seismic testing within the Preserve. The NPS completed an Environmental Assessment (EA) for the proposal. In May 2016, the NPS issued a finding of no significant impact following their environmental review. The finding of no significant impact is based on information and conclusions outlined in an environmental assessment completed for the proposed survey. Burnett Oil is required to implement a variety of measures to prevent lasting impacts and minimize short-term impacts to the preserve's resources during survey activities. The environmental assessment only covers the seismic survey. Should Burnett Oil wish to pursue production of resources, they must submit a new plan of operations which would undergo additional environmental review and public comment periods. However, in July 2016, six environmental groups filed suit to stop Burnett Oil's seismic survey. The court subsequently ruled that the drilling posed minimal risk to the Everglades and regional water supplies and recommended the Florida Department of Environmental Protection (DEP) issue the permit. Burnett Oil is currently in Phase 1 of their exploration of Big Cypress National Preserve.

POSITION: *Oppose* the inclusion of lease sales for oil and gas drilling within the boundaries of Florida's territorial seas in the Department of Interior's five-year National Outer Continental Shelf Oil and Gas Leasing Program. *Oppose* seismic surveying in these same areas or the Everglades. *Oppose* legislation that would prevent the Florida Department of Environmental Protection from blocking requests for offshore drilling in federal waters off Florida's coast. *Oppose* efforts to ease restrictions on hydraulic fracturing and other oil and gas extraction activities.



FEDERAL ISSUE: Federal Aviation Administration - Authorization and Issues

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: In October 2018, Congress passed and the President signed, a five year reauthorization of the Federal Aviation Administration (FAA). The bill will:

- Authorize level funding for the Airport Improvement Program (AIP), at \$3.35 billion for each of the next five years
- Authorize an additional \$1 billion annually for supplemental airport discretionary grants, with half prioritized for small airports.
- Extend the contract tower program and make small changes including updating the methodology used to compute the cost-benefit analysis, establishing a review and appeal process for the cost-benefit determination if an airport disagrees with the calculation and allows FAA-certified remote towers to be eligible for the contract tower program
- The bill does not increase the authorized amount of the Passenger Facility Charge (PFC) from the \$4.50 that was last updated in 2001, but does make several administrative changes meant to streamline the approval process for airports seeking to use the PFC.
- Create a Regional Air Transportation Pilot Program and authorizes \$4.8 million annually to assist communities that have experienced declining service in establishing or re-establishing air service.
- Establish a pilot program for the construction and operation of remote towers for small and rural communities.
- The bill also includes some consumer-friendly proposals directing the FAA to establish regulations for minimum seat size on airplanes and no longer allowing passengers to be removed from an over-sold flight once they have boarded the plane.
- The bill does not include the air traffic control privatization language that had been a priority of House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA).

Funding levels authorized in the bill are still subject to the annual appropriations process. For FY 2018, Congress provided \$3.35 billion for the AIP program. The FY 2019 Transportation appropriations bill has yet to be passed by Congress. The Department of Transportation is currently shut down pending FY 2019 spending negotiations.

Contract Tower Program

The contract tower program was extended through the reauthorization for the FAA. However, this is a program that Monroe County should closely monitor under the Trump Administration.

The FAA announced in 2013 that it would phase out federal funding for 149 contract air control towers around the country. This proposal was met with substantial Congressional and local opposition, and ultimately legislation was passed that provided the Department of Transportation flexibility to keep these towers funded through the remainder of FY 2013. However, that the funding that was provided to keep these towers open was taken from the AIP, which ultimately resulted in reduced availability of funds for the AIP program that year.

For FY 2018, Congress funded the program at \$162 million and included report language stating their support of the program and expectation that all 253 contract towers in the program will continue to operate.



Fish Hook Non-Directional Beacon at Higgs Beach

The County would like the FAA to remove or relocate the Fish Hook non-directional beacon (NDB) currently located at Higgs Beach in Key West. The circa World War II radio tower and surrounding fencing occupies nearly an acre of a 16.5 acre County beach park in Key West. The park is undergoing a major revitalization and Master Redevelopment Plan which calls for green space where the tower now stands. The park is at the southern terminus of the Florida Keys Overseas Heritage Trail bicycle pedestrian path and is a major tourist attraction and community amenity. In September 2009, FAA Technical Support Staff conducted a cursory review of the County's request and determined the NDB facility building and older antenna may be eliminated or the fenced area significantly reduced if replaced by a smaller and more modern antenna. However, in December 2012, FAA regional staff conducted a site survey to determine the scope of work and availability of suitable sites for potential relocation of the NDB. Less than a month later, the FAA released its report and concluded the following:

- The existing NDB shelter and tower are not suitable for relocation and would need to be replaced.
- No suitable location for the NDB was found (Two alternate locations were found to be unsuitable).
- Due to the heavy density and nature of the island, land acquisition of private property would be timely and costly.

The County met with the FAA in 2013, at which time they were told the NDB is needed for redundancy purposes and could not be removed or relocated. The FAA argued that should all other technologies fail, the NDB is needed because it would still function during an emergency. Then, in April 2015, Rep. Curbelo sent a letter to the FAA requesting the agency consider relocating the beacon, to which the FAA again indicated that no suitable location is available.

Most recently in November 2016, Monroe County approved an expenditure of more than \$40,000 to fund an FAA study to relocate the tower. In May 2017, the County met with the FAA to discuss how long a response from the FAA may take to complete the study. In April of 2018, the County met with the FAA again to discuss the next steps forward.

Joint-Use of Naval Air Station Key West

Naval Air Station (NAS) Key West is located on Boca Chica Key near Key West. NAS Key West's national security mission provides operational and readiness support for the Department of Defense, Department of Homeland Security, Air National Guard, Army National Guard, and allied military forces.

The County has expressed an interest in utilizing NAS Key West as a joint-use facility due to limited runway length at Key West International Airport. At 4,801 feet, the runway is currently the shortest commercial runway in the country, which has deterred carriers from servicing the airport, thereby driving up ticket costs. Since the 1990's, the County has discussed joint-use of NAS Key West with the Navy. In 1995, however, the Navy issued a report disapproving joint-use at NAS Key West on the grounds that it would interfere with operational readiness. Since then, conversations between the County and the Navy regarding joint-use have occurred sporadically.

POSITION: *Support* \$3.35 billion in annual appropriations for the Airport Improvement Program. *Support* Monroe County's grant proposals for funding through the FAA Airport Improvement Program. *Support* an increase in the passenger facilities charge cap from \$4.50 to \$8.50. *Support* annual full and dedicated funding for the FAA Contract Tower Program. *Oppose* the elimination of the Law Enforcement Officer Reimbursement Program. *Support* the removal or relocation of the non-directional beacon at Higgs Beach. *Support* continued efforts to establish a joint-use airport at Naval Air Station Key West. *Support* federal funding for sound attenuation activities around military air facilities.



FEDERAL ISSUE: Transportation Authorization

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: After the passage of several short-term authorizations following the expiration of MAP-21 in 2014, Congress finally passed, and the President signed, a five-year surface transportation authorization called the Fixing America's Surface Transportation (FAST) Act. The FAST Act generally maintains many of MAP-21's reforms, but makes a few changes to existing surface transportation programs, as well as slightly increases funding for those programs.

In developing the FAST Act, however, Congress did not address the need for a long-term, sustainable plan to finance our nation's transportation infrastructure. Fuel taxes, which provide most of the money for surface transportation, do not provide a solid long-term foundation for transportation funding growth and investment, even if Congress were to authorize a modest increase. Instead, the FAST Act relies on various budget gimmicks to fund surface transportation programs over the next five years, such as surplus money from the Federal Reserve, reducing the amount of interest the Fed pays to banks, and selling off part of the Strategic Petroleum Reserve.

The 116th Congress will need to begin work on the next transportation authorization bill. In 2020, Congress will need to once again pass a transportation authorization bill. Congress will need to find a way to address the shortfall in the Highway Trust Fund. This could be accomplished via increasing the gas tax, establishing a new vehicle mile traveled fee, cutting program expenditures, using other revenue, or, most likely, a combination of solutions.

Card Sound Bridge

Card Sound Bridge connects southern Miami-Dade County to Monroe County via toll. Monroe County is primarily responsible for operating and maintaining the bridge. It is one of only two roads that connect the Keys with mainland Florida. The bridge is roughly 50 years old and currently undergoing a ten-year update. However, it will likely need to be fully replaced after that time.

MAP-21 eliminated the Highway Bridge Program in 2012. Instead, bridges located on the Interstate or the National Highway System were eligible to receive funding through the National Highway Performance Program (NHPP). Bridges that were not located on this federal-aid system, such as Card Sound Bridge, as well as many others in Monroe County, were provided a separate set-aside in the Surface Transportation Program (STP). This resulted in a nearly 30 percent decrease in funding for on- and off-system bridges. The FAST Act, however, attempted to correct this by expanding the NHPP to allow funding for on-system bridges. This more than repaired the cut to on-system bridges under MAP-21. Meanwhile, the bill maintains the STP set-aside for off-system bridges.

POSITION: **Monitor** proposed changes to federal highway programs. **Monitor** efforts to enhance federal transportation revenue streams. **Support** the continuation of dedicated bridge funding through the Surface Transportation Program or other avenues. **Support** opportunities to secure funding for Monroe County's priorities via federal highway legislation or other means.



FEDERAL ISSUE: Infrastructure Investment

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Traditionally, Congress has invested in infrastructure via a number of methods, primarily through legislation or programs like transportation authorizations, Federal Aviation Administration authorizations, revolving loan funds, through the tax code via bond programs, or earmarks prior to 2009. The last big influx of new investment in infrastructure occurred via the 2009 Stimulus bill, which, among other things provided \$105.3 billion for infrastructure, including \$48.1 billion for transportation, \$18 billion for water, environment, and public lands, and the remainder for government buildings, telecommunications and broadband, and energy infrastructure.

More recently, spending on a wide range of domestic priorities was increased for fiscal years 2018 and 2019 – including \$20 billion over two years on infrastructure. This funding was described by Congress as a down-payment on the Administration’s infrastructure plan. At the time, those funds were not allocated to specific programs, but a good portion of that funding ended up being directed to Metropolitan Planning Organization’s through the Department of Transportation’s State and Local Block Grant Program.

President Trump released a set of principles to guide the development of an infrastructure package along with the President’s FY 2019 Budget Request this February. The plan emphasizes a local commitment to creating new taxes or other revenue sources to fund infrastructure improvements. The key elements of the plan are:

- 1) Infrastructure Incentives Initiative: 50 percent of overall funding, \$100 billion over ten years, nearly any infrastructure project is eligible to compete, based on whether the applicant can demonstrate that they will “secure and commit new [emphasis added], non-federal revenue to create sustainable, long-term funding” (50 percent of overall score) and additional new “revenue for operations, maintenance and rehabilitation” (20 percent of the overall score). Further, grant awards may only account for 20 percent of the overall cost of a project with states not eligible to receive more than 10 percent of overall funding.
- 2) Transformative Projects Program: 10 percent of overall funding; \$20 billion over ten years, will support “exploratory and groundbreaking ideas.”
- 3) Rural Infrastructure Program: 25 percent of overall funding; \$50 billion over ten years, most forms of infrastructure are eligible as in the Infrastructure Incentives Initiative, including broadband. 80 percent of the funding in this category will be made available to Governors for further allocation, must be used in areas with a population of less than 50,000.
- 4) Federal credits program: 7 percent of overall funding, \$14 billion over ten years, to be used to expand existing infrastructure loan programs, such as WIFIA.
- 5) Public Lands Infrastructure Fund: would create a new fund from on- and off-shore mineral and energy development to fund improvements on public lands.

The document also includes other changes to financing mechanisms and tweaks to existing federal programs. Thus far, Congress has not acted on the President’s infrastructure plan.

In the 116th Congress, infrastructure is one of the areas where House Democrats may be willing to work with the Trump Administration. Additionally, there has been significant discussion about a return of earmarks, which may provide other opportunities for funding. New infrastructure investment opportunities could be created and used to fund projects in Monroe County.

POSITION: *Support* new federal investment in infrastructure. *Support* any and all opportunities to secure funding for Monroe County’s infrastructure priorities.



FEDERAL ISSUE: Coral Reefs

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: The Florida Reef Tract stretches from the Dry Tortugas in Monroe County to the St. Lucie Inlet in Martin County. It is the only barrier reef in the continental United States and is the third largest barrier reef in the world. The Florida Reef Tract is currently facing the most serious coral disease epidemic on record globally. The disease outbreak began in 2014 near Key Biscayne in Miami-Dade County. The disease has since spread across the Reef Tract, both north and south. To date, over half of the Reef Tract has been impacted, including at least 23 of the 45 reef-building coral species. The disease has been detected in the reef area off of Long Key. Once infected, coral colonies typically die within weeks or months. The disease has yet to be identified and a diagnosis is needed in order to adequately address the outbreak. Hurricane Irma also had a negative impact on the health of the Reef Tract with shifting sand and sediment damaging the structure of the reefs. Florida's coral reefs attract over 16 million visitors a year and provide over 71,000 local jobs.

Congress passed the Coral Reef Conservation Act in 2000, which authorized appropriations to the National Oceanic and Atmospheric Administration (NOAA) for coral reef protection and management activities through 2004 and, among other activities, authorized the Coral Reef Conservation Program (CRCP) to provide matching grants to states, territories, educational and non-governmental institutions, and fishery management councils for coral reef conservation projects. While the authorization for the overall program expired in 2004, Congress has continued to fund the CRCP through the annual appropriations process. Funding for coral reef programs has remained stable over the past few years, with the program receiving \$26 million for the past several fiscal years.

Congresswoman Madeleine Bordallo (D-Guam) introduced the Coral Reef Conservation Reauthorization Act to reauthorize provisions that expired in 2004 and allow the federal government to respond to coral emergencies. Specifically, the legislation would:

- Reauthorize and amend the Coral Reef Conservation Act of 2000 to improve the National Oceanic and Atmospheric Administration's (NOAA) coral reef program.
- Expand federal grant making for local coral reef projects, community-based coral reef conservation planning, and scientific research on coral reef biodiversity, genetics, propagation, and resiliency.
- Provide Congressional authorization for the U.S. Coral Reef Task Force, which includes relevant federal agencies, the states of Florida and Hawaii, and 5 U.S. territories (GU, CNMI, PR, AS, and USVI).
- Strengthen the federal response to coral reef emergencies and allowing NOAA to disburse grant funding on an expedited or emergency basis
- Establishes a new Coral Reef Conservation Fund within the U.S. Treasury supported by offshore royalty revenue to provide dedicated funding for coral reef projects, at no expense to taxpayers.
- Minimizes damage to coral reefs from vessel groundings, anchors, boat moorings, ship strikes, and abandoned vessels by directing NOAA and other federal agencies to identify practicable steps to reduce vessel impacts and accidents that harm coral reefs.
- Protects at-risk coral reefs nationwide by directing NOAA to maintain an inventory of coral reefs most at risk from bleaching, disease/invasive species outbreaks, harmful algal blooms, and coastal pollution.
- Provides dedicated funding for coral reef conservation at no cost to taxpayers by requiring that all fines, penalties, and amounts recovered from damages to federally protected coral reefs to support conservation.



- Authorizes the U.S. Department of the Interior to conserve coral reefs in near-shore federal waters and U.S. territories (Office of Insular Affairs), including the U.S. Geological Survey's (USGS) Coral Reef Ecosystem Studies program.
- Promotes coral reef conservation in national parks, national wildlife refuges, or marine national monuments.
- Sets national standards for artificial reef projects, including environmental responsibility, proper decommissioning of reef structures, and long-term stewardship.
- Supports coral reef fisheries and prohibits the import, shipment, or sale of live lionfish, which are highly invasive in Atlantic and Caribbean coral reef ecosystems.

The legislation is cosponsored by several members of the Florida delegation. Since Congresswoman Bordallo will not be returning in the 116th Congress, the legislation will need to be picked up by a new sponsor. Monroe County has a long history of championing protections for the Florida Reef Tract at both the state and federal level.

POSITION: *Support* legislation to reauthorize the Coral Reef Conservation Act and any efforts to address the current coral disease outbreak impacting South Florida and the Florida Reef Tract.



FEDERAL ISSUE: Climate Change and Sea Level Rise

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: The Florida Keys is on the front lines of climate change, facing such potential impacts as sea level rise and increased hurricane intensity. Given the County's unique vulnerabilities to sea-level rise, as well as its international presence as a premier tourist destination, Monroe County has an opportunity to demonstrate leadership on this issue through the implementation of key policies, practices and investments that will prepare the County for the impacts of climate change. As a result, the County is acting now to enact local policies to combat the future effects of climate change.

In 2016, Monroe County completed a comprehensive study on the effects of local sea level rise and climate change mitigation strategies called GreenKeys. The study utilizes a planning scenario for sea level rise of 9 to 24 inches in the next fifty years. The data also shows that even using a conservative estimate of sea level rise, several streets and portions of the County can expect to see significant flooding on a regular basis.

In 2013, the County developed the Monroe County Community Climate Action Plan (MCAP), which outlines a course of action for the County to minimize climate change impacts and increase the sustainability of the Florida Keys. MCAP includes initiatives to reduce energy use and waste, create local jobs, improve air quality, and preserve Monroe's local landscape and history.

Other communities in Florida also recognize the risk climate change poses to their citizens, infrastructure, and economies. Monroe County partnered with Miami-Dade, Broward, and Palm Beach Counties in 2010 to form the Southeast Florida Regional Climate Change Compact as a way to coordinate climate mitigation and adaptation activities across county lines. The Compact represents a new form of regional climate collaboration designed to allow localities to plan for adaptation while providing an efficient means for state and federal agencies to engage with technical assistance and support. Monroe County hosted the 7th Annual Florida Regional Climate Leadership Summit in December 2015, which focused on facilitating climate-related collaboration and knowledge sharing.

Climate change was perceived to be a hallmark issue of the Obama Administration and his executive efforts, including his environmental regulations and climate change agreements with China and other nations. With a new Administration less inclined to support these efforts, it will be important to keep the focus on this issue through advocacy and discussions with members of Congress about the current and future effects of climate change on coastal communities such as Monroe County.

With the Democrats taking control of the House in 2019, they are likely to reinstate a select committee on climate change that was disbanded in 2010 when Republicans won control of the House. Although the committee will have the ability to hold hearings, it likely will not be given authority to pass legislation. Any legislative proposals developed as a result of the committee's work will need to move through the appropriate committees of jurisdiction.

POSITION: *Monitor* federal climate change legislation and executive actions. *Support* federal efforts to address climate change and mitigate sea level rise. *Support* the federal legislative priorities of the Southeast Florida Regional Climate Change Compact.



FEDERAL ISSUE: Waters of the United States and Regulatory Reform

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY:

A series of decisions by the U.S. Supreme Court over the past decade have imposed restrictions on the scope of wetland regulation governed by Section 404 of the Clean Water Act (CWA), which regulates “dredge and fill” activities in navigable waters and their adjacent wetlands. Opponents of these restrictions have urged Congress to redefine Waters of the U.S. (WOTUS), and apply that definition to all aspects of the CWA. The definition of WOTUS directly impacts how local governments maintain stormwater infrastructure such as detention ponds, ditches, flood control structures and drinking water facilities, among other things.

As legislation to address this issue failed to pass previous Congresses, the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) during the Obama Administration developed guidance and a final rule to redefine WOTUS. This effort significantly expanded the definition of WOTUS to include tributaries, ditches, canals, and other water bodies that can potentially drain into navigable waters, interstate waters, or the territorial seas. These water bodies would be subject to new requirements, and some waters currently covered by a permit would be subject to additional monitoring and regulation when those permits are renewed.

As a result of this expanded definition, 31 states sued to stop implementation of the rule. Courts blocked the implementation of the rule nationwide while the various lawsuits proceeded. Currently, as a result of the various court cases, half the country is operating under the 2015 rule, with the rest continuing to operate under the pre-2015 definition. Once President Trump took office, he issued an executive order directing the EPA and Corps to reevaluate the Obama Administration’s rule.

The executive order also signaled a significant change in the government's legal strategy for deciding which wetlands and streams are protected under the Clean Water Act. For more than a decade, federal agencies have relied on Justice Anthony Kennedy's opinion in the 2006 wetland-permitting case, *Rapanos v. United States*, in determining where the federal reach over waterways begins. The court ruled in favor of *Rapanos*, but in a 4-1-4 vote, the majority split on what approach to use to define government jurisdiction. The order specifically asks the agencies to consider the late Supreme Court Justice Antonin Scalia wrote in the 2006 case *Rapanos v. United States*, saying the Clean Water Act ought only to cover navigable waters and waterways “with a continuous surface connection” to them — a far more restrictive definition than what the Obama EPA put into its rule.

In December, the EPA and Corps released a new proposed rule. This rule has a narrower definition of WOTUS. The rule focuses on bodies of water that regularly flow into larger waterways or directly adjacent wetlands. It does not include ephemeral bodies of water and only considers surface flows, not underground connections.

This narrower definition should prevent most swales, ditches and upland stormwater control systems, upland waste water recycling systems and waste treatment systems from being subject to WOTUS. The rule would roll back the number of ditches that are considered WOTUS to the pre-2015 definition, which only includes those that are tributaries of navigable waters. This would allow routine maintenance of drainage and other ditches without the need to obtain a federal permit.



Additionally, the rule seeks to provide more clarity and establish clearer definition for what is and is not considered WOTUS. Many groups criticized the Obama Administration rule for not being specific enough and leaving several terms up to interpretation. Environmental groups have alleged that this proposed rule is too narrow, and the EPA has already acknowledged that they anticipate lawsuits.

Endangered Species Act Reforms

Meanwhile, the USFWS and the National Marine Fisheries Service (NMFS) have recently released three proposed rules seeking to modify the application of the Endangered Species Act (ESA). These three proposals were open for comment. The three rules generally attempt to clarify the situations when the ESA will apply, tighten the definitions regarding when species or habitat are designated under the ESA, and set forth streamlined procedures for consultations and biological opinions.

The first rule seeks to establish that any species newly listed as threatened by the USFWS would only have protective regulations if a special rule was promulgated. Currently, threatened species designated by USFWS have the same protections as species that are listed as endangered. This change would not impact the protections in place on any species that are currently listed as threatened. The rule would bring the USFWS approach in line with that of NMFS and would potentially limit the restrictions placed on newly designated or downgraded species in the future.

The second rule addresses the process for listing or delisting species and designating critical habitat. USFWS and NMFS are proposing to remove the phrase “without reference to possible economic or other impacts of such determination” from their regulations regarding the listing or delisting of species. This would allow them to evaluate, and make public, the economic impact of classifications. The proposed rule states that they will continue to make determinations solely on biological considerations, but that this change in language will allow them to present more information to the public and other federal agencies about the broader impact of listing a species. This provision could impact the listing decision of the monarch butterfly. The rule also clarifies the instances when they can find that it is not prudent to designate a critical habitat, including stipulating that habitat should not be designated as critical if the threat cannot be addressed or stopped through management actions. One example cited in the rule is habitat threatened by melting glaciers or sea level rise. Finally, the rule narrows the instances in which areas that are not currently occupied by a threatened or endangered species can be designated as critical habitat.

The third rule addresses interagency cooperation, specifically dealing with instances where USFWS and NMFS enter into consultation with other federal agencies or must provide a biological opinion. This rule could impact the process for permitting projects, adopting management plans on federal lands, or any other instance where a federal agency is taking action that may impact threatened or endangered species.

Congress has also sought to move several bills that would modify the ESA. The Congressional Western Caucus introduced a package of bills in the House to “bring the ESA into the 21st Century.” In the Senate, Environment and Public Works Committee Chairman John Barrasso (R-WY) released his own draft legislation making changes to the ESA. Senator Barrasso’s legislation seeks to drive more decision making to state and local agencies, weakening the federal government’s role in conservation. It is unlikely that any of these legislative efforts will be successful prior to the end of the 115th Congress or that the Democratically-controlled House will be interested in proposals to weaken Federal control over endangered species, leaving the best chance for any modifications to the Administration.

POSITION: *Monitor* activity related to the implementation of the EPA and Corps’ rule on Waters of the U.S. *Monitor* any new proposed rule regarding WOTUS proposed by the EPA and Corps’. *Monitor* activity related to regulatory reform.



FEDERAL ISSUE: Oil Spill Protection

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: The Oil Pollution Act (OPA) was passed by Congress and signed into law in August 1990 in response to rising public concern following the 1989 Exxon Valdez oil spill to expand the authority of the federal government to prevent and respond to oil spills.

The OPA created the Oil Spill Liability Trust Fund, from which one billion dollars per spill is available for such activities as expediting payments for cleanup efforts, payment of claims for uncompensated removal costs and damages, and payments to a state or local governments for increased public services and the net loss of government revenue. The Trust Fund is primarily funded by a 9 cents per barrel tax on oil, which expired at the end of 2017, but was extended through the end of 2018 by the budget deal reached by Congress in February of 2018.

The OPA established several new regulations related to oil transportation, and broadened the scope of damages for which an oil spiller would be liable, including:

- injury to natural resources,
- loss of personal property (and resultant economic losses),
- loss of subsistence use of natural resources,
- lost revenues resulting from destruction of property or natural resource injury,
- lost profits resulting from property loss or natural resource injury, and
- costs of providing extra public services during or after spill response.

Under OPA, holders of leases or permits for offshore facilities are liable for all cleanup costs, plus non-cleanup and containment damages up to \$75 million per spill. Although this was a significant increase from before OPA was enacted, it is important to recognize that this also capped the liability for which BP could be held responsible for the Deepwater Horizon oil spill.

In February 2014, the Obama Administration announced a proposed rule to raise the liability cap. On December 12, 2014, the Bureau of Ocean Energy Management finalized their rule, increasing the liability cap from \$75 million to \$133.65 million, the most allowable under OPA.

In addition, the Foreign Spill Protection Act, was passed into law in December of 2017. This amended the OPA to impose penalties and provide for the recovery of removal costs and damages in connection with discharges of oil from foreign offshore units that reach or threaten United States navigable waters. Due to Monroe County's close proximity to Cuba, this legislation may provide an important resource if there are any future spills in foreign waters near Monroe's shores.

Monroe County would like to see additional changes to OPA to ensure that the Oil Spill Liability Trust Fund is capable of addressing Spills of National Significance where there is no financially viable or legally responsible party, and that local governments may act as first responders during oil spill events.

POSITION: *Support* revisions to the Oil Pollution Act of 1990 and other associated laws to ensure that local governments may act as first responders in an effort to protect local communities, and be reimbursed for their actions undertaken to protect their resources and restore damaged areas during oil spill events, and the Oil Spill Liability Trust Fund is capable of addressing Spills of National Significance where there is no financially viable or legally responsible party.



FEDERAL ISSUE: Land Acquisition

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: The federal nexus for Monroe County's land acquisition challenges are generally based upon two basic principles: a) rigorous preservation of the Florida Keys' unique environmental resources, which are protected under a variety of federal laws including the Endangered Species Act, and b) the need to protect Naval Air Station Key West, one of the military's premier air combat training facilities, from encroachment.

Monroe County contains a number of unique environmental resources of national significance. In recognition of the value of these resources and features, the federal government has created four national wildlife refuges (Crocodyle Lake, Great White Heron, Key Deer, and Key West), three national parks (Everglades, Biscayne, and Dry Tortugas), as well as a National Marine Sanctuary (Florida Keys) and a National Preserve (Big Cypress), all of which are located in whole or in part in Monroe County. In addition, Monroe County is also home to a world renowned coral reef and over 30 listed species protected under the Endangered Species Act (ESA).

In order to protect these scarce yet vital natural resources, development on private property in Monroe County is heavily controlled by federal, state, and local regulations. To see the significant impact of federal regulations on the County's ability to regulate local development, one need to look no further than the Florida Key Deer v. the Federal Emergency Management Agency (FEMA) & US Fish & Wildlife Service (USFWS) suit settled in 2012 after more than 20 years of litigation. USFWS and FEMA negotiated a settlement agreement with environmental advocates that forced the County to adopt regulations and procedures to assist the USFWS with performing its obligations under the ESA or face expulsion from the National Flood Insurance Program (NFIP). The County had little choice but to implement procedures that essentially shifted the burden of implementation of the ESA from the USFWS to Monroe County.

That settlement agreement was predicated upon the USFWS's revised Biological Opinion (BO) on the NFIP in Monroe County. The BO contained reasonable and prudent alternatives (RPA) that required the Florida Keys communities to revise their Flood Damage Prevention programs to include the review of floodplain development applications for potential impacts to nine endangered species – a review the ESA requires FEMA and USFWS to undertake, not local governments.

According to the data contained in the BO, there are 63,411 acres of suitable habitat for listed species in unincorporated Monroe County. Approximately 7,193 privately owned vacant parcels, having an approximate combined value of \$240,088,014 within USFWS designated potentially suitable habitat. While the BO only addresses protections for nine species, twenty-two federally-listed species live in the Florida Keys and critical habitat has been designated for eleven of these species. In addition, the USFWS currently proposes to list (and subsequently designate critical habitat for) an additional five (5) species in the Florida Keys in the near future.

The limitations upon development imposed by the ESA and other federal, state, and local regulations impose severe restrictions on private property owners who desire to develop their properties. The U.S. and Florida Constitutions require government to compensate private property owners when those regulations result in a taking. Currently, the County is defending takings suits involving potentially over 1,000 parcels of land. These claims are based in part upon regulations that were adopted to effectuate the ESA and other state and federal acts.



The County realizes the importance of preserving and sharing the benefits of our unique natural resources, and has conducted the reviews for FEMA and FWS, including restricting development based on this process, but federal support is required to maintain the protection of our significant environment. The County supports and encourages the federal government to target the acquisition of lands containing suitable habitat for and known populations of federally-designated wildlife species.

In addition to the land acquisition challenges resulting from environmental protection regulations, the County faces challenges in the area surrounding Naval Air Station (NAS) Key West, one of the military's premier air combat training facilities. The airfield is located just outside of Key West in the most densely populated area of the County. Noise from flight operations impacts the quality of life for residents living near the airfield. The impact of encroachment from development, both past and future, in the vicinity of NAS Key West further exacerbates the land acquisition challenges for Monroe County. While the County wants to foster the continued use of the airfield, it must also be mindful of encroachment challenges due to property owners in the adjacent community. Acquisition of nearby properties can help solve that challenge.

In order to proactively address these land acquisition challenges, the County has engaged in land acquisition efforts primarily through the Monroe County Land Authority. The Land Authority has two dedicated revenue sources through which it funds land acquisition (half of the one cent tourist impact tax, and a State park surcharge). Unfortunately, these sources are insufficient, as they generate only about \$900,000 annually. However, in Fiscal Year 2015, the County Commission budgeted \$10 million in local funds to serve as a match for federal and state land acquisition projects. Even with that additional funding, the County lacks the financial resources to meet all of the land acquisition needs that result from federal and state environmental protection regulations as well as encroachment issues arising near NAS Key West. Solving the County's land acquisition challenge can only be done through a combination of federal, state, and local efforts.

The Land and Water Conservation Fund

The Land and Water Conservation Fund (LWCF) Act of 1965 was enacted to help preserve, develop, and insure access to outdoor recreation facilities for our nation. The law created the Land and Water Conservation Fund (LWCF) in the U.S. Treasury as a funding source to implement outdoor recreation goals. Revenues for the fund are derived from oil and gas leasing proceeds in the Outer Continental Shelf.

The LWCF has been the principal source of monies for land acquisition for outdoor recreation by four federal agencies—the National Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service. The LWCF also funds a matching grant program via the National Park Service to assist states (and local governments as sub-recipients) in acquiring recreational lands and developing outdoor recreational facilities. A portion of the appropriation is divided equally among the states, with the remainder apportioned based on need, as determined by the Secretary of the Interior. The states award their grant money through a competitive selection process based on statewide recreation plans, as well as establish their own priorities and criteria.

The LWCF was authorized at \$900 million annually. However, yearly appropriations have fluctuated widely since the origin of the program. Of the total revenues that have accrued throughout the history of the program (\$33.5 billion), less than half have been appropriated (\$15.8 billion). In FY 2018, despite the Administration's significantly smaller budget request of \$3 million, Congress increased their funding to just over \$124 million. This funding resulted in \$4.6 million being awarded to the State of Florida.

Currently, the LWCF is expired. There was significant discussion in the 115th Congress to reauthorize the LWCF, on both a permanent and temporary basis. The House Natural Resources Committee considered a



bill to extend the authorization of the LWCF, requiring at least 40 percent of the funds appropriated each year to go to the state and local grant program, which would increase the funding available for each state, providing more opportunity for the County to compete for funding. An increase in funding made available to state and local governments is a priority that we have advocated for over the past several years.

DoD Readiness and Environmental Protection Integration Program

The Department of Defense's (DoD) Readiness and Environmental Protection Integration Program (REPI), which was authorized by Congress in 2002, funds cost-sharing partnerships for the military with state and local governments in order to address incompatible development and loss of habitat around DoD installations. These partnerships obtain easements or other interests from willing sellers that preserve critical buffer areas around DoD facilities in order to protect the military's ability to accomplish its training, testing, and operational missions by helping to remove or avoid land-use conflicts, as well as addressing regulatory restrictions that inhibit military activities. Through FY 2016, REPI buffer partnerships have protected 464,668 acres of buffer land in 89 locations and 30 states. The REPI program may provide an opportunity for land acquisition for those parcels located near DoD facilities within Monroe County.

Since the program's inception, Congress has increased REPI's original funding from \$12.5 million to over \$70 million annually. In FY 2019 the program was funded at \$75 million, level with FY 2018 and the Administration's request. Total service requests average \$140 million annually, which greatly exceeds available REPI funding. To make up some of the difference, federal REPI funding is augmented by cost-shares from partner contributions, including other federal grants, state and local grants or cost-share programs, private capital, donations, and in-kind services, among others.

POSITION: *Support* efforts by federal agencies to acquire appropriate properties to mitigate environmental resource or military encroachment concerns in Monroe County. *Support* reauthorization of the Land and Water Conservation Fund, full annual, mandatory funding for the program, and implementation of grant requirements by the National Park Service that enable future enhancement of parks awarded funds. *Support* increased funding of the Department of Defense's Readiness and Environmental Protection Integration program.



FEDERAL ISSUE: Property Assessed Clean Energy Legislation and Guidance

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Property Assessed Clean Energy (PACE) programs aim to support energy efficiency, clean energy, and wind resistance, investments by homeowners and commercial property owners. This eliminates the upfront cost barriers of those investments and ensures that current and future property owners fairly share the costs and benefits of the improvements.

PACE is a financing tool that allows a home or property owner to receive low-interest financing for energy efficiency, renewable energy and wind resistance improvements, thereby saving that property owner money on their utility bills. PACE financing is repaid through a voluntary long-term assessment on a homeowner's property taxes over a longer time period that matches the useful life of those improvements. If a property owner sells their property, the repayment obligation, as well as the benefits of the energy improvements, can transfer to the next property owner.

In 2010, Fannie Mae and Freddie Mac raised concerns due to the senior lien status PACE financing takes over a mortgage as a local government assessment. Because Fannie and Freddie underwrite nearly ninety percent of new mortgages, this slowed the development of PACE programs. In December of 2017, the Housing Finance Authority stated that it will no longer allow buyers with FHA loans to purchase properties with PACE loans in place. If an FHA approved buyer wants to purchase a home with a PACE loan, that loan must be paid off at or prior to closing. Additionally, properties with PACE loans will not be eligible for FHA mortgage insurance and it requires additional reporting during the appraisal process for properties with PACE obligations. FHA controls approximately 13 percent of the mortgage market.

In May 2018, Congress passed, and the President signed into law, S. 2155 which made several banking related legislative changes. The bill requires PACE loans to comply with the Truth in Lending Act. Proponents of this change see it as a consumer protection measure and it is already in place in states with robust PACE programs, such as California. However, opponents of the provision view it as an additional barrier to the use of PACE loans.

POSITION: *Support* legislation and guidelines that would allow for expansion of eligible uses of home and commercial property improvement projects financed by residential and commercial PACE programs to include flood mitigation.



FEDERAL ISSUE: RESTORE ACT

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: In April 2010, an explosion at the BP-operated Deepwater Horizon oil rig caused the worst oil spill in U.S. history, with millions of barrels of oil spilling into the Gulf of Mexico.

In the summer of 2012, Congress passed the RESTORE Act, which established the Gulf Coast Restoration Trust Fund and mandated that 80 percent of Clean Water Act (CWA) civil damages from the spill be allocated directly to the five impacted states, including Florida.

A civil trial between BP and the Department of Justice (DOJ) began in 2013. In July 2015, BP and DOJ reached a settlement for all federal and state claims in which BP will pay \$5.5 billion in CWA fines. BP will also pay \$4.9 billion in economic claims to the Gulf states, including \$2 billion to Florida; \$350 million for region-wide claims; and approximately \$600 million to resolve the economic loss claims of local governments.

Separately, in 2013, DOJ settled with Transocean for their role in the Deepwater Horizon spill. As a result of the agreement, Transocean paid \$1 billion in CWA fines, resulting in the first allocation of funding to be distributed via the RESTORE Act.

These CWA fines will flow to the Gulf States via three channels created by the RESTORE Act: Direct Component, Council-selected projects, and the Spill Impact Component. The Department of the Treasury is tasked with implementing the RESTORE legislation. Treasury published a final rule for the RESTORE Act on December 14, 2015, with an effective date of February 12, 2016.

Direct Component (Bucket 1)

The Direct Component portion makes up roughly 35 percent of the total Trust Fund and is equally divided among the five Gulf States. The RESTORE Act grants states with significant discretion as to how they will use the funding for restoration activities. In Florida, these funds are then distributed to the 23 Gulf Coast counties. The “disproportionally affected” counties receive 75 percent of the state’s share with the remaining 25 percent divided among the other 15 counties, including Monroe, based on a formula that takes into account population, distance from the spill and average tax collection per capita. Treasury accepted Monroe County’s multi-year implementation plan in April of 2016.

Council-selected Projects (Bucket 2)

The RESTORE Act also established the Gulf Coast Ecosystem Restoration Council (the Council), which is responsible for administering 60 percent of the total funding allocated to the Trust Fund. Thirty percent of the Trust Fund is to be used by the Council to develop and fund a Comprehensive Plan for the restoration of the entire Gulf Coast ecosystem, and the remaining thirty percent is to be distributed under the Spill Impact Component. The Council includes the Secretaries of the Interior, Commerce, Agriculture, the Administrator of the Environmental Protection Agency, Secretary of the Army for Civil Works, the head of the Coast Guard, and the Governors of each state. The Council is projected to receive approximately \$1.6 billion for Council-selected projects as a result of the settlements with BP, Transocean and Anadarko.

Project and program requests for initial funding from the Transocean settlement under the Council’s Comprehensive Plan were due in late 2014. In December of 2015, the Council approved the Initial Funded Priorities List (FPL). The FPL funds approximately \$156.6 million in restoration activities and



prioritizes 12 additional projects in the future, subject to further environmental and Council review. The Council also reserved \$26.6 million for a future round of funding, which will be subject to a public process.

In December of 2016, the Council adopted an update to its Comprehensive Plan, which included a Ten-Year Funding Strategy for Gulf restoration. The Ten-Year Plan does not identify specific programs or projects, but does anticipate that the next FPL will have a three-year development period, with all future FPLs also operating on a three-year schedule. According to the update, spacing out FPLs will allow the Council to include much larger projects and programs in future FPLs, as well as explore alternative financing mechanisms, such as public-private partnerships, to support these large-scale projects.

This summer, the Council released a Funded Priorities List for Planning purposes, in line with their adopted Comprehensive Plan. This FPL will allow each of the eleven Council members to apply for up to \$500,000 a year for three years and an additional \$300,000 for two additional years for planning, staffing, public engagement and other necessary activities prior to the start of a project. The funding cannot be used for engineering, design and environmental work for projects that are beyond the pre-submission stage. This funding represents just under 1.5% of the total funds available in Bucket 2. The Florida Department of Environmental Protection has been awarded just under \$2.1 million. FDEP plans to use the funding to create a long term workplan that leverages the RESTORE Act dollars and to increase public and stakeholder participation.

Spill Impact Component (Bucket 3)

In Florida, the Spill Impact Component is administered by the Gulf Consortium. The Gulf Consortium was created by interlocal agreement in 2012 and has been meeting since that time. The Board of Directors consists of representatives from each of the 23 Gulf Coast counties, including Monroe, and six appointments made by the Governor. The Gulf Consortium was tasked with drafting a State Expenditure Plan (SEP) to be submitted to the Council by the Governor. The Consortium agreed to divide their allocation up evenly between the counties. This will result in an allocation for Monroe of just under \$12.5 million. The SEP was approved by the Council in October and includes Monroe County's Canal Management Master Plan Implementation.

POSITION: *Monitor* federal implementation of the RESTORE Act to ensure continued benefit to Monroe County. *Support* efforts to secure funding for Monroe County including any grant applications to the Gulf Coast Ecosystem Restoration Council.



FEDERAL ISSUE: Continuum of Care Program – Federal Homeless Assistance

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: In 1987, Congress passed the McKinney-Vento Homeless Assistance Act as a response to the increase in homelessness in the United States. It originally created several programs within the Department of Housing and Urban Development (HUD) that focused on combating the root causes of homelessness. The McKinney-Vento Act has been amended many times, most recently in 2009, when President Obama signed the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act. The HEARTH Act updated and expanded the definition of homelessness and made changes to existing programs under McKinney-Vento and created the Continuum of Care (CoC) Program.

The CoC program provides competitive grant funding to local governments and non-profits. It requires communities seeking funds to develop a Continuum of Care system designed to address the critical problem of homelessness through a coordinated community-based process of identifying needs and building a system to address them.

Under the CoC program, the Supportive Housing Program provides assistance to help the homeless transition from their current state to a more stable living situation. The goals of the program are to provide assistance to help the homeless achieve residential stability and foster independence through programs that increase skills and/or income levels.

The Shelter Plus Care program provides rental assistance that, when combined with social services, provides supportive housing for homeless people with disabilities and their families. The program allows for a variety of housing choices, such as group homes or individual units, coupled with a range of supportive services.

The Single Room Occupancy program was created to expand suitable residential opportunities for homeless individuals. This has been accomplished through compensating owners of eligible SRO residences, for a period of 10 years, for improvements made to kitchen and bathroom facilities, as well as providing rental assistance for the residents that occupy those units.

The Monroe County Continuum of Care is the lead agency designated by HUD and the State of Florida for coordinating and planning homeless services in the Florida Keys. The CoC organizes the collaboration of local agencies, including Monroe County Social Services and the Monroe County School District, to provide critical supportive services for the homeless.

In Fiscal Year (FY) 2018, Congress provided \$2.513 for Homeless Assistance Grants. Currently, HUD is shut down pending FY 2019 spending negotiations.

POSITION: *Support* continued adequate annual funding for Department of Housing and Urban Development Homeless Assistance Grants, particularly for the Continuum of Care Program.



FEDERAL ISSUE: Aging Issues

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Most federal programs that exist for the delivery of social and nutritional services for the elderly in Monroe County emanate from the Older Americans Act (OAA). These include supportive services, congregate nutrition services (meals served at group sites such as senior centers, schools, churches, or senior housing complexes), home-delivered nutrition services, family caregiver support, community service employment, and services to support the health, and prevent the abuse, neglect, and exploitation, of older persons.

The OAA was reauthorized in April 2016 through Fiscal Year 2019. This marks a major milestone as the programs under the OAA operated without authorization since Fiscal Year 2011. The majority of the funding for OAA grant programs goes through the Department of Health and Human Services' Administration for Community Living (ACL), which provides formula funds to state and local agencies designated to provide direct services to the elderly. The ACL also offers some competitive opportunities.

The federal government provides some flexibility for spending allocated OAA funds in areas where there is a greater need. These services are available to all persons aged 60 and older, but are targeted to those with the greatest economic or social need, particularly low-income and minority persons and the elderly who live in rural areas.

During a time when funding for many federal domestic programs has been significantly reduced, appropriations provided for the ACL have remained relatively stable. In FY 2018, Congress provided \$2.095 billion. For FY 2019, Congress provided \$2.120 billion.

POSITION: *Support* continued adequate annual funding for Older Americans Act programs that support critical social service programs serving elderly persons in Monroe County.



FEDERAL ISSUE: Social Services Block Grant

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: The Social Services Block Grant (SSBG) is a federal program administered by the U.S. Department of Health and Human Service’s Administration for Children and Families that provides funding to the states for social services for eligible populations. The program is permanently authorized under the Social Security Act.

States have broad discretion over how to utilize the funds, but SSBG is generally used to meet at least one of the following goals: 1) achieving or maintaining economic self-support; 2) achieving or maintaining personal self-sufficiency; 3) preventing or remedying neglect; 4) preventing or reducing inappropriate institutional care by providing for community-based care; and 5) securing referral or admission for institutional care when other forms of care are not appropriate. Services may include daycare, protective services, services to persons with disabilities, foster care, adoption, case management, health-related services, transportation, meal delivery, or any other services found necessary by the state that meets eligible criteria.

The SSBG program has seen stable funding over the past several years. It has been funded at \$1.7 billion for the last several fiscal years, including FY 2019.

POSITION: *Support* continued adequate funding for the Social Services Block Grant program.



FEDERAL ISSUE: Healthcare

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: There has been some discussion in the Trump Administration and Congress to move the Medicaid program toward a block grant program. In a block grant program, federal expenditures would be limited to a set amount given to states, ostensibly with fewer strings attached. This however, could end up forcing states and counties to come up with more money for Medicaid depending on how large of a block grant is provided to Florida and what type of program the state develops.

Meanwhile, some Congressional Republicans have long supported the idea of privatizing Medicare and pursuing entitlement reform. Specifically, these plans would move Medicare from a single payer system in which the federal government pays directly for healthcare to a system where beneficiaries would use government benefits (i.e. a voucher) to purchase private insurance. Supporters say this would inject competition into the market, thereby reducing prices. However, critics point out this would effectively end the program, and force seniors to navigate the private insurance market. There are also concerns that this could actually increase costs, as Medicare tends to be less expensive than private insurance. This proposal is unlikely to gain any traction in the Democratically controlled House.

Additionally, Centers for Medicare and Medicaid Services (CMS) Administrator Seema Verma has indicated support for changes to the Medicaid program. In late 2017, she indicated that CMS would encourage states “to propose innovative Medicaid reforms, reduce federal regulatory burdens, increase efficiency, and promote transparency and accountability.” As an example of the type of changes CMS would be supportive of, Administrator Verma indicated that they would approve waiver requests from states that include a requirement that recipients participate in community engagement activities, such as employment, job training and education. CMS has subsequently approved work requirement requests for a handful of states. This is a significant shift for the Medicaid program and could affect the number of participants in the program, impacting the County’s cost-share with the state and shifting uninsured health care costs onto local hospitals and communities. Florida has yet to seek such a waiver, however, Governor-Elect DeSantis has recently appointed Mary Mayhew as the Secretary of the Agency for Healthcare Administration. Ms. Mayhew most recently worked from CMS as a senior official overseeing Medicaid for the Trump Administration and strongly supports state flexibility in the program and has previously worked to prevent Medicaid expansion and enact work requirements in the state of Maine.

Florida would also need to seek approval from CMS to expand Medicaid eligibility to those whose income is up to 133% of the federal poverty level as allowed under the Affordable Care Act, however, Florida has declined to seek this approval over the past several years. A proposal supported by the Florida Senate in 2015 would have expanded coverage to nearly 600,000 additional Floridians, however the bill died in the Florida House.

Efforts to enact new work requirements or to alter the funding structure for Medicare and Medicaid could negatively impact the ability of individuals to access health insurance and adequate health care. A progressive faction of Democrats has voiced their support for Medicare for all, extending publicly funded healthcare to the entire population, however these efforts are unlikely to gain significant traction in the 116th Congress due to the cost of the proposal and opposition from moderate Democrats, the Republican controlled Senate, and the Trump Administration.



Mental Health

It is estimated that more than 50 million Americans experience some form of mental illness each year, with 11 million considered severely mentally ill. Approximately 40 percent of those who suffer however, are not able to access the treatment they need. Even when care is delivered, it is often delayed for more than two years after the illness first appears.

There has been a renewed interest in mental health care over the past several years. The Patient Protection and Affordable Care Act (ACA, also known as “Obamacare”) included significant reforms to mental health coverage. Specifically, the legislation named mental health treatment as an essential health benefit that insurance plans are required to cover. While most large-group plans previously offered some kind of mental health benefits, only 18 percent of small-group and individual plans covered mental health. Furthermore, it is estimated that the Medicaid expansion under the ACA has provided as many as 2.8 million people who suffer from a serious mental illness with coverage. During efforts to repeal the ACA in the 115th Congress, there was discussion of allowing states to opt out of requiring essential health benefits, however these efforts were not successful. In addition to these provisions, the Administration the 2008 Mental Health Parity and Addiction Equity Act, which requires insurers to cover mental health at a level that is comparable to their physical health coverage, has now been implemented.

In December 2016, President Obama signed into law the 21st Century Cures Act, which includes a number of provisions related to healthcare, mental health, and addiction. Among other things, the bill reauthorizes several key mental health and substance abuse programs, such as the Community and Mental Health Services block grant, the Substance Abuse Prevention and Treatment block grant, and the Mentally Ill Offender Treatment and Crime Reduction Act. It also includes a provision to strengthen the Mental Health Parity and Addiction Equity Act.

The Helping Families in Mental Health Crisis Act was rolled into the 21st Century Cures Act. This legislation proposed reorienting the mental health system from its focus on serving the largest number of highest functioning patients towards providing treatment for the most seriously mentally ill instead. Specific initiatives within the legislation include: lifting a 16-bed cap on inpatient psychiatric hospital beds under Medicaid, advancing tele-psychiatry to link primary care doctors with mental health providers in areas where patients do not have access to such services, increasing funding for brain research to better understand the underlying causes of mental illness, extending health IT so mental health providers can better coordinate with primary care physicians, and implementing criminal justice reforms so patients are treated within the healthcare system and not through the justice system, among several other provisions.

The legislation has an estimated \$6.3 billion price tag. Roughly half of the bill would be offset by future cuts of \$3.5 billion to the Prevention and Public Health Fund, which was created by the Affordable Care Act (Obamacare) and helps fund public health departments around the country. It is important to note that this fund may disappear as Congress and the Trump Administration work to repeal Obamacare, thereby making these “savings” meaningless.

POSITION: *Support* expanded access to affordable healthcare insurance. *Support* increased funding for health services and programs. *Support* preservation of Medicare and Medicaid. *Support* legislation that responsibly expands treatment options and support for the mentally ill.



FEDERAL ISSUE: Public Safety Programs

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Federal grant funding for many Department of Justice (DOJ) and Department of Homeland Security (DHS) programs are provided as block grants with each state receiving a certain amount of funding, generally linked to population. That funding is then passed through to local jurisdictions to help support police, fire, emergency management, and homeland security functions. Examples of these formula programs include the Emergency Management Performance Grant (EMPG) and the Byrne Justice Assistance Grant (JAG).

In other instances, funding from federal programs is made available to local governments via competitive grant solicitations. Competitive program funds can be used to hire police officers through Community Oriented Policing Services (COPS) or firefighters through Staffing for Adequate Fire & Emergency Response Grants (SAFER), and purchase equipment through the Assistance to Firefighters Grant (AFG). There is also another category of grants that are distributed to certain recipients based on specific criteria, such as the Urban Area Security Initiative (UASI), which provides funds to eligible regions to help communities prepare for, prevent, respond to, and recover from potential attacks and other hazards.

Monroe County has benefited from several of these federal programs in the past, while other programs offer competitive grant opportunities from which the County may seek funds.

For FY 2018, Congress provided \$415 million for the JAG program and \$225.5 million for the COPS program. With regard to the homeland security programs, the House and Senate provided \$350 million for each of the SAFER and AFG programs, \$350 million for EMPG. These programs are currently suspended due to the government shutdown affecting the agencies. The House and Senate have proposed level funding for the SAFER, AFG, and EMPG programs. The House has proposed level funding for the COPS program, with the Senate proposing an increase to \$235 million. For the JAG program, the House has proposed \$441.5 million and the Senate has proposed \$445 million.

POSITION: **Support** continued funding for the wide variety of DOJ and DHS grants, i.e., Community Oriented Policing Services, Byrne Justice Assistance Grants, Emergency Management Preparedness Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency Response Grants, Urban Areas Security Initiative grants, and other security-specific grants. **Support** any Monroe County applications for these funds.



FEDERAL ISSUE: Naval Air Station, Key West

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Naval Air Station (NAS) Key West is located on Boca Chica Key in Monroe County, Florida, 10 miles north of the City of Key West. NAS Key West has several annexes throughout Monroe County including on Key West. The U.S. Navy's presence in Key West dates back to 1823, when a Naval Base was established to stop piracy in the area.

Naval Air Station Key West's national security mission supports operational and readiness requirements for Department of Defense, Department of Homeland Security, National Guard units, federal agencies, and allied forces. What makes the southernmost air station attractive to the war fighter is access to unencumbered air space and sea space, the Tactical Combat Training System (TCTS), year-round great weather, the piers/harbor, the visitor quarters complex and the Gulf range complex. As such, NAS Key West is the Navy's premier East Coast transient pilot training facility for tactical aviation squadrons. The airfield hosts aviation squadrons from around the country on a regular basis to fulfill the mission.

NAS Key West encompasses more than 5,800 acres, and the Gulf water and air ranges span 134,000 square miles. Air station facilities can support up to 100 aircraft and more than 800 personnel at one time, as well as provide port operations for visiting ships. More than 30 tenant commands call Key West home.

These commands include:

- Joint Interagency Task Force South
- Coast Guard Sector Key West
- U.S. Army Special Forces Underwater Operations School
- Naval Branch Health Clinic
- VFC-111 "Sun Downers" Adversary Squadron
- VFA-106 "Gladiators" Detachment Key West
- U.S. Naval Research Lab

The air station's customers include active and Reserve fighter/strike fighter communities, Chief of Naval Air Training (CNATRA) units, Fleet Replacement Squadrons (FRSs), Fleet Forces Command units and other military service users.

Department of Defense Base Realignment and Closure Commission

The history of the Defense Base Closure and Realignment Commission dates back to the Kennedy Administration, which began to reconfigure and consolidate military bases to better meet the threats the United States faced during the Cold War. As the Cold War began to wind down and U.S. defense needs evolved, Congress passed legislation in 1988 to create the independent Defense Base Closure and Realignment Commission (BRAC).

BRAC is a bipartisan group of nine individuals who are appointed by the President to analyze recommendations of the Department of Defense and make decisions regarding base closures or reorganizations. BRAC attempts to remove political considerations from the decision-making process. Congress ultimately must vote simply yes or no on BRAC's entire list of recommendations. There have been five BRAC rounds in 1988, 1991, 1993, 1995 and 2005.

The President's FY 2019 budget submission to Congress did not include a request for another BRAC Commission and Congress included a prohibition on additional BRAC rounds in the 2019 NDAA bill. Military leaders have been pushing for another BRAC since 2013, arguing that DOD's domestic footprint



is too large given equipment modernizations and reductions in force in recent years. DOD estimates that 20-22% of its facilities are underused or obsolete.

While NAS Key West's unique mission and location make it an unlikely target for future elimination, the County should remain engaged in order to be prepared for any contingency.

POSITION: *Monitor* activities related to the Department of Defense Base Closure and Realignment Commission for potential impacts to NAS Key West.



FEDERAL ISSUE: Tourist Development Taxes

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: In the 111th and 113th Congresses, attempts were made to insert language into various pieces of legislation that would have exempted online travel brokers (Expedia, Travelocity, etc.) from remitting the full bed tax rate collected from consumers to the appropriate local government. For instance, if an online travel broker were to pay \$60 for a room in Monroe County and then sell that room to a consumer for \$100, they would be able to, under the proposal, only remit \$6 dollars to the local government instead of \$10 (using a 10 percent bed tax for illustrative purposes).

In 2009, Monroe County filed an action on behalf of itself and 32 other Florida local governments against a number of online travel companies alleging that the companies have failed to collect and/or pay taxes under the respective tourist development tax ordinances. Monroe County and its partners in the lawsuit agreed to settle with the online travel companies for \$6.1 million in 2010. During 2012, there were several Florida State Circuit Court cases that ruled in favor of the online travel brokers. Two cited that Florida law is not clear on the issue, while a Circuit Court Judge ruled more directly that the online travel broker only owes local tourist taxes on the discounted rates they paid for the rooms. Then, in June of 2015, the Florida Supreme Court affirmed the lower court rulings, stating that online travel companies are not hotels and, therefore, do not have to pay occupancy fees.

Meanwhile, in September of 2012, the District of Columbia government won a suit where a judge ruled that online companies (OTCs) should repay back taxes on the full retail price of hotel rooms they sold to consumers in the years after the D.C. City Council passed legislation mandating they do so. In February of 2014, a conditional settlement was reached in this case with six online travel firms. Although they have a right to appeal the D.C Superior Court decision, they agreed to pay \$60.9 million in back taxes to the D.C. government. Between 1998 and 2010, the amount owed in the lawsuit was estimated to be over \$200 million.

These examples demonstrate how courts across the country have ruled differently on this issue over the past few years, which has led online travel purveyors to continue seeking federal legislation that would codify their goal of not remitting taxes on the price of the hotel room paid by the consumer. In 2012, several of these online discount travel brokers (including Expedia, Orbitz, and Priceline) organized and registered to lobby under a new organization called the “Interactive Travel Services Association,” whose purpose is to advocate on several issues, including “taxes and fees related to travel.”

In May 2013, Expedia and other online hotel room purveyors attempted to amend the Marketplace Fairness Act to achieve their transient occupancy tax objectives. Ultimately, this effort was unsuccessful and the bill passed the Senate without this language.

In FY 2017, Monroe County collected \$36 million in tourist development taxes, which are used to support the tourism industry in the region. Although this funding level decreased slightly in FY 2018 to \$32.4 million due to the impacts of Hurricane Irma, this level of funding underscores the importance of tourist development tax revenue and the need to ensure it is not constrained by detrimental legislation.

POSITION: *Oppose* legislation that would exempt online travel brokers from paying taxes on the full room rate paid by the consumer, thereby costing Monroe County the opportunity to collect appropriate tourist development taxes from visitors to the region.



FEDERAL ISSUE: Tax-Exempt Bonds

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Although municipal bonds have been tax-exempt for almost 100 years, a number of federal proposals target this exemption, particularly as part of the debate regarding tax reform or federal spending reduction. With local governments facing severe budget difficulties, any proposal to limit the tax exemption would put more pressure on local finances by reducing demand for tax-exempt bonds and increasing borrowing costs for local governments, ultimately leading to higher taxes or reduced services.

The issue of the deductibility of municipal bonds was not included in the comprehensive tax reform legislation signed into law at the end of 2017, however it may continue to be an issue in the future. If this deduction was eliminated in the future, it is estimated that the difference in the rate of earnings the County and other local governments would need to offer prospective buyers for their taxable bonds would depend on the market, but typically would range from 1.5 to 2 percent more for those offerings. On \$1 million borrowed, this would likely cost \$20,000 more in interest per year. Taking this further, if the County were to amortize a \$100 million loan over 30 years at taxable bond rates two percent higher than if the bonds were tax-exempt, the additional cost to taxpayers over those 30 years could be roughly \$30 million.

Advanced Refunding of Bonds

Meanwhile, Representatives Randy Hultgren (R-IL) and C.A. Dutch Ruppersberger (D-MD) introduced legislation to restore the tax exemption for advance refunding bonds that was repealed in the Tax Cuts and Jobs Act. The legislation has twenty cosponsors but has not advanced in the 115th Congress and was not included in any year-end tax package proposals. Advance refunding is an important financial tool to allow local governments to take advantage of lower interest rates and save taxpayer dollars.

POSITION: *Oppose* legislation that would threaten the tax exemption on state and local bonds. *Support* the passage of legislation to reinstate advanced refunding of tax-exempt bonds.



FEDERAL ISSUE: Immigration

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: Several Administrations have struggled to address the issue of dealing with families illegally crossing the Southern Border with Mexico. Under the Bush Administration, the Department of Homeland Security’s Inspector General released a report stating that family separation happened only when a parent was criminally charged or when there was no availability in family shelters. The Obama Administration sought to detain families together and only detained minors separately when there were concerns regarding human trafficking, danger to the child or unclear claims of parentage.

The Flores Settlement, a 1997 legal agreement, puts limits on how long children can be detained, even with their parents, requirements for how and to whom the government can release them and states that they should be housed in the “least restrictive setting” if they cannot be released immediately. When the Department of Homeland Security was created in 2002, the Office of Refugee Resettlement (ORR) was created and tasked with overseeing the care of unaccompanied minors. ORR follows the principals of the Flores Settlement, anti-trafficking laws, and states that it tries to prioritize keeping siblings or other family units together.

In April of 2018, now former-Attorney General Jeff Sessions announced a new zero tolerance policy on illegal border crossings. He stated that “If you are smuggling a child then we will prosecute you, and that child will be separated from you as required by law. This policy did not provide any flexibility for those crossing the border to seek asylum in the United States. As a result of this policy, thousands of children have been detained by the federal government and questions have been raised about the policy, the conditions in which children are being held, and the government’s ability to reunite them with their parents or other guardians. The Trump Administration has defended their stance, stating that they are following existing law and that previous Administrations also separated families at the border, however, the zero tolerance policy is new in this Administration. In June, the President signed an executive order aimed to address the issue that reiterated that the Administration will continue to criminally prosecute all those who cross the border illegally, but that it is also the Administration’s policy to keep families together. The order calls for federal agencies to make existing facilities available to serve as ad-hoc family detention facilities. With Democrats taking control of the House, it is likely that they will use their oversight powers to push back on the practice of routinely separating families at the border.

POSITION: *Oppose* the routine separation of children and families as a part of immigration enforcement.



FEDERAL ISSUE: Siting of Wireless Facilities

BACKGROUND; HOW IT MAY AFFECT MONROE COUNTY: As telecommunications technology advances, companies have developed new wireless equipment to support 5G networks. These new small cell towers can range in size from approximately the size of a briefcase to something closer to the size of a refrigerator. The telecommunications industry has indicated that these small cell towers are needed to support increased use, faster internet speeds, and other uses such as driverless vehicles. Legislation has been passed in many state legislatures, including Florida, to limit local control over the siting and leases on publicly-owned infrastructure or in rights-of-way.

Despite action at the state level, the issue has still arisen at the federal level. In the 115th Congress, Senator John Thune (R-SD) introduced the STREAMLINE Small Cell Act. The bill is problematic because:

- It would impose sharply reduced “shot clock” time limits for local governments to process potentially unlimited wireless facility applications for all sizes;
- “Deem granted” applications for facilities when local governments are unable to meet the stringent time limits;
- Potentially result in applications being approved regardless of their safety, health or environmental impacts;
- Interfere with local governments’ management of their own property and their ability to receive appropriate compensation for its use.

This legislation was strongly opposed by local governments and did not pass prior to the end of 2018. Previous efforts to pass similar language in the past have failed, however the telecommunications industry has continued to push for the changes.

After it became clear that there was significant opposition to Senator Thune’s legislation and no interest in addressing the issue in the House, the focus of the telecommunications industry turned to the Federal Communications Commission (FCC). In September of 2018, the FCC adopted a declaratory ruling that includes the vast majority of items in the STREAMLINE Small Cell Act, with the exception of the “deem granted” provision. The declaratory ruling is set to go into effect on January 13, 2019, but is currently the subject of several lawsuits, with local governments taking the position that the ruling exceeds the FCC’s authority and violates the Constitution, with telecommunications companies alleging that it does not go far enough to protect their interests. These lawsuits will likely take several months or years to work through the judicial process. Local government groups are currently petitioning the FCC and the courts to grant a stay of the implementation of the ruling.

The Trump Administration has been supportive of the FCC’s action, seeing the deployment of 5G technology as an important job creation tool and a national security risk if other countries, such as China, take the lead in deployment. Although many local governments share the goal of ensuring access to affordable, reliable high-speed broadband and welcome new wireless infrastructure, it should be installed in collaboration with local governments and not preempt local control.

These federal pre-emption efforts do not preserve any of the carveouts or exceptions in Florida’s statewide laws and could create confusion between the state and federal requirements.

POSITION: *Oppose* legislation that would preempt local government control and force local governments to lease publicly-owned infrastructure for the installation of “small cell” wireless towers.