
1909 K Street, NW
12th Floor
Washington, DC 20006-1157
TEL 202.661.2200
FAX 202.661.2299
www.ballardspahr.com

Maria C. Tripplaar
Tel: 202.777-6987
Fax: 202.661.2299
tripplaarm@ballardspahr.com

MEMORANDUM

TO Legislative Committee
FROM Maria C. Tripplaar
DATE June 4, 2024
RE Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the June 10, 2024, Legislative Committee meeting.

1. Congressional Update

Both the House and Senate are in session for most of the month of June, with each chamber having one week recess (the House will be in recess the week beginning June 17th, and the Senate will be in recess for the week beginning June 24th). The focus of this work period is expected to be continuing to work through FY25 appropriations at the committee level, Senate action related to the National Defense Authorization Act to fund the military, and other election year related politics (Southern Border, President Trump's and Hunter Biden's respective legal proceedings, etc).

2. Budget Update

The House has started the committee consideration process for the 12 appropriations bills for FY25. Additionally, floor consideration in the House is expected to start as early as June 5, 2024 (Milcon-VA), and continue through June and July. The Senate Committee on Appropriations has also started to hold hearings to examine proposed budget estimates and justification for fiscal year 2025 for the various government agencies and entities. Congress has laid out an ambitious and aggressive schedule, and it remains to be seen whether they are able to meet this timeline.

3. Federal Budget Requests/ FY25 Community Project Funding Requests

The County submitted a total of nine projects for consideration by the federal delegation for Community Project Funding/Congressionally Directed spending – also called earmarks – for FY25. The details on each submission are reflected below.

Since our submissions in March and April to the County’s Senate and House members, respectively, and as of the time of this writing, the County has received confirmation that several projects were advanced by the county’s Congressional delegation for consideration by the House and Senate Committees on Appropriations. These projects are reflected in the chart below with the elected official’s name highlights for each project they recommended to advance to the Appropriations Committee consideration stage. Additional projects may also be advanced on the Senate side as that process remains ongoing as of the time of this writing; notably, the Senators have not yet announced which projects they recommended be advanced pursuant to the Interior-Environment appropriations bill, which could include CSIP, PCSD, and the San Lucas Safe Drinking Water projects. However, no additional projects are currently expected to advance on the House side.

I will continue to monitor all developments closely, including as the Appropriations Committees announce which funding requests will be included in the language that moves to the floor for consideration by their respective chambers (House and Senate).

FY25 Project Submitted	Description	Funding Requested:	Senate Submission:	House Submission:
Broadway Family Connection (Seaside)	Funding to aid in the development of the Broadway Family Connection Project to replace the current aging Social Services building with a community service hub that will co-locate social services, a family justice center, County public library, WIC programing, and community spaces for public events and programs.	\$4 million	Sen. Padilla	Rep. Panetta
Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project	Funding would close the \$1 million funding gap, and lead to the project being fully funded and shovel ready when FEMA funding and FY24 CDS funding becomes available. The CRFREE Project is a multi-benefit, green infrastructure project that will recreate hydrological connectivity, restore habitat, and reduce flood hazards in the Carmel River Watershed.	\$1 million	Sen. Butler Sen. Padilla	Rep. Panetta
Castroville Seawater Intrusion Project (CSIP) - Supplemental Well Rehabilitation/Replacement	Funding would be used for the planning, design, and implementation of supplemental well rehabilitation or replacement. CSIP supplements groundwater supplies and protects water quality through prevention of seawater intrusion.	\$3 million	Sen. Butler Sen. Padilla	Rep. Lofgren

Family Justice Center (FJC) – Seaside location	Funding to aid in the establishment of a Family Justice Center in Seaside to co-locate service providers for victims of domestic violence, sexual assault, child abuse, elder abuse, human trafficking, and their families.	\$4 million	Sen. Butler Sen. Padilla	Rep. Panetta
Former Ft. Ord – Blight Removal	Funding for the demolition of remnant military structures on the former Fort Ord U.S. Army base that are in a state of disuse and collapse and presenting a visual nuisance and health and safety hazard.	\$650,000	Sen. Butler Sen. Padilla	Rep. Panetta
Pajaro County Sanitation District (PCSD) Sewer System Improvements	Funding to replace and repair sanitary system sewer pipes in the Pajaro County Sanitation District (PCSD). The County has been repairing and replacing manholes and pump stations, but funding is needed to make repairs to the sewer pipes.	\$2 million	Sen. Butler Sen. Padilla	Rep. Lofgren
Salinas Regional Soccer Complex	Funding to enhance the facility's functionality, accessibility, and overall experience. The project to involve the addition of lighting, bathroom facilities, stadium seating, scoreboard, and the essential underground infrastructure that will collectively create a modern, inclusive, and dynamic environment that caters to players, spectators, and the broader community.	\$4,751,120	N/A	Rep. Lofgren
San Lucas Clean Drinking Water	Funding to aid in a long-term solution (construction of a new pipeline to connect to an adjacent community water system) to address ongoing water quality problems for the small, disadvantaged farming community of San Lucas.	\$2 million	Sen. Butler Sen. Padilla	Rep. Lofgren
Skate and Bike Park Safe Access Project	Funding to construct a new regional Bike and Skate Park providing a unique recreational opportunity to low-income disadvantaged youth in Monterey, San Benito and Santa Cruz Counties. In partnership with the City of Salinas and the Salinas Regional Soccer Authority, the project includes the expansion of the Salinas Regional Soccer Complex and multi-use trails.	\$3 million	Sen. Butler Sen. Padilla	Rep. Lofgren

4. Federal Advocacy Efforts

i. FEMA Reimbursements

On January 29, 2024, and May 8, 2024, the Federal Emergency Management Agency (FEMA) sent letters to the California Governor's Office of Emergency Services (Cal OES) regarding documentation and project submission guidance for the Presidentially declared 2023 California Flooding Events (FEMA-4683-DR-CA and FEMA-4699-DR-CA). On May 30th, the County requested an additional 90 days to submit all required documentation to FEMA. Subsequently, on June 3, 2024, Reps. Panetta and Lofgren wrote to FEMA in support of Monterey County's request for a 90-day extension regarding the documentation and project submission guidance deadline for the Presidentially declared 2023 California Flooding Events (FEMA-4683-DR-CA and FEMA-4699-DR-CA). County staff believes that the June 7, 2024 deadline has arbitrarily been set by FEMA, without regard to the applicant's circumstances.

As you know, during the January and March 2023 storm events, Monterey County sustained over \$80 million in damages. The successive impacts of these storms have posed immense challenges. The magnitude of impact to the County cannot be overstated. Storm impacts were spread across the entire geographical expanse of the County, resulting in widespread flooding, large scale evacuations, major road closures, destruction of residential and commercial property, massive economic impacts, and extensive infrastructure damages. Across both storm events, widespread infrastructure damages have strained local resources and necessitated the monumental task of rebuilding and restoring the County's infrastructure.

The scale of the damage has presented formidable challenges for FEMA cost recovery efforts. Due to the magnitude and geographic dispersion of the impacts, even the initial task of accurately identifying and estimating the total cost of repairs stretched the resources of the County and its contractors. FEMA requirements to combine disparate damage inventory items together has created unnecessary administrative complexity, as it is difficult to track project sites, capture costs, and provide reports that easily reconcile costs and damage information. Combining sites before they are even submitted as damages has made it increasingly difficult to differentiate costs associated with each project, thus delaying projects from moving forward since documentation must be completed for every site prior to submission of the entire project.

The County has also received contrary guidance on the submission of Streamlined Project Applications (SPA), leading to the unapproved withdrawal of four Monterey County projects which had been submitted to FEMA, and a mandated reworking of multiple projects just days before the impending deadline. Changing requirements of requested documentation and inconsistent guidance on the level and type of documentation needed for different types of projects has led to confusion and delays. FEMA documentation requirements, such as force account labor, materials, and equipment, are burdensome and go beyond standard accounting processes that the County ordinarily uses, adding significant time to project development.

The new Small Project Threshold of \$1 million has also slowed project submittal. Since small projects are closed on estimates, the County must be diligent in its cost accounting to ensure costs are correctly estimated before submission. Though FEMA's intent is to expedite project submission, small projects still require detailed documentation. In order to best serve the taxpayers of the County of Monterey, it is critical that the County costs projects correctly and submits accurate, detailed documentation to meet FEMA's standards.

County staff has shared that they are committed to continuing to work collaboratively with FEMA in submitting all project documentation to the CRC in a timely manner but feels strongly that this timeline should take into consideration the disaster size and impact, as well as project size and complexity. The current timeline proposed by FEMA is challenging but County staff continues to work diligently on project submission and takes the process of doing so seriously. I will continue to liaise between County staff and the County's Congressional delegation, and facilitate this partnership as all stakeholders work toward reimbursement from FEMA.

ii. Infrastructure Projects: Davis Road Widening and Bridge Replacement Project, Jolon Road Safety Improvement Project Nacimiento-Fergusson Road repairs, and Palo Colorado Road repairs

I have been working closely with County staff and Rep. Panetta and Lofgren on several infrastructure repair and improvement projects that may be eligible for federal funding. We discussed the Davis Road Widening and Bridge Replacement project at length during the last Legislative Committee meeting. Additionally, since that meeting, I have engaged in several videoconferences with Rep. Panetta's office and the Director of Public Works, Facilities, and Parks to strategize how to better position the County's two pending competitive grant applications with the Department of Transportation. I am pleased to report that Rep. Panetta is personally advocating for the County's applications with Secretary Buttigieg.

Additionally, Reps. Panetta and Lofgren continue to be great advocates for the County and its application with the Department of Defense for a competitive grant for the Jolon Road Safety Improvement Project. I have coordinated with both offices and am pleased to share that Rep. Lofgren has engaged directly with DOD to ascertain how we may best position our application to increase the County's potential for a successful award. We also anticipate that Reps. Lofgren and Panetta will be providing a joint letter of support for the grant application in the near term.

Moreover, the Palo Colorado Road improvement project may be eligible for a federal grant under the Nationally Significant Federal Lands and Tribal Projects (NSFLTP) Program. I have engaged in multiple videoconferences with the Director of Public Works, Facilities, and Parks, as well as DOT and Rep. Panetta's office. This is a program that the County has not previously utilized and Rep. Panetta is currently advocating for the County so that the relevant agency can educate County staff on the application process and requirements.

Lastly, the repaving of the Nacimiento-Fergusson Road continues to be a tricky situation with a disagreement over the relative responsibilities of each the County and the federal government. Once again, Rep. Panetta has been a zealous advocate and continues to work on our behalf to find federal options for the asphalt for the stretch of roadway.

**iii. *Rescheduling of Marijuana from Schedule I to Schedule -
Recommend Support***

As we discussed at the Legislative Committee meeting in May, there has been increased movement to reschedule marijuana from Schedule I to Schedule III. On May 16th, the Department of Justice formally moved to initiate the process to reclassify marijuana from Schedule I to Schedule III. A notice of proposed rulemaking was sent to the Federal Register and it was published on May 21st.

The cannabis industry is an important economic engine in the County of Monterey. The County of Monterey Cannabis Program provides a local framework for the management of licensed commercial cannabis activities in coordination with state agencies to address taxation, regulation, enforcement, education, and the protection of the health, environment, and safety of our communities. The County is ranked sixth in the State of California for cannabis cultivation based on the number of active cultivation licenses. Local tax revenue from cannabis activities in Fiscal Year 2022-23 was \$3.6 million. According to the *2022 County of Monterey Crop and Livestock Report*, total production value for cannabis cultivation during 2022 was calculated at \$283.1 million, a decrease of \$335 million from 2021.

The local cannabis industry faces a number of challenges including the cannabis market downturn that began in 2021, meeting State and local requirements for annual licensure by January 2026, and paying State and local taxes. Moving cannabis to Schedule III would provide business owners the capacity to deduct a variety of expenses decreasing taxes significantly. This would place cannabis businesses in the same category as other industries and allow for those businesses to invest in infrastructure and growth. For this reason, the local cannabis industry and the County's overall economy would greatly benefit from this proposed regulatory change.

I have coordinated with the Cannabis Program Manager about submitting a formal comment to Drug Enforcement Administration (DEA) in support of the proposed rule, and a proposed draft letter of support is included in your packets for consideration to submit to DEA.

5. Legislation

a. *Housing Unhoused Disabled Veterans Act (H.R. 8340) – Recommend Support*

This legislation would amend the Department of Housing and Urban Development's (HUD) definition of annual income to exclude disability payments received by a veteran for eligibility purposes for housing built under the Housing and Urban Development-Veterans Affairs Supportive Housing (HUD-VASH) Program.

Currently, many disabled veterans – that need that assistance most – are unable to access housing programs for veterans because of how income is defined. The more severe a disability is, the more disability benefits a veteran receives, and the less likely it is that they can access veterans housing assistance.

This legislation was introduced by Rep. Sherman in the House, and Rep. Panetta is a co-sponsor. There is not yet an identical companion bill in the Senate.

b. *Cannabis Administration and Opportunity Act (CAOA) (S. 4226) – Recommend Support*

The CAOA would establish a federal regulatory framework to protect public health and safety; end discrimination in the provision of federal benefits on the basis of cannabis use; provide major investments for cannabis research; and strengthen worker protections. By decriminalizing cannabis at the federal level, the CAOA would also ensure that state-legal cannabis businesses or those in adjacent industries would no longer be denied access to bank accounts or financial services as a consequence of their ties to cannabis.

This legislation was introduced by Sen. Booker in the Senate, with Sen. Padilla and Sen. Butler as original co-sponsors. There is not yet an identical companion bill in the House.

6. Federal Bill/Issues Track

Attachment(s):

Federal Bill/Issues Track