

Charlotte County, Florida 2024 Federal Legislative Agenda





**Prepared by Thorn Run Partners for the
Charlotte County Board of County Commissioners**

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Hurricane Recovery

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Support recovery efforts from Hurricane Ian, including FEMA reimbursements, funding for Community Development Block Grants-Disaster Recovery and Mitigation Programs (CDBG-DR and CDBG-MIT), Hazard Mitigation Grant Program, Army Corps of Engineers, the Natural Resource Conservation Service Emergency Watershed Protection program, and other programs of importance to Charlotte County. **Support** the expedited processing of FEMA reimbursements to local governments. **Support** the timely release of federal funding.

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FEDERAL ISSUE: Hurricane Recovery

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: In September 2022, Hurricane Ian made landfall as a large and destructive Category 4 Atlantic hurricane that was the deadliest to strike Florida since 1935 while causing more than an estimate \$50 billion in damage. Since then, Congress has provided two main infusions of federal funding to help recover from Ian (as well as Nicole, Fiona, and other natural disasters nationwide). Among the programs that might be of most importance to Charlotte County include the following:

- \$5 billion is provided for the FEMA Disaster Relief Fund for major disaster declaration expenses
- \$3 billion for Community Development Block Grant Disaster Recovery Grants for 2022 disasters
- \$925 million is provided for the Emergency Watershed Protection Program for watershed recovery

With the storm landing in southwest Florida, Charlotte County has a litany of needs for recovery assistance. These include ongoing debris removal, rebuilding of affordable housing, repair of public 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 Public Assistance Reimbursements

The Federal Emergency Management Agency (FEMA) assists local governments, through the state, after disasters with funding for debris removal and 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 the County. Charlotte County will submit millions of dollars in project worksheets and will need the timely engagement of FEMA and the Florida Department of Emergency Management to recover.

NRCS EWP

The Department of Agriculture Natural Resources Conservation Service (NRCS) administers the Emergency Watershed Protection (EWP) program that is used to remove marine debris after natural disasters. While the NRCS EWP program may prove to be a critical resource for Charlotte County, it may only partially solve canal debris and sediment challenges of the County and greater region. Applicants typically go through an arduous and expensive process to secure funding for even a partial cleanup of marine debris. Further, the process for NRCS to approve or reject individual canals often takes too long given that the intent is to protect an area from future storm damage and flooding. Ultimately, the EWP program may only approve canals for cleanup if hydrologic conditions are impacted by debris, thereby ignoring the environmental degradation of any debris remaining in nearshore waters.

Despite the federal government's clear recognition that marine debris after a storm is a serious problem that deserves federal support, programs in existence do not appropriately deal with debris under water. For example:

- Funding to Coast Guard programs is meant to respond to derelict vessels.
- FEMA's funding can remove marine debris, but their criteria is limited only to navigational hazards, meaning that they will only address limited depths and will not remove all debris present.
- NOAA funding can address marine debris, but they have limited funding and focus on environmental hazards.



FEMA will pay to remove all land-based debris that sits above the water line. Yet, in coastal communities throughout the country, whose waterways are as important as roads or other public infrastructure, there is not a similar program that is all-encompassing and as thorough for marine debris. This inequity may need to be by Congress, either by appropriately refocusing and adjusting the NRCS EWP program or by developing a new program to comprehensively address marine debris.

Community Development Block Grant Disaster Recovery program

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

Community Development Block Grant Mitigation program

Congress created the CDBG-MIT program after disasters of 2016 and 2017, leaving much of the implementation up to HUD and individual states to ultimately disburse. After Hurricane Ian and Congressional appropriations, HUD will notify Florida that it will receive CDBG-MIT money for disaster events that occurred during a specific time period. Then, HUD will release a Federal Register notice to formally disburse the funds to eligible states, once states submit individual State Action Plans. Once HUD approves a State Action Plan, Florida will be able to access and spend the funding.

POSITION: *Support* recovery efforts from Hurricane Ian, including FEMA reimbursements, funding for Community Development Block Grants-Disaster Recovery and Mitigation Programs (CDBG-DR and CDBG-MIT), Hazard Mitigation Grant Program, Army Corps of Engineers, the Natural Resource Conservation Service Emergency Watershed Protection program, and other programs of importance to Charlotte County. *Support* the expedited processing of FEMA reimbursements to local governments. *Support* the timely release of federal funding.



FEDERAL ISSUE: Charlotte County, FL Shoreline and Inlet Management

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: Over the past several years, Charlotte County's beaches on Manasota Key have eroded to the point where the County has declared numerous emergencies to help with permitting and other homeowner challenges.

In 2016, upon seeking to engage the Corps of Engineers in a long-term solution to erosion issues, the County learned that the Corps completed a Chief of Engineers report on 29 June 1981 in response to a House Public Works Committee Resolution adopted 2 December 1971. Unfortunately, in the spring of 1981, the Charlotte County Board of County Commissioners withdrew support for the project, thereby effectively ending substantive work on the project.

Given the County's recent challenges and the work completed by the Corps in the past, the County requests that the Corps initiate a new study of the shoreline, focusing primarily on those areas recommended for a project in 1981. These include beach erosion control improvements along 3.9 miles beginning at Stump Pass and extending northward to the Sarasota County Line (along Manasota Key), including the Port Charlotte Beach State Recreational Area. At the time, the project had a benefit-cost ratio of 4.2, with initial placement of approximately 335,000 cubic yards (CY) and five-year nourishment intervals of approximately 68,000 CY each. Finally, a 1,250-foot long terminal groin was recommended to be constructed at the south end of the beach fill along Stump Pass. Sand was proposed to have come from an offshore borrow area.

The Jacksonville District of the Corps indicates the Charlotte County study is authorized via Statute 69-132, Chapter 140, Public Law 84-71 - June 15, 1955.

In its final Fiscal Year 2023 Omnibus Appropriations bill, Congress provided \$500,000 to the Army Corps of Engineers – and most importantly, a “new start” – for the Corps to initiate a study of the Charlotte County shoreline. Study activities should begin early in 2023. Most recently, the House included \$500,000 for the study in its version of the Fiscal Year 2024 Energy & Water Appropriations bill. While the bill has yet to pass Congress, recent activity makes the positive resolution of this funding more likely in March.

Easement Issues

The Corps of Engineers has recently determined that federal beach projects must have what are known as perpetual easements for construction and public access from all individual property owners along the length of a coastal storm risk management project to proceed to construction. This is a different interpretation than has been used in the past and has placed the future of the federal shore protection program in Florida – including the pending project in Charlotte County – at risk because getting these easements from individual property owners can be difficult. All beach project local sponsors will benefit from including language in the Water Resources Development Act of 2024 addressing the issue and allowing projects to proceed without easements from every property owner.

POSITION: **Support** \$500,000 in Investigations funding via the FY 2025 Energy & Water Appropriations bill for the Charlotte County, Manasota Key beach nourishment project to complete a federal feasibility study. **Support** language in the 2024 Water Resources Development Act clarifying that Army Corps of Engineers shore protection projects may proceed without perpetual easements from every property owner.



FEDERAL ISSUE: Charlotte Harbor Conservation; Central Sewers

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: The health of Charlotte Harbor is critical to the future of Charlotte County. A significant issue that threatens the Harbor is the need to transition residents from older, often failing septic systems to central sewers.

The Environmental Protection Agency estimates that over the next 20 years, the nation must collectively invest \$390 billion to update or replace existing wastewater systems and build new ones to meet increasing demand. This is an issue that affects the whole country, but in Charlotte County, fewer than 60,000 residents are on central sewer.

Many of the County's homes are within 150 feet of waterways that flow into Charlotte Harbor, necessitating that residents will ultimately need to be on central sewer. The County is currently completing the fourth phase of this project. In addition to taking advantage of State Revolving Funds and tax assessments, the County is pursuing funding for additional phases of this environmentally significant project.

In the Fiscal Year 2022 (FY22) appropriations process, Congress provided the Ackerman septic to sewer project with \$3.2 million in funding.

In a related effort, to potentially provide the County with additional federal assistance for its efforts, Congress via the Water Resources Development Act of 2022 amended the County's exiting Army Corps of Engineers "environmental infrastructure" authorization that had yet to be utilized to support the ongoing septic to sewer conversion project. The bill language is as follows:

CHARLOTTE COUNTY, FLORIDA.—Section 219(f)(121) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 336; 121 Stat. 1261) is amended by striking “\$3,000,000 for” and inserting “\$33,000,000 for wastewater and”.

Given this language, the County can seek federal funding via the Corps of Engineers to implement this provision via the annual Energy & Water appropriations bill. Such funding was requested in the Fiscal Year 2024 Energy & Water Appropriations bill by Rep. Stuebe; however, it was not funded by the Committee.

By providing a long-term solution to significantly reduce non-point source pollutants into the receiving waters of Charlotte Harbor, the ability to support economic activities dependent on water quality will improve with the reduction/elimination of beach closures, sanitary health hazard complaints, and related impacts of nutrient and sediment loading. Removal of septic systems will increase the amount of developable land for businesses and provide for a larger variety of uses. Improving water quality will retain and increase tourism. Lastly, a continuation of the cooperative effort between public, private, and nonprofit organizations will continue the enforcement of water quality regulations and Best Management Practices.

POSITION: *Support* federal funding via the FY 2025 Energy & Water Appropriations bill for the Charlotte County sewer system expansion.



FEDERAL ISSUE: National Flood Insurance Program

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: In 1968, Congress established the National Flood Insurance Program (NFIP) to address the nation's flood exposure and challenges inherent in financing and managing flood risks in the private sector. Private insurance companies at the time claimed that the flood peril was uninsurable and, therefore, could not be underwritten in the private insurance market. A three-prong floodplain management and insurance program was created to identify areas across the nation most at risk of flooding, minimize the economic impact of flooding events through floodplain management ordinances, and provide flood insurance to individuals and businesses.

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 changes to the program that impacted the Island'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, 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 on February 2, 2024. In Charlotte County, there are roughly 35,000 NFIP policies for both homes and commercial properties.

Risk Rating 2.0

The Federal Emergency Management Agency (FEMA) continues to implement the Risk Rating 2.0 (RR2) pricing methodology for the NFIP. FEMA has estimated that roughly 3.8 million policyholders will pay higher premiums, while 1.2 million policyholders will see rate decreases. New NFIP policies were subject to new RR2 pricing beginning on Oct. 1, 2021, while existing policyholders faced new pricing beginning on April 1, 2022 if their price increases. If existing policyholders' price decreased under RR2, they benefited when their policy renewal occurred after Oct. 1, 2021.

Several members of Congress and members of the Senate continue to advocate that the implementation of RR2 should be delayed and have written letters, proposed various legislation, and called on the Administration to carry out the delay. In the 117th Congress, House Financial Services Chair Maxine Waters (D-CA) proposed legislation that, among other things, would limit annual flood insurance rate increases to 9 percent, down from 18 percent allowed under current law. Based on statements to the media, FEMA seemed supportive of this annual rate increase cap. However, as the 118th Congress continues, it remains to be seen where the NFIP debate regarding RR2 will go.

For Charlotte County, the data relating to the implementation of RR2 indicates the following expected price changes per year for participants in the NFIP: about 5% of County NFIP participants will see a decrease in their flood insurance rates while about 80% will see an increase of less than \$20 per year. The remaining will face more significant increases.



NFIP Floodplain Management Standards for Land Management and Use

In late 2021, FEMA released a Request for Information (RFI) primarily to seek feedback on updating the NFIP's floodplain management standards for land management and use regulations for communities that participate in the flood insurance program. The standards have not been substantially updated since 1976.

It is not hard to imagine that the RFI may lead to dramatic changes in the NFIP. This could include increased elevation for new construction or substantial renovation, mandate the construction of critical facilities outside of 500-year flood zones, require mapping, regulation, and mandatory purchase of flood insurance in 500-year or 1000-year flood plains, ensure climate change impacts in new flood map modeling, and lead to additional restriction or purchase requirements in areas of so-called residual risk. These potential changes to the NFIP are all separate from the Risk Rating 2.0 effort that is increasing flood insurance rates nationwide for many.

Charlotte County responded to the public comment opportunity in January 2022.

POSITION: *Support* efforts to improve the National Flood Insurance Program for the benefit of all participants. *Monitor* FEMA's implementation of the Risk Rating 2.0 program. *Monitor* FEMA's next steps regarding changes to the NFIP Floodplain Management Standards.



FEDERAL ISSUE: Everglades Restoration

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: In 2000, Congress authorized a 30-year plan, termed the Comprehensive Everglades Restoration Plan (CERP), for the restoration of the Everglades ecosystem in southern Florida. CERP generally focuses on increasing the storage of excess water in the rainy season to provide more water during the dry season for the ecosystem and for urban and agricultural users. When originally authorized, it was estimated that CERP would cost a total of \$8.2 billion and take approximately 30 years to complete. More recent estimates indicate the plan may take 50 years to implement and could cost \$13.5 billion.

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. Over time, this has changed the ecosystem of the connected coastal regions.

There are a number of projects and studies under various stages of development that are expected to improve water quality and flow in the Everglades and surrounding areas as well as reduce harmful discharges to the east and west coasts of Florida.

\$447 million in federal funding for the Everglades program was included in Fiscal Year 2023 appropriations, providing the most significant boost in funding to the program in many years. Meanwhile, the Bipartisan Infrastructure Law includes \$1.1 billion in funding for Everglades restoration.

Lake Okeechobee System Operating Manual Update

The Army Corps of Engineers released a Final Draft Lake Okeechobee System Operating Manual (LOSOM) Water Control Plan in March 2023. The regulation schedule regulates the management of Lake levels. As a part of this process, the Corps hosted several public meetings in Florida and accepted written comments multiple times. Since completion of the draft report, the Corps and the federal resource agencies have been working to address concerns that the new LOSOM plan will negatively impact certain endangered species. It is unclear when a new regulation schedule will be implemented.

It is possible the new Lake schedule could result in more large-volume releases to the Caloosahatchee under certain circumstances, which could then negatively impact the east wall of Charlotte Harbor and surrounding waters, areas that have been impacted severely by macroalgae, cyanobacteria, and seagrass loss over the last few years

POSITION: **Support** adequate funding for Everglades restoration. **Support** continuing implementation of all facets of Everglades restoration, including: funding continued work on the Central Everglades Planning Project, construction of the Everglades Agricultural Area reservoir to send more water south and reduce the need for discharges from Lake Okeechobee during wet periods. **Monitor** the effort of the Army Corps of Engineers to implement the Lake Okeechobee System Operating Manual.



FEDERAL ISSUE: Water Quality and Red Tide

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Nearly every year, Charlotte County and much of the southern Gulf Coast of Florida are impacted by significant levels of the algae *Karenia Brevis*, commonly known as red tide. Outbreaks of red tide off the Florida coast have been documented since Spanish explorers first began visiting the area in the 15th century, however, a 2007 study that was conducted by the University of Miami and funded by the National Institutes of Health found that the levels of red tide have significantly increased over the past fifty years. The study found that levels of red tide measured in the area from Tampa Bay to Sanibel Island between 1994 and 2002 is thirteen to eighteen times the levels measured between 1954 and 1963. The increase in the nutrient levels in the ecosystem was found to be a significant factor in this increase.

In reaction to the ongoing outbreaks of red tide, both the state and federal government have taken action to mitigate the impacts to the local ecosystem and economy. Members of the Florida delegation have requested emergency declarations and requested additional funding to various federal agencies and others to study, mitigate, and respond to harmful algal blooms. The Florida delegation also worked to include several other provisions in the Commerce, Justice and Science appropriations bill and the Interior and Environment appropriations bill to address harmful algal blooms.

The water quality in the Gulf of Mexico also affects the water near the shores of Charlotte County. Other sources of nutrients and pollution, such as the Mississippi River delta also contribute to the overall ecosystem in the Gulf. The Mississippi River watershed stretches north into Canada, west to Montana, Wyoming, Colorado, and New Mexico, and east to North Carolina, West Virginia, and Pennsylvania. This broad drainage basin creates challenges for determining and addressing causes of pollution that enters the Gulf of Mexico.

POSITION: **Support** research and monitoring programs to address red tide. **Support** efforts to improve water quality for all water entering the Gulf of Mexico, including from the coast of Florida and other tributaries, such as the Mississippi River.



FEDERAL ISSUE: Waters of the United States

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Congress enacted the Clean Water Act (CWA) in 1972 with the statutory objective “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” One of the Act’s principal tools in achieving that objective is a prohibition on the discharge of pollutants from a point source to “navigable waters,” which are defined in the Act as “the waters of the United States, including the territorial seas.” Thus, “waters of the United States” (WOTUS) is a threshold term establishing the geographic scope of federal jurisdiction under the CWA. The WOTUS term is not defined by the Act, but has been defined and implemented by EPA and the Army in regulations since the 1970s.

In June 2021, the Biden administration announced their intent to revise the definition of WOTUS. Upon review of the 2020 Navigable Waters Protection Rule, the agencies determined that the rule reduced clean water protections and signaled their intent to develop a new approach. The proposed Biden rule seeks to maintain the longstanding exclusions of the pre-2015 regulations as well as the exemptions and exclusions in the Clean Water Act.

The Biden administration published a final rule revising the definition of “waters of the United States” that took effect in March 2023. Then, in May 2023, the Supreme Court issued a decision in the case of *Sackett v. EPA*, which impacted the WOTUS definition incorporated in the published rule. Following that ruling, in August 2023, the EPA and the Army Corps of Engineers released amendments to their final rule. These new regulations are intended to conform to the *Sackett* decision which invalidated certain provisions of the implemented rule — and will greatly reduce the acreage of federally-protected waters.

POSITION: *Monitor* activity related to the Waters of the U.S. rule. *Oppose* aspects of the rule that would negatively affect Charlotte County.



FEDERAL ISSUE: Energy Exploration

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Active energy drilling currently occurs in both the western and central Gulf of Mexico, while nearly the entire eastern Gulf is protected from drilling by Presidential memorandum until 2032.

In September 2020, former President Trump signed a memorandum withdrawing the eastern Gulf of Mexico and Atlantic coast of Florida from exploration, development, or production of energy through June 30, 2032. The memorandum also covers the Atlantic coast of Georgia and South Carolina and was later expanded to include the coast of North Carolina.

The federal government typically develops five-year Outer Continental Shelf (OCS) Oil and Gas Leasing programs to guide energy exploration activities in federal waters. On September 29, 2023, the U.S. Department of the Interior announced the availability of the 2024–2029 National Outer Continental Shelf Oil and Gas Leasing Proposed Final Program (PFP). The recent PFP only includes three potential lease sales through 2029, with all three located in the western Gulf of Mexico.

POSITION: *Oppose* the potential expansion of fossil fuel energy exploration in Florida.



FEDERAL ISSUE: Transportation Issues: Harborview Road & Heavier, Longer Trucks

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY:

Harborview Road

The Harborview Road project is a critical ongoing project that is unfortunately short of funding for full completion. The project, which is an evacuation route and is part of the State Transportation Improvement Program and the Transportation Improvement Program, will widen Harborview Road in Charlotte County from two to four lanes between Melbourne Street, near U.S. Highway 41 (Tamiami Trail) and I-75, a distance of 2.3 miles.

Harborview Road is a key major east-west roadway that needs to become a four-lane divided roadway. This improvement is necessary to accommodate travel demand generated by population and economic growth in Port Charlotte and Charlotte County. The project will improve an existing traffic bottleneck along Harborview Road, improve substandard roadway design elements, boost transportation network connectivity, increase operational conditions of the road, bolster the road as a freight distribution route, improve safety conditions, improve local water quality, and accommodate pedestrian and bicycle traffic along the corridor. Currently, Harborview Road is a two-lane undivided roadway classified as an urban minor arterial with 12-foot travel lanes, no paved shoulders, and an open drainage system with no pedestrian or bicycle facilities.

A PD&E study for the Harborview project was completed in 2019 with a categorical exclusion provided for NEPA. The design phase is on-going and the project has been divided to two segments due to funding limitations: Segment I from Melbourne Street to Date Street and Segment II from Date Street to I-75. Segment I, a distance of 1.15 miles is fully funded for design, right-of-way acquisition, and construction. Segment II, a distance of 1.15 miles, is funded for design; however, the right-of-way acquisition and the construction phases are unfunded.

The total project cost estimate for Segments I and II is \$89 million, including the PD&E study, design, right of way acquisition, and construction. To date, \$51,400,000 in local and federal funding have been programmed to the project, leaving a shortfall \$12.6 million for right of way acquisition and \$25,000,000 for construction of Segment II.

Thanks to the efforts of Congressman Steube, the House of Representatives included \$20 million to widen Harborview Road in a bill to extend surface transportation programs in 2021. While that bill and its Member Designated Projects did not become law, Charlotte County still is unable to complete work on the project absent additional funding.

Heavier and Longer Trucks

Weight Issues: the federal weight limits — 20,000 pounds on a single axle, 34,000 pounds on a tandem axle, and 80,000 pounds overall gross vehicle weight — have been unchanged since 1974. But, in recent years Congress has approved a number of waivers, generally on a state-by-state basis. For example, in 2015 Congress exempted emergency vehicles and certain heavy-duty tow and recovery vehicles from weight limits, waived weight limits on certain highways in Texas and Arkansas, and provided waivers for logging trucks in Wisconsin and Minnesota.



Length Issues: Federal truck length regulations apply on the roughly 200,000 miles of road known as the National Network (although due to a requirement for “reasonable access,” there is some impact on adjacent roads). Thus, states are generally prohibited from allowing twin 33-foot trailers on the National Network, but there are some exceptions. Outside of this network, states do not have to comply with federal truck size regulations.

In the 118th Congress, certain business interests support two bills that would allow heavier and/or longer trucks on American highways. Specifically, H.R. 2948 and 3372, both of which were approved in May 2023 by the House Transportation and Infrastructure Committee primarily along party lines, would raise federal truck weight limits. The first bill would increase truck weight limits from 80,000 pounds to 88,000 pounds when carrying automobiles, while the second bill would authorize additional exemptions for any state to increase truck weights from 80,000 pounds to 91,000 pounds, respectively.

The U.S. Department of Transportation, in its 2016 Comprehensive Truck Size and Weight Limits, specifically looked at 88,000-pound, five axle trucks and found significant safety issues and infrastructure damage associated with this configuration. Ultimately, DOT recommended that Congress not approve heavier trucks. Congress has also rejected recent increases in national truck weight limits because of concerns for public safety and infrastructure damage. In fact, the House of Representatives in 2015 voted on a bipartisan basis to maintain current federal limits.

POSITION: *Support* federal funding for the Harborview Road expansion project. Oppose federal increases in truck weight or lengths that may endanger public safety and cause increased infrastructure damage.



FEDERAL ISSUE: Medicaid Inmate Exclusion Policy

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: The Medicaid Inmate Exclusion Policy (MIEP) is a federal policy that strips federal health and veterans benefits from individuals upon admission to jail. The Social Security Act (Sec. 1905(a)(A)) prohibits the use of federal funds and services for medical care or other benefits provided to “inmates of a public institution,” including those run by counties. The MIEP does not differentiate between a convicted inmate and a person incarcerated prior to conviction and contributes to the national behavioral and mental health crisis as well as rates of recidivism in our local jails.

In the 118th Congress, two bills have been introduced that would address the MIEP. In March 2023, the *Due Process Continuity of Care Act* (H.R.3074/S.971) was introduced by Sens. Bill Cassidy (R-LA), Jeff Merkley (D-OR), Thom Tillis (R-NC) and Ed Markey (D-MA) followed by the introduction in the House by Reps. David Trone (D-MD), Paul Tonko (D-NY), Mike Turner (R-OH), John Rutherford (R-FL) and 12 other bipartisan lawmakers. This bill would allow pretrial detainees to receive Medicaid benefits at the option of the state and provide \$50 million in planning grant dollars to states and localities for implementing the MIEP repeal, improving the quality of care provided in jails and enhancing the number of available providers to treat this population.

The *Reentry Act* (H.R.2400/S.1165) was also reintroduced this past March by Sens. Tammy Baldwin (D-WI), Mike Braun (R-IN), Sherrod Brown (D-OH) and J.D. Vance (R-OH) as well as in the House by Reps. David Trone (D-MD), Paul D. Tonko (D-NY), Mike Turner (R-OH), John Rutherford (R-FL) and nine other bipartisan members. This legislation would allow Medicaid payment for medical services furnished to an eligible incarcerated individual during the 30-day period preceding the individual’s release.

POSITION: *Support* legislation to restore pretrial detainee access to federal benefits.



FEDERAL ISSUE: Opioid Addiction

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Opioids are a class of drugs made from opium, as well as synthetic or semi-synthetic drugs that resemble these opium-based drugs. Many opioids are available by prescription. Examples include oxycodone, codeine, morphine, and fentanyl. Heroin is an opioid that is illegal. These drugs are often referred to as narcotics.

Approximately 110,000 drug overdose deaths occurred in the United States in 2022. Opioids — mainly synthetic opioids (other than methadone) — are currently the main driver of drug overdose deaths, particularly fentanyl. Opioids were involved in 82,998 overdose deaths in 2022 (75.4 percent of all drug overdose deaths). The estimated rate of deaths in Florida due to drugs decreased by 4.3 percent between 2022 and 2023.

Fentanyl has emerged as the leading opioid in drug overdose deaths and has been found laced in other common drugs to boost their potency. Because of this practice, fentanyl is extremely difficult to detect and it has led to an increase in accidental overdoses. The quantity of fentanyl seized at the U.S.-Mexico has skyrocketed — U.S. law enforcement agencies are on pace to confiscate more than 12,000 pounds of fentanyl powder in 2022, up from 4,000 pounds in 2018 but down from 2022. Even with the increase in seizures, U.S. drug agents say it has been nearly impossible to stop fentanyl trafficking. Border authorities screen only a small fraction of the more than 219,000 vehicles crossing from Mexico each day. Federal agents estimate that they are seizing about 5 to 10 percent of the drugs coming from Mexico — if that much.

To help respond to the public health impacts of opioids, the state of Florida received \$101 million over two fiscal years (FY 2023 and 2024) through the State Opioid Response (SOR) grant program from the Department of Health and Human Services. Congress provided the SOR program with \$1.75 billion in the FY 2023 omnibus appropriations bill and reauthorized the program through 2027. SOR is a popular program because it can be used for the full continuum of services for substance use disorders.

POSITION: *Support* federal funding to address local opioid addiction and treatment issues. *Support* attempts by entities within Charlotte County to secure funding to fight opioid addiction.



FEDERAL ISSUE: Affordable Housing

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: The Low-Income Housing Tax Credit (LIHTC) program is considered to be the most important resource for creating affordable housing in the United States today. Created by the Tax Reform Act of 1986, the LIHTC program gives State and local LIHTC-allocating agencies the equivalent of approximately \$8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households. An average of almost 1,400 projects and 106,400 units were placed in service annually between 1995 to 2018. In Florida, the LIHTC-administering agency is the Florida Housing Finance Corporation.

Virtually no affordable housing is produced without using the LIHTC. Affordable housing developers rely on the credit for a variety of projects, including the production of new units and the preservation of public housing units. However, the limited availability and the popularity of the housing tax credit have made it very competitive in many states.

During the 118th Congress, the bipartisan *Affordable Housing Credit Improvement Act* (H.R.3238 /S.1557) to expand and strengthen the Low Income Housing Tax Credit (LIHTC) was reintroduced. The bill would increase the availability of the housing credit by 50 percent over five years, permanently authorize the 4 percent housing credit, and make other changes that would help make it a more effective tool. The LIHTC program is considered to be the most important resource for creating affordable housing in the United States today. Created in 1986, the program gives State and local LIHTC-allocating agencies the equivalent of approximately \$8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households.

The bill enjoys support from about one-third of the members of each chamber across party lines, though it currently remains within its respective committees for further deliberation.

Congress is also debating a broad tax bill, aiming for passage in February or March 2024. In it, they include a provision relating to the LIHTC. As mentioned earlier, in calendar years 2018 through 2021, the 9 percent LIHTC ceiling was increased by 12.5 percent, allowing states to allocate more credits for affordable housing projects. The bill under consideration would restore the 12.5 percent increase for calendar years 2023 through 2025 and would be effective for taxable years beginning after December 31, 2022.

Another bill previously introduced in the 117th Congress was reintroduced in 2023. The *Homes for Every Local Protector, Educator, and Responder (HELPER) Act* (H.R.3170/ S.1514) is bipartisan legislation that would establish a new home loan program for first responders and teachers in the model of the VA Home Loan Program. Specifically, the HELPER Act:

- Creates a one-time use home loan program for law enforcement officers, firefighters, Emergency Medical Technicians (EMT), paramedics, and pre-K-12 teachers;
- Eliminates a down payment requirement;
- Eliminates a monthly mortgage insurance premium (MIP) requirement;
- Requires a 3.6 percent upfront mortgage insurance (UFMI) premium to ensure the solvency of the program;
- Requires the program to be reauthorized after five years.

POSITION: **Support** legislation to improve the Low-Income Housing Tax Credit. **Support** legislation to establish a new home loan program for first responders and teachers.



FEDERAL ISSUE: Assessment of Fair Housing Rule

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: In 2015, the Obama Administration published a final rule entitled Affirmatively Furthering Fair Housing (AFFH), which aimed to provide HUD program participants with new guidance to help them meet the requirements of the Fair Housing Act. This rule, however, was seen as overly prescriptive and burdensome by some stakeholders and did not do anything to assist with the overall inadequate supply of affordable housing, instead of diverting significant time and effort to data collection and compliance. Additionally, there were concerns that the rule could make local governments and housing authorities more vulnerable to third-party lawsuits. The rule required stakeholders to use an Assessment Tool, created by HUD, to conduct and submit an Assessment of Fair Housing to HUD, but these tools proved difficult to develop.

During the development of the first round of Assessments of Fair Housing, HUD found the tool to be labor-intensive for both HUD and local governments and to produce incomplete or inaccurate reports. The overall rule was to be implemented in two phases, with the first phase impacting communities that receive at least \$500,000 in CDBG funding and the second phase, following five years later, for those communities receiving less than \$500,000 in CDBG funds a year.

The Trump Administration cancelled the Obama-era rule. However, the Biden Administration has since cancelled the Trump proposed rule and reinstated the Obama-era rule. HUD's 2021 Interim Final Rule (IFR), "Restoring Affirmatively Furthering Fair Housing Definitions and Certifications," requires program participants to submit certifications that they will affirmatively further fair housing in connection with their consolidated plans, annual action plans, and PHA plans. In order to support these certifications, the IFR creates a voluntary fair housing planning process for which HUD will provide technical assistance and support. The IFR also rescinds the 2020 Preserving Communities and Neighborhood Choice rule, which caused funding recipients to certify "compliance" with a regulatory definition that is not a reasonable construction of the Fair Housing Act's mandate to affirmatively further fair housing.

In February 2023, HUD published a Notice of Proposed Rulemaking (NPRM) entitled "Affirmatively Furthering Fair Housing." The proposed rule aims to implement the Fair Housing Act's statutory mandate to affirmatively further fair housing (AFFH), which directs HUD to ensure that the agency and its program participants proactively take meaningful actions to overcome patterns of segregation, promote fair housing choice, eliminate disparities in opportunities, and foster inclusive communities free from discrimination. The public comment period ended in April 2023. HUD continues to review public comments before making revisions and finalizing the rule. The IFR remains in effect during proposed rulemaking.

POSITION: *Monitor* implementation of the Department of Housing and Urban Development's Assessment of Fair Housing Rule.



FEDERAL ISSUE: Federal Funding for Mitigation and Resilience

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: Apart from funding for public assistance generally provided by Congress through the Federal Emergency Management Agency (FEMA) directly after storms, Congress has developed two other common funding streams to help address long-term mitigation and resilience projects. They are FEMA's recently developed Building Resilient Infrastructure and Communities (BRIC) and the Department of Housing and Urban Development's (HUD) Community Development Block Grant Mitigation program (CDBG-MIT).

Building Resilient Infrastructure and Communities

The Disaster Recovery Reform Act (DRRA) from 2018 included reforms to federal disaster programs and amended many sections of the Robert T. Stafford Disaster Relief and Emergency Act including Section 203, Pre-Disaster Mitigation. Among others, Congress created BRIC which will be funded through the Disaster Relief Fund as a six percent set aside from estimated disaster grant expenditures.

BRIC expands the concepts of pre-disaster mitigation by prioritizing the building of resilient infrastructure to make communities better prepared to withstand the next disaster. The program provides incentives for states to work with local communities to identify their most pressing hazards and encourage innovative solutions for building a culture of preparedness. For fiscal year (FY) 2023, FEMA will distribute up to \$1 billion for projects.

BRIC funds are most typically used for mitigation projects, including cost-effective projects designed to increase resilience and public safety; reduce injuries and loss of life; and reduce damage and destruction to property, critical services, facilities, and infrastructure (including natural systems) from natural hazards, including drought, wildfire earthquakes, extreme heat, and the effects of climate change.

FEMA allocates BRIC funds to state governments, and state agencies suballocate awards to local governments through state-specific subapplication processes. In FY 2022, FEMA made \$2.295 billion available for the program and awarded funds to 124 projects nationwide. Florida communities received close to \$31 million for seven awards in FY 2022. Approximately 61 percent of funds were allocated to disadvantaged communities. BRIC received 803 subapplications totaling more than \$4.6 billion from 55 states, territories, and the District of Columbia.

The cost share for the BRIC program is 75% federal and 25% non-federal. The cost share may be adjusted to 90% federal and 10% non-federal for Community Disaster Resilience Zone (there is one in the County near Punta Gorda) or Disadvantaged Rural communities.

POSITION: *Monitor* the Federal Emergency Management Agency's Building Resilient Infrastructure and Communities program. *Support* Charlotte County's efforts to secure funding from the program.