



**TO:** STEVE SMITH  
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

**FROM:** MIKE MCINTYRE

**SUBJECT:** NOVEMBER/DECEMBER MONTHLY LEGISLATIVE UPDATE

**DATE:** DECEMBER 5, 2017

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## MONTHLY LEGISLATIVE UPDATE

### **FY 2018 Budget and Appropriations**

Due to the passage of a Continuing Resolution (CR) in early September, the government is currently funded through December 8, 2017. The House and Senate are continuing to work on FY 2018 appropriations bills; however, with only a few legislative days left in the congressional schedule before December 8, Congress will not be able to pass FY 2018 appropriations by the deadline. Congress will need to approve a short-term CR, which is currently anticipated to only last a few weeks (December 22 or December 30), in an attempt to pass FY 2018 appropriations before the end of the year. If Congress is unable to approve FY 2018 appropriations by then they will need to approve another CR that extends into FY 2018, likely into mid- to late-January. It is possible that there will be a government shutdown in December if Congress cannot come to an agreement on appropriations and/or policy riders that will be attached to the bill. However, Congress is working to avoid such a situation.

Work on FY 2018 appropriations bills has slowed down since September. So far, only eight bills have passed through the Senate Appropriations Committee and no bills have been considered on the Senate floor. The House passed all 12 appropriations bills on the floor in the form of an omnibus in September. The House-passed omnibus, while skinnier than the bills that Senate appropriators have worked on so far this year, would provide more funding overall than President Donald Trump's total budget request. The White House sought \$462 billion in non-defense discretionary funds, or \$48 billion less than the House's spending package. The White House had asked for \$603 billion in defense funds, \$18 billion less than the House measure would provide. Despite providing less funding than the White House request, the House omnibus still exceeds the Budget Control Act defense spending cap of \$549 billion. Any measure that would lift the defense caps would require support from Senate Democrats, who have called for a corresponding increase in the caps for domestic programs. House and Senate appropriators will have to work through this Budget Control Act violation and other significant differences when they begin official conference negotiations after the Senate passes its bills.

### **Tax Reform**

The hope of Republican leadership is to have Congress send a final tax reform bill to President Trump by Christmas; however, work still needs to be done to get both chambers to come to an agreement before then. The House passed its tax reform bill on November 16 by a vote of 227-205 and the Senate passed its bill on December 2 by a vote of 51-49, with Vice President Mike Pence casting the tie-breaking vote. Next, the House and Senate will form a Conference Committee to reconcile differences between the two bills. They will create a unified bill that will need to pass the House and Senate again before going to the President's desk.

Key provisions from each bill are compared below:

<b>Provision</b>	<b>House</b>	<b>Senate</b>
<b>Individual Income Taxes</b>	Reduced to 12%, 25%, 35%, and 39.6%.	Reduced to 10%, 12%, 22%, 24%, 32%, 35% and 38.5%
<b>Individual AMT</b>	Repealed	Graduated AMT
<b>Standard Deduction</b>	Doubled to \$12,000 for individuals and \$24,000 for joint filers.	Doubled to \$12,000 for individuals and \$24,000 for joint filers.
<b>Child Tax Credit</b>	Increased to \$1,600 per child; starts phasing out at \$230,000 for joint filers.	Increased to \$2,000 per child; starts phasing out at \$500,000 for joint filers.
<b>State and Local Tax Deduction</b>	Repealed except for a maximum \$10,000 property tax deduction.	Repealed except for a maximum \$10,000 property tax deduction.
<b>Home Mortgage Interest Deduction</b>	Preserved for existing mortgages; reduced to \$500,000 for new mortgages; limited to one home.	Preserved (i.e. \$1 million cap maintained).
<b>Municipal Bonds</b>	Tax exemption maintained (except for professional sports stadiums).	Tax exemption maintained.
<b>Advanced Refunding Bonds</b>	Tax exemption repealed for new issues.	Tax exemption repealed for new issues.
<b>Private Activity Bonds</b>	Tax exemption repealed for new issues.	Preserved.
<b>Misc. Tax Provisions</b>	Repealed: the New Market Tax Credit, Work Opportunity Tax Credit, and Rehabilitation Credit for Historic Buildings.	Preserved: New Market Tax Credit, Work Opportunity Tax Credit, and Rehabilitation Credit at 10% for certified historic buildings only.
<b>Corporate Income Tax</b>	Reduced permanently to 20%.	Reduced permanently to 20%; delayed to 2019.
<b>Corporate AMT</b>	Repealed	12% AMT*
<b>Pass-throughs</b>	Maximum 25% rate for qualified business income.	23% deduction for business income
<b>Business Interest</b>	Limited to 30% of U.S. taxable income or 110% of EBIDTA for multinationals.	Limited to 30% of U.S. taxable income or debt-to-equity differential percentage** for multinationals.
<b>Cost Recovery</b>	Full and immediate expensing for 5 years.	Full and immediate expensing for 5 years.

### **National Flood Insurance Program Reauthorization**

The National Flood Insurance Program (NFIP) will expire on December 8, 2017. As you know, the program was initially set to expire at the end of September; however, Congress extended the program for an additional three months to allow the committees of jurisdiction in the House and Senate time to complete work on their respective bills. Congress will need to pass another short-term extension of the NFIP on or before December 8 to allow the respective House and Senate committees time to negotiate a final bill. It is unclear how long the forthcoming NFIP extension will be; however, reports suggest the extension could track with the length of the overall FY 2018 appropriations CR, especially if the CR runs into 2018.

On November 14, the House passed its NFIP reauthorization bill after months of making adjustments to specific provisions. The “21st Century Flood Reform Act” ([H.R. 2874](#)) is a package of seven bills approved this summer by the House Financial Services Committee. In addition to Democrats opposing the bill, numerous coastal Republicans voted in opposition after warning that it will hurt their constituents. Due to significant stakeholder criticism over the past few months, several compromises were made to improve specific provisions which many deemed were harmful, but those compromises were not enough for some Republicans.

Some of the important changes agreed to include:

- **Preservation of grandfathering when communities adopt new maps.**
- **Removal of the proposed prohibition on new coverage in the Special Flood Hazard Area.**
- **Reducing the new proposed minimum floor increases for pre-FIRM properties from 8% annually to 6.5%** (the floor is currently 5%).
- **Protections for Grandfathering and Changes to Treatment of Repetitive Loss Properties**  
With regards to how properties are treated after they have filed a claim, this legislation “resets the clock” to zero claims for the purposes of rate increases after a claim has been filed. This means that only after a policyholder has filed two claims after enactment of this bill (should it become law) would they sustain a rate increase because they filed a claim. After the filing of a second claim, rates on that property will increase 10% annually, and after the filing of a third claim, rates will increase by 15% annually until risk rates are met. This is a positive change because the Committee originally sought to penalize properties immediately after the filing of the second claim over the history of the property. For those who are already paying a full risk rate, their rate will not increase.
- **Prioritization of Mitigation Dollars**  
Mitigation dollars will be prioritized for properties that have flooded, and past claims can be counted for that prioritization.
- **Treatment of Properties with a Replacement Value of \$1 Million**  
The proposed prohibition of coverage on properties with \$1 million replacement costs has been stricken.
- **Commercial Opt-Out**  
The proposed opt-out of mandatory purchase requirements for commercial properties has been delayed 1 year.

The bill also provides greater private market access to the flood insurance market, allows localities to develop their own map alternatives to NFIP flood maps using better and cost-effective technology at an accelerated pace (subject to FEMA standards and approval), and expedites the implementation of policyholder monthly premium installment payments, among other things. For a summary of the bill, as provide by the House Financial Services Committee, please visit the House Financial Services [webpage](#).

The Senate is still working on bill language and has not indicated when it will release its bill. (Senators are working to combine three separate NFIP reauthorization bills that have been introduced.) We anticipate the Senate bill to be more narrow in scope and likely very different from the House proposal, so substantial time to negotiate will be needed.

## UPDATE ON TISPC FEDERAL LOBBYING PRIORITIES

The current status of each item is outlined below.

### **1. North Topsail Beach – Continue to facilitate changes to the CBRA maps**

On October 30, Poyner Spruill and The Ferguson Group met with new staff in Senator Tillis' office to brief them on Topsail Island issues. We spend a significant amount of time discussing the North Topsail Beach CBRA mapping legislation in particular because Senator Tillis and Senator Burr have introduced legislation to resolve this matter. We suggested to Senator Tillis' staff, as well as Senator Burr's staff in a follow-up conversation that same day, that they request a meeting with the Deputy Director of USFWS, one of two political appointees of the Trump Administration at USFWS. They have requested the meeting with USFWS; however, due to the Deputy Director's travel schedule and other conflicts, the meeting has yet to be scheduled.

As you know, House and Senate committee staff, as well as Senator Tillis, Senator Burr and Representative Jones, all believe it will be easier to move the North Topsail Beach CBRA mapping legislation if USFWS does not oppose the legislation. Therefore, the conversation with new appointees at USFWS is an important step in potentially advancing consideration of the issue. The goal of the meeting will be to brief the Deputy Director on the issue, present the proposed legislative resolution, and explain why the change is needed. Poyner Spruill and The Ferguson Group have also requested a meeting with the Deputy Director which has yet to be scheduled as well.

Poyner Spruill and The Ferguson Group have also been in contact with staff from Representative Jones's office on this issue. As you know, we received assurance that Representative Jones is willing to introduce a bill that is the same or closely tracks the Senate bill. On October 20, Poyner Spruill and The Ferguson Group had a phone conference with Representative Jones's staff to discuss next steps. Due to concerns from the House Natural Resources Committee regarding possible USFWS opposition to legislation, Representative Jones's office decided—at our suggestion—that a conversation between Representative Jones and the Deputy Director of USFWS would be necessary to determine if USFWS opinion on the issue has changed so that Representative Jones can proceed with introducing legislation. Representative Jones and his staff discussed the issue with the Deputy Director of USFWS on November 28. The meeting was positive and Representative Jones and his staff are now conformable introducing legislation. Poyner Spruill and The Ferguson Group will be in contact with Representative Jones's staff as they review the legislative language and work towards introduction of a bill in the House.

### **2. Topsail Beach – Obtain waivers for use of sand from inlet CRBA area for beach nourishment**

Poyner Spruill and The Ferguson Group have stayed in contact with Representative Rouzer's staff on this issue. Representative Rouzer's office has been regularly checking in with staff from the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment, who had a conversation with staff from USFWS on October 13. (As you may recall, staff from Representative Rouzer's office was in attendance.) During that meeting, USFWS staff provided no indication that they had the ability or willingness to work internally to resolve the sand borrowing issue, leaving a legislative solution as the most viable resolution. As a result, staffs from the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment and the House Natural Resources Committee Subcommittee on Water, Power and Oceans have been discussing "refinements" to the latest proposed legislative language. However, staff wants to wait until USFWS responds to a request for information that the Subcommittee on Water Resources and Environment requested during the October

13 conversation before proceeding with legislative language. (Data on USFWS past rulings on exceptions to CBRA for non-structural resource use outside of the CBRA zone was requested by the Subcommittee.)

We will keep you updated on the status of the information request from USFWS and next steps at the subcommittee level on proceeding with a legislative solution.

**3. Island-wide – Obtain federal funding for approved federal beach nourishment projects (Surf City/North Topsail Beach & Topsail Beach).**

As you know, the federal government is operating under a CR through December 8, which will possibly be extended further into December or early 2018. The timing of FY 2018 appropriations approval will have a direct impact on when the Army Corps of Engineers will release its FY 2018 Work Plan. Once FY 2018 appropriations are approved, the Army Corps of Engineers will have approximately 45 days to develop and release its FY 2018 Work Plan. We have been advocating for inclusion of funding for the Topsail Island WRRDA projects in the Work Plan, so we will anticipate its release to see if the Corps has provided funding to the projects.

Our priority is to ensure that the Corps is provided the proper funding and authority in FY 2018 appropriations to fund coastal storm damage reduction projects. As we have previously reported, the Senate Appropriations Committee included language in its FY 2018 Energy and Water Development report recommending that one of the five new construction starts for FY 2018 be for a coastal storm damage reduction project—language we advocated for directly with Senate Appropriations Subcommittee staff. Similar language was not included in the House bill; however, Representative Rouzer agreed to take the lead on efforts to have the Senate language included in the final appropriations package. We will continue to be in contact with Representative Rouzer’s staff as the situation progresses and conference negotiations begin. We are also working to set up a meeting with House Appropriations Committee Subcommittee on Energy and Water staff to discuss and advocate for inclusion of the Senate’s new starts language as opposed to the House’s report which does not include language for any new starts for coastal storm damage reduction.

## 2017 FEDERAL LOBBYING SUCCESSES AND 2018 PRIORITIES

### 2017 Federal Lobbying Successes

Significant progress has been made on TISPC's legislative agenda for 2018. Poyner Spruill and The Ferguson Group were tasked to facilitate federal action on six items, and we provided detailed monthly updates on the progress of these items. Major accomplishments and/or a summary of progress made on each agenda item are outlined below:

1. North Topsail Beach – Continue to facilitate changes to the CBRA maps.
  - On August 3, as per our request, Senators Tillis and Burr introduced legislation that would accept the final recommended maps proposed by the U.S. Fish and Wildlife Service (USFWS) and amend the maps to exclude from CBRS those areas of North Topsail Beach serviced by a full complement of infrastructure, which existed prior to 1982. Poyner Spruill and The Ferguson Group drafted the legislative language that was ultimately introduced by Senators Tillis and Burr; this was after several months of working with the Topsail Island congressional delegation as well as TISPC to ensure the proper approach was taken to resolve the issue.
  - In September, we received assurance that Representative Jones is willing to introduce a bill that is the same or closely tracks the Senate-introduced bill. We are continuing to work with Representative Jones's office to advance this process in the House.
2. Topsail Beach – Obtain waivers for use of sand from inlet CRBA area for beach nourishment.
  - Poyner Spruill and The Ferguson Group drafted legislative language to resolve the sand-borrowing issue impacting Topsail Beach. This language was then presented to Topsail Island's congressional delegation and the committees of jurisdiction in both the House and Senate. After several months of discussion with these respective parties, as well as several conference calls between House and Senate staffers and USFWS, it has been concluded that an administrative fix for this issue is not an option. The House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment has requested information from USFWS to help further refine the legislative language that has been proposed to ensure it is providing the greatest benefit to as many communities experiencing similar issues as possible. Work on this issue is ongoing.
3. Island-wide – Obtain federal funding for approved federal beach nourishment projects (Surf City/North Topsail Beach & Topsail Beach).
  - After we met with staff from the Senate Appropriations Committee Subcommittee on Energy and Water in June, the Senate Appropriations Committee included language in its FY 2018 Energy and Water Development report recommending that one of the five new construction starts for FY 2018 be for a coastal storm damage reduction project. This is an important step in ensuring that the Army Corps of Engineers has the proper funding and authority to include a new start for a coastal storm damage reduction project in its FY 2018 Work Plan. We are currently working with Representative Rouzer's office to ensure that the final language agreed to by the House and Senate in the final conference report includes at least one new start for a coastal storm damage reduction project.
  - In addition, Edward "Ed" Belk, the Chief of Civil Works Program Integration, assured the TISPC delegation that traveled to Washington in September, as well as Poyner Spruill and The Ferguson Group previously in June, that the Corps is supportive of both Topsail Island WRRDA projects and plans to advance them to the Administration for

consideration in the FY 2018 Work Plan. The Corps said that the Topsail Island projects are two of the most competitive coastal storm damage reduction projects waiting for a new start construction authorization from the Corps. The Corps said that if given sufficient funding and new start authorizations from Congress, they will be better positioned to provide funding to these projects, which is why we have been working with the Senate Appropriations Committee and Topsail Island's congressional delegation to ensure the proper language is included in the FY 2018 appropriations conference report.

4. Island-wide – Ensure the Topsail Island congressional delegation is committed to supporting programs for coastal management.
  - Poyner Spruill and The Ferguson Group have expressed to the Topsail Island congressional delegation, on numerous occasions, the importance of federal coastal programs to TISPC. We were assured that support for coastal communities is of importance to them, and they will work to ensure federal support continues to be directed to coastal areas.
5. Island-wide – Set up a dedicated funding such as North Carolina State Shallow Draft Inlet Bill.
  - We discussed this proposal with TISPC's congressional delegation during our March 22 and 23 meetings in Washington. The congressional staff stated that it would be difficult to mirror this program at the federal level; however, there may be some opportunities to discuss this type of funding as debate over a potential infrastructure package begins in Congress later this year, which we urged them to consider.
6. Island-wide – Notify TISPC of any legislation that could impact Topsail Island activities on the ocean, inlet and sound.
  - Poyner Spruill and The Ferguson Group provide regular updates to TISPC in the Monthly Legislative Updates, which include information on federal legislative activities that may be of interest and/or may affect Topsail Island.

### **2018 Federal Lobbying Priorities**

Poyner Spruill and The Ferguson Group recommend following the same set of agenda items in 2018 with the following adjustment:

- We recommend removing item #5: advocating for a dedicated federal fund similar to the North Carolina Shallow Draft Inlet bill. We recommend this change because there is currently not a desire in Congress to provide funding for such activities. Since this is a major problem in the State of North Carolina, and in some other coastal states, many in Congress believe this type of funding should be the responsibility of the state, not of the federal government. TISPC's efforts should be focused on the agenda items that have potential to produce results.