



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

**FROM:** MIKE McINTYRE

**SUBJECT:** JANUARY MONTHLY LEGISLATIVE UPDATE

**DATE:** JANUARY 22, 2018

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## MONTHLY LEGISLATIVE UPDATE

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

On January 22, Congress voted to restore federal funding through February 8 after a three-day government shutdown. The government shutdown took effect at 12:00 a.m. on January 20 after lawmakers were unable to come to an agreement on immigration-related issues. Congress was ultimately able to approve a CR after lawmakers agreed to hold a vote on immigration legislation.

As you know, the federal government has been running on short-term Continuing Resolutions (CRs) at FY 2017 enacted funding levels since September 2017. The February 8 CR is the fifth CR Congress has had to pass this fiscal year because it has not completed work on FY 2018 appropriations, and no lawmakers have publicly said that they will come to an agreement on an FY 2018 omnibus appropriations package by February 8, which means that Congress will likely have to pass yet another CR. Since several other programs have been tied to the CR, such as the National Flood Insurance Program, the government shutdown and continuous CRs are creating uncertainty in many different sectors.

The CR also contains funding to reauthorize the Children’s Health Insurance Program, which has been plagued by uncertainty over the last few months as Congress failed to reauthorize the program on time. The measure also delays for two years the Affordable Care Act’s (ACA’s) “Cadillac tax” on high-cost health plans and the excise tax on medical devices, and delays for one year the ACA’s health insurer provider fee.

### **Tax Reform**

On December 20, 2017, Congress passed H.R. 1, the *Tax Cut and Jobs Act*; the most extensive rewrite of the U.S. tax code in more than 30 years. Many of the provisions went into effect on January 1, 2018. The House Ways and Means Committee and the Senate Finance Committee have already begun working on a technical corrections package to fix problems that have already been, and are expected to be, identified in the *Tax Cuts and Jobs Act*.

Below is a table of the bill’s major provisions:

<b>Provision</b>	<b>House Bill</b>	<b>Senate Bill</b>	<b>Final Bill</b>
<b>Individual Income Taxes</b>	Reduced to 12%, 25%, 35%, and 39.6%.	Reduced to 10%, 12%, 22%, 24%, 32%, 35%, 38.5%	<b>Reduced to 10%, 12%, 22%, 24%, 32%, 35%, 37%</b>

<b>Individual AMT</b>	Repealed	Graduated AMT	<b>Maintained; exemption and phaseouts temporarily increased.</b>
<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>Doubled to \$12,000 for individuals and \$24,000 for joint filers.</b>
<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>Increased to \$2,000 per child (\$1,400 refundable); starts phasing out at \$400,000 for joint filers.</b>
<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>Reduced to maximum \$10,000 deduction for property and income taxes.</b>
<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>Preserved for existing mortgages; reduced to \$750,000 for new mortgages.</b>
<b>Municipal Bonds</b>	Tax exemption maintained (except for professional sports stadiums).	Tax exemption maintained.	<b>Tax exemption maintained.</b>
<b>Advanced Refunding Bonds</b>	Tax exemption repealed for new issues.	Tax exemption repealed for new issues.	<b>Tax exemption repealed for new issues.</b>
<b>Private Activity Bonds</b>	Tax exemption repealed for new issues.	Preserved.	<b>Preserved.</b>
<b>Affordable Care Act's Individual Mandate</b>	Not addressed.	Repealed	<b>Repealed</b>
<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>Preserved: New Market Tax Credit, Work Opportunity Tax Credit, and Rehabilitation Credit at 10% for certified historic buildings only.</b>
<b>Corporate Income Tax</b>	Reduced permanently to 20%.	Reduced permanently to 20%; delayed to 2019.	<b>Reduced permanently to 21% on January 1, 2018.</b>
<b>Corporate AMT</b>	Repealed	20% AMT	<b>Repealed.</b>

<b>Passthroughs</b>	Maximum 25% rate for qualified business income.	23% deduction for qualified business income.	<b>20% deduction for qualified business income.</b>
<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>Limited to 30% of adjusted taxable income.</b>

\*Debt-to-equity differential is equal to the excess domestic indebtedness of the group divided by the total indebtedness of the domestic corporations that are members of the group.

**White House Infrastructure Package**

The White House will finally unveil its long-awaited infrastructure proposal in late January/early February 2018, according to multiple White House and Capitol Hill sources. Over the past several months, the White House has been working behind the scenes to craft a detailed 70-page infrastructure memo, which will be submitted to Congress and will likely serve as a building block for lawmakers to write actual legislation. On January 22, a detailed six-page draft document describing “funding principles” for the plan was leaked to the press. The documents suggests that the spending breakdown in of the plan will be as follows: Infrastructure incentives initiative (50%); transformative projects (10%); rural infrastructure (25%); federal credit programs (7%); federal capital financing fund (5%). **See the information below for more details about each section.**

- I. **Infrastructure Incentives Initiative (Accounts for 50% of total appropriation)**
  - Encourages state, local and private investment in core infrastructure by providing incentives in the form of grants. Federal incentive funds will be conditioned on achieving milestones within an identified timeframe.
  - Applies to surface transportation, airports, passenger rail, maritime and inland waterway ports, flood control, water supply, hydropower, water resources, drinking water facilities, storm Grant awards cannot exceed 20% of total project cost water facilities, and Brownfield and Superfund sites.
  - Grant awards cannot exceed 20% of total project cost.
- II. **Transformative Projects Program (Accounts for 10% of total appropriation)**
  - Makes available federal funding and technical assistance for innovative and transformative infrastructure projects based on competitive basis to viable projects unable to secure financing through private sector due to the uniqueness of the program. Applicable projects must be exploratory and ground-breaking ideas that have more risk than standard infrastructure projects but offer a larger reward profile.
  - Applies to transportation, clean water, drinking water, energy, commercial space, and telecommunications.
  - Depending on the project type (demonstration, planning, construction), federal funding may be used for up to 30%, 50% or 80% of eligible costs.
- III. **Rural Infrastructure Program (Accounts for 25% of total appropriation)**
  - Designed to encourage investment to enable rural economies, facilitate freight movement, improve access to reliable and affordable transportation, etc. States are incentivized to partner with local and private investment for completion and operation of projects under this program.

- Applies to roads, bridges public transit, rail airports, maritime and inland waterway ports, broadband and other high-speed data and communication conduits, drinking water, waste water, land revitalization, Brownfields, power generation, transmission, power distribution facilities, inland waterway ports, flood risk management, maritime ports, water supply, etc.
  - 80% provided to state via formula (20% for rural performance grants)
- IV. **Federal Credit Programs (*Accounts for 7.05% of total appropriation*)**
- Designed to increase the capacity of existing Federal lending programs to increase investment (Transportation Infrastructure Finance and Innovation Act, (2) Railroad Rehabilitation and Improvement Financing(TIFIA), Water Infrastructure Finance and Innovation Act (WIFIA), USDA Rural Utilities Service Relending Programs, etc.)
- V. **Public Lands Infrastructure Fund**
- Would create a new infrastructure fund in the U.S. Treasury called the Interior Maintenance Fund comprised of additional revenues from the amounts due and payable to the U.S. from mineral and energy development on Federal lands and waters.
- VI. **Disposition of Federal Real Property**
- Would establish through executive order the authority to allow for the disposal of Federal assets to improve the overall allocation of economic resources in infrastructure investment.
- VII. **Federal Capital Financing Fund (*Accounts for 5% of total appropriation*)**
- Creates a funding mechanism similar to a capital budget but that operates within the traditional rules used for the Federal budget by establishing a mandatory revolving fund to finance purchases of federally owned civilian real property. Once approved in an Appropriations Act, the revolving fund would transfer money to agencies to finance large-dollar real property purchases. Purchasing agencies would then be required to repay the fund in 15 equal annual amounts using discretionary appropriations.
- VIII. **Private Activity Bonds (PABs)**
- Would amend current law to allow broader categories of public-purpose infrastructure, including reconstruction projects, to take advantage of PABs would encourage more private investment in projects to benefit the public.

## Water Resources Development Act

House and Senate committees with jurisdiction over the Water Resources Development Act (WRDA) have already begun to hold hearings this year in preparation for developing a 2018 WRDA bill. Congress tries to approve WRDA bills on a biennial schedule, and has been able to adhere to this schedule in recent years with the approval of the *Water Resources Reform and Development Act* (WRRDA) in 2014 and the *Water Infrastructure Improvements for the Nation Act* (WIIN Act) in 2016. Unlike many reoccurring bills, WRDAs are authorization bills, not reauthorization bills, so Congress does not have the same pressure to pass WRDAs “on-time” like other legislation. Therefore, more often than not, WRDAs are not reauthorized on the preferred biennial schedule.

Although beach renourishment is not typically a priority topic during WRDA hearings, the issue was discussed in both written testimony and verbally during a January 10 hearing held by the Senate Environment and Public Works Committee. In written testimony, the National Association of Counties (NACo) specifically stated that it supports “additional authorization and funding for beach and dune restoration projects.” In addition, the Restore the Mississippi River Delta Coalition (which was testifying during hearing) stressed the importance of having “multiple lines of defense” against major storms, and said that strong barrier islands and dune structures are important components of this defense. Senator Carper Tom Carper (D-DE) also briefly discussed beach renourishment and dune structures, stating that such projects are important aspects of protecting coastal communities.

During a January 17 hearing held by the same committee, several senators expressed support for beach renourishment projects. Senator Carper expressed concern over the way beach renourishment projects are calculated in Benefit-Cost Ratio (BCR) analyses and said that the BCR calculations should be updated and adjusted to reflect the true value of these projects. Senator Ben Cardin (D-MD) expressed his support for beach renourishment projects and their ability to save millions of dollars in property losses. Senator Ed Markey (D-MA) encouraged exploring opportunities to make the Corps' beneficial use requirements for dredged material more flexible, and stressed the importance of making sure that these requirements are not preventing the Corps from using sand for essential beach renourishment.

We will be in contact with TISPC's congressional delegation over the next few weeks as the committees of jurisdiction work to identify WRDA priorities. It is our understanding that the committees will soon be asking committee members for their specific WRDA requests. On the Senate side we know that the Senate Environment and Public Works Committee will be soliciting WRDA requests from all Senate offices in late January/early February. We will work with TISPC's congressional delegation to ensure that TISPC's federal priorities are considered in this process.

## 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

We are pleased to report that on December 20, 2017, Representative Jones introduced legislation that would accept the final recommended maps proposed by the U.S. Fish and Wildlife Service (USFWS) so long as they amend the maps to exclude from the Coastal Barrier Resources System (CBRS) those areas of North Topsail Beach serviced by a full complement of infrastructure prior to 1982. The [bill language](#) has officially been published and a bill number has been assigned: H.R. 4692. This legislation is a companion bill to S. 1745, the bill introduced by Senators Tillis and Burr last August to amend the boundaries of Topsail Unit L06. The language is nearly identical to the Senate bill with the exception of a date clarification that Representative Jones requested.

Poyner Spruill and The Ferguson Group will continue to work with Senators Tillis and Burr, as well as Representative Jones, to move the legislation through the subcommittee and full committee process. The first step in this process is to have a hearing at the subcommittee level. On the House side, it is our understanding that there may be an opportunity to consider the legislation at a hearing regarding the USFWS pilot mapping project, of which Topsail Unit L06 was part. House Natural Resources Committee Subcommittee on Water, Power and Oceans staff has suggested that they will hold a hearing sometime this year. The Senate will have to hold a similar hearing in order to approve all of the pilot project maps as well. Therefore, we will work with TISPC's congressional delegation, as well as relevant subcommittee staff, to ensure that these hearings are held and that H.R. 4692 and S. 1745 are considered at the hearings.

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

In mid-December, the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment and the House Natural Resources Committee Subcommittee on Water, Power and Oceans finally received a response from USFWS regarding a request for information that the subcommittees requested in October. The information requested and received was information on past USFWS ruling on exceptions to CBRA for beach renourishment inside and outside the CBRS. Staff was waiting for this information before proceeding with making "refinements" to the latest legislative language we proposed to resolve the issue. Subcommittee staff is still reviewing the information; however, our

internal analysis of the documents suggests that the information provided would not change our original legislative strategy.



Once legislative language is agreed upon, we expect there to be several opportunities to include the language in upcoming legislation, including the infrastructure package, WRDA, and even legislation that approves the USFWS pilot project maps. We will continue to stay in contact with Representative Rouzer's staff and relevant subcommittee staff on this issue as the process moves forward.

**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 February 8. It is currently being reported that Congress will not be able to come to an agreement on FY 2018 appropriations by February 8, necessitating another CR. There is still no indication of when Congress will be able to come to an agreement on FY 2018 appropriations. 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.