

NCSHPO Newsletter: November 17, 2017 | Number 125

Tax Reform and the Historic Tax Credit:

Legislation to reform the tax code was on both the House and Senate's agendas this week. The House passed a bill on Thursday by a vote of 227 to 205. The House legislation would eliminate the historic tax credit. The Senate Committee on Finance approved a tax overhaul bill on Thursday by a vote of 14 to 12 with all Committee Republicans supporting the bill and all Committee Democrats opposing the bill. The original Senate bill would have reduced the historic tax credit from 20 percent to 10 percent. It also would have eliminated the 10 percent tax credit for rehabilitation of buildings that were built before 1936 but are not listed in the National Register of Historic Places. In Committee, Sen. Bill Cassidy (R-LA) led the successful effort to preserve the historic tax credit at 20 percent. Although Sen. Cassidy's amendment would preserve the 20 percent level of the tax credit, it would provide that the 20 percent credit be claimed "ratably over a five-year period beginning in the taxable year in which a qualified rehabilitated structure is placed in service." This would mean that those who qualify for the tax credit would receive 4 percent per year for five years rather than 20 percent for one year. The amendment did not restore the 10 percent tax credit for rehabilitation of buildings that were built before 1936 but are not listed in the National Register of Historic Places. Sen. Cassidy's amendment was co-sponsored by Sen. Tim Scott (R-SC), Sen. Charles Grassley (R-IA), Sen. Pat Roberts (R-KS), and Sen. Johnny Isakson (R-GA).

Sen. Ben Cardin (D-MD) offered an amendment that would have kept the historic tax credit as it is and also preserved several other tax credits. Although several Republican lawmakers used the opportunity to speak positively about the historic tax credit, the amendment was rejected along party lines.

We greatly appreciate Senators Cassidy and Cardin's efforts to improve upon the historic tax credit provision that was in the initial bill.

Although lawmakers and President Trump have said they plan to have the bill done before Christmas, much work remains. The Senate bill needs to be passed by the full Senate and then the significant differences between the House and Senate bills would have to be worked out.

Republican lawmakers are using the budget reconciliation process, which would allow them to pass a tax bill without needing any Democratic votes. Provisions in budget reconciliation bills are supposed to be budgetary in nature, such as affecting revenue or spending. If a provision doesn't produce a change in outlays or revenue, it's subject to a point of order that can be waived only with 60 votes. The budget reconciliation strategy, which requires Republican unity, was also used in the unsuccessful effort to repeal and replace the Affordable Care Act. This week Sen. Ron Johnson (R-WI) said he would vote against the bill.

If lawmakers are unable to complete work on a tax overhaul they may pivot to a bill that simply cuts taxes. A bill that simply provides a tax cut is unlikely to eliminate the federal historic tax credit because elimination of the historic tax credit would bring in limited revenue. The historic tax credit is in jeopardy in a tax overhaul because of a general desire to eliminate as many tax credits as possible in order to simplify the tax code.

As I have said before, because lawmakers have failed to pass any other major legislation this year, there is a sense of urgency when it comes to either tax reform or a tax cut. Many Republican lawmakers and other "experts" believe that if Republicans fail to complete work on a tax overhaul, they will lose control of the House and Senate in the 2018 elections.

To repeat something else which I have said before, it is important to remember what a reporter for Politico wrote: **"This tax plan will live and die 1 million times."**

Many SHPOs, who are able to, have worked very hard to make sure their congressional delegations understand the role that the historic tax credit plays in preserving the character of communities while also strengthening local economies. Your efforts are greatly appreciated. Please continue these efforts while the tax overhaul bill is being debated and beyond. It is incumbent on us to educate lawmakers about the value of the historic tax credit for the communities they represent. We have the luxury of being able to show lawmakers tangible examples of what the historic tax credit has done to help their constituents. For those of you who are able to contact lawmakers, do not hesitate to ask for my assistance.

Disaster Aide:

NCSHPO staff are working to make sure that communities affected by natural disasters receive funding for identifying, repairing and rehabilitating of historic properties that were damaged by storms, fires and other natural disasters.

Two disaster aid bills totaling \$52 billion have already been signed into law this year and a third bill is expected to be completed before the end of the year. Neither of the first two bills included funding for identifying, repairing and rehabilitating of historic properties.

Later today, the Trump Administration is expected to request at least \$44 billion for a third disaster package. This request falls short of what local officials have sought. Texas officials have asked for \$61 billion for reconstruction, and Puerto Rico officials have asked for \$96 billion.

Officials in the Trump Administration have signaled that this will not be the final disaster aid request. That said, these disaster aid packages may get harder to pass because fiscally conservative lawmakers have said that the cost of them should be offset by reductions in spending. The \$52 billion cost of the first two disaster aid packages was not offset by cuts in spending.

Fiscal Year 2017 ended on September 30th, but Congress has passed a continuing resolution (CR) through December 8th. The first disaster package was attached to the CR. The CR funds the government at Fiscal Year 2017 levels for Fiscal Year 2018 which started on October 1st, 2017. Lawmakers have signaled that they are likely to pass a short term CR. Although lawmakers say they are committed to passing an omnibus spending bill at some point, it is possible that there could be a CR for all of Fiscal Year 2018, which runs through September 30, 2018. That would mean that the government would be funded at Fiscal Year 2017 levels for all of Fiscal Year 2018. If there is a third and final disaster package is likely to be attached to that CR.

Our goal is to make sure that a disaster package includes money to identify and repair historic buildings that have been damaged, and to make sure that any 106 reviews do not hold up the rebuilding process.

We are working closely with affected SHPOs and the National Trust for Historic Preservation. We are focusing our efforts very narrowly on the resources needed to respond to the current disasters, rather than asking for any support to prepare for future disasters. In the future we will work to get support for the surveys that will make it easier to respond to future disasters.

Infrastructure:

There continues to be no action on an infrastructure bill. There is significant confusion about how a \$1 trillion infrastructure bill would be paid for. Initially, President Trump called for the use of public private partnerships to pay for \$800 million of the \$1 trillion cost, but Democratic senators say that in recent meetings he has backed away from the use of public private partnerships.

This week, Senate Commerce Committee Chairman John Thune (R-SD) told reporters that an infrastructure bill should and would be considered after the tax package. “The debate that will follow tax reform will be

infrastructure and I think it will give us an opportunity to examine all of the different ways that we pay for infrastructure and how we are going to make sure that the Highway Trust Fund is adequately capitalized to keep up with all of the needs that are out there,” Sen. Thune said

If lawmakers and the administration can find common ground on how to fund a large infrastructure investment program, it would presents two possible challenges for SHPOs.

- An influx of Section 106 reviews that could overwhelm SHPOs.
- “Streamlining of regulations” may circumvent or erode the Section 106 process.

We are working with our historic preservation partners to make sure SHPOs receive adequate funding to deal with an increase in Section 106 reviews. We will also push back on efforts to weaken Section 106 reviews.

We are also working to include a provision in an infrastructure bill that funds SHPO survey and digitization efforts.

Illinois SHPO Spotlight- Hosting NCSHPO Fall Board Meeting:

The Historic Preservation Division of the Illinois Department of Natural Resources was the host of this week’s fall board meeting in Chicago. Deputy SHPO Rachel Leibowitz and project designer Anthony Rubano put together an outstanding couple of days for SHPOs and Deputy SHPOs who attended the meeting. They secured the Burlington Room at Chicago’s Historic Union Station for the board meeting. Anthony and Leonard Koroski, an architect with Goettsch Partners who is leading the effort to rehabilitate the train station, took us on a tour of the train station. The day after the board meeting we visited several historic buildings in the Fox River Valley, including, the Second Appellate Court in Elgin, the Campana Factory in Batavia, Frank Lloyd Wright’s A.W. Gridley House also in Batavia, and the Riverbank Laboratories in

Geneva. The tour ended at the Bruce Goff Ford House in Aurora. The current owner of the house, University of Illinois at Chicago Professor Emeritus of Architecture Sidney Robinson was a gracious host. He held a reception for us and spent considerable time talking with us about the house, Bruce Goff and architecture in general. Please visit [NCSHPO's Facebook page](#) to see photographs of the visit. Thank you Rachel and Anthony for all the work that you put into the board meeting and the tour.

Upcoming Events

Jan. 10-12, 2018— **Real Places 2018 Conference Preserving Historic Texas**, Austin, TX. <http://www.thcfriends.org/real-places-2018>

Mar. 12-14, 2018 — **NCSHPO Annual Conference**, Washington, DC.

Mar. 15-16, 2018 — **Missouri Conference on History**, Jefferson City, MO. <http://shsmo.org/mch/>

Apr. 10-12, 2018 — **Are We There Yet? Preservation of Roadside Architecture & Attractions Symposium**, Tulsa, OK.

<https://www.ncptt.nps.gov/events/are-we-there-yet/>

Apr. 11-13, 2018— **Oregon Heritage Conference**, Bend, OR.

<http://www.oregon.gov/OPRD/HCD/OHC/pages/conference.aspx>

Apr. 18-20, 2018— **Indiana-Preserving Historic Places 2018 Conference**, Columbus, IN.

Apr. 26-28, 2018— **2018 NY Statewide Preservation Conference**, Albany, NY.

June 6-8, 2018— **2018 Arizona Historic Preservation Conference**, Scottsdale, AZ. [Conference Facebook Page](#)