

HEARING ON H.R. 1522, TO EXTEND THE AU-
THORIZATION FOR THE NATIONAL HISTORIC
PRESERVATION FUND, AND FOR OTHER PUR-
POSES

HEARING
BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC
LANDS
OF THE
COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION

OCTOBER 21, 1997, WASHINGTON, DC

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HEARING ON H.R. 1522, TO EXTEND THE AUTHORIZATION FOR THE NATIONAL HISTORIC PRESERVATION FUND, AND FOR OTHER PURPOSES

TUESDAY, OCTOBER 21, 1997

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS, COMMITTEE ON RESOURCES, *Washington, DC.*

The subcommittee met, pursuant to call, at 10:03 a.m. in Room 1324, Longworth House Office Building, Hon. James V. Hansen [chairman of the subcommittee] presiding.

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. HANSEN. The Committee will come to order. Good morning. The Subcommittee on National Parks and Public Lands will come to order.

This morning the Subcommittee will hear testimony of H.R. 1522, a bill to reauthorize the National Historic Preservation Fund and for other purposes, which would amend the National Historic Preservation Act of 1966, as amended. The bill was introduced by our distinguished colleague, Joel Hefley, a Subcommittee Member and a very knowledgeable and dedicated supporter of historic preservation in Colorado and the Nation. We look forward to your opening remarks on the bill H.R. 1522.

[The information may be found at end of hearing.]

Mr. HANSEN. The hearing today is very timely. The National Historic Preservation Act of 1966, as amended in 1976, 1980, and most recently in 1992, has worked well for over 30 years. The major reason for H.R. 1522 is to provide congressional authorization for the Historic Preservation Fund, which expires on September 30, 1997, until September 30, 2002. However, Congress has reviewed and amended the original Act on occasion, and Mr. Hefley's H.R. 1522 offers a unique opportunity to see if the interaction of historic preservation at the national, State and local levels is in need of new direction. The distinguished panelists we will receive testimony from today will provide professional insight into many aspects of this important historic preservation program.

I am especially interested in this hearing today because of the action that the House of Representatives took on October 7, 1997, in passing H.R. 1127, the National Monument Fairness Act of 1997, which I introduced to amend the Antiquities Act of 1906. Congress again reviewed historic preservation authorities. As most

of the panelists are aware, the 1906 Antiquities Act was the original Historic Preservation Act of this Nation. It is the forerunner of the 1916 Organic Act that created the National Park Service, the 1935 Historic Sites Act and the 1966 National Historic Preservation Act we are considering today.

I made statements on the House floor to inform my colleagues about the tremendous advantage of historic preservation, land protection, and environmental law that Congress has passed in the 90 years since Congress provided the President with the intended authority of the 1906 Antiquities Act. We continue that process today. I look forward to the discussion of H.R. 1522.

I recognize my distinguished colleague, Mr. Faleomavaega of American Samoa, the Ranking Member of the Subcommittee, for his opening remarks, and following his remarks I will recognize Mr. Hefley, the sponsor of the bill we are considering today, and any other Subcommittee members that come in, and then we will go to our panel.

[The prepared statement of Mr. Hansen follows:]

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF UTAH

Good Morning. The Subcommittee on National Parks and Public Lands will come to order.

This morning the Subcommittee will hear testimony on H.R. 1522, a bill to reauthorize the National Historic Preservation Fund and for other purposes, which would amend the National Historic Preservation Act of 1966, as amended.

This bill was introduced by our distinguished colleague, Joel Hefley, a Subcommittee member, and a very knowledgeable and dedicated supporter of historic preservation in Colorado and the Nation. We look forward to your opening remarks on your bill, H.R. 1522.

The hearing today is very timely. The National Historic Preservation Act of 1966, as amended in 1976, 1980, and most recently in 1992, has worked well for over 30 years. The major reason for H.R. 1522 is to provide Congressional authorization for the Historic Preservation Fund, which expired on September 30, 1997, until September 30, 2002. However, Congress has reviewed and amended the original Act on occasion, and Mr. Hefley's H.R. 1522 offers a unique opportunity to see if the interaction of historic preservation at the National, State, and local levels is in need of new direction. The distinguished panelists we will receive testimony from today will provide professional insight into many aspects of this important historic preservation program.

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I recognize my distinguished colleague, Mr. Faleomavaega, of American Samoa, the Ranking Member of this Subcommittee, for his opening remarks.

Following any other opening remarks, I recognize Mr. Hefley to elaborate on the details of H.R. 1522 for the benefit of the Subcommittee and all present today.

The Subcommittee welcomes the distinguished witnesses that will appear today. On our first panel, we are pleased to have Mr. Bob Stanton, recently confirmed Director of the National Park Service. This will be his first official testimony as Director before this Subcommittee, and we look forward to many more visits in the future. The Subcommittee is also pleased to have Mr. Bob Peck, Commissioner of the Public Buildings Service, of the U.S. General Services Administration, and Mr. John

Fowler, recently selected as the Executive Director of the Advisory Council on Historic Preservation, after serving in an acting capacity for many months.

The second panel consists of representatives of the National Conference of State Historic Preservation Officers. I welcome Mr. Eric Herfelder, Executive Director of the Conference; Mr. Alexander Wise, Jr. the State Historic Preservation Officer for the Commonwealth of Virginia; Mr. John Keck the Wyoming State Historic Preservation Officer; and Ms Brenda Barrett, Director, Bureau of Historic Preservation for the Commonwealth of Pennsylvania.

The third panel consists of historic preservation experts and advocates representing the local, State, and National levels. We welcome Mr. Richard Nettler, Chairman of the Board of Preservation Action; Mr. Edward Norton, Vice President-Law and Public Policy for the National Trust for Historic Preservation. Mr. Norton it is good to see you again. The last time you appeared before us we were discussing the Arches National Park Expansion bill. And Mr. Jack Williams, President-Elect for the National Alliance of Preservation Commissions.

Mr. HANSEN. Mr. Faleomavaega.

**STATEMENT OF HON. ENI F.H. FALEOMAVAEGA, A
REPRESENTATIVE IN CONGRESS FROM AMERICAN SAMOA**

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Before proceeding and offering my statement for the Subcommittee, I certainly would like to offer my personal welcome to our Director of the Nation Park Service, who is with us this morning, and look forward to his statement, and I certainly want to thank my good friend and colleague from Colorado for having introduced this piece of legislation, and I look forward to working with him to see what the problems underlying the National Historic Preservation Act are.

Mr. Chairman, this morning we are here to receive testimony to H.R. 1522, introduced by our colleague, Mr. Hefley, to reauthorize the funding for the National Historic Preservation Fund and make several changes to the National Historic Preservation Act. I commend the gentlemen for all his hard work in this area and for initiating this piece of legislation.

The Historic Preservation Act enacted in 1966, established a comprehensive program through which the Federal, the State, tribal and local historic resources have been protected. The National Register of Historic Places now has over 62,000 sites listed. The Governor of each State and territory appoints a State historic preservation officer to administer the Historic Preservation Program within its boundaries. Several Indian tribes have now taken over the historic preservation programs on their respective reservations, and the Advisory Council on Historic Preservation advises the President and Congress and makes recommendations to help coordinate preservation activities. This successful program shows what can be done when government at each level is willing to work together or for a common cause, and that is the protection and the preservation of our culture and our history.

The bill before us today would extend the authorization of the National Historic Preservation Fund through the year 2002. I wholeheartedly support the extension of the fund's authorization and would even support a 10-year reauthorization.

The bill then goes on to make several other changes to the current program, which I am not yet convinced needs to be made. Several provisions would transfer authority away from the Secretary of the Interior and places it with the Advisory Council on Historic Preservation. I am not aware of specific problems which exist to warrant such a change and wonder if these actions could alter the

original purpose of the Council. Perhaps after hearing from our expert witnesses today, we will be in a better position to understand a little more of the proposed changes, and like I said, I look forward to working with the gentleman from Colorado for this proposed bill. Thank you, Mr. Chairman.

Mr. HANSEN. Thank you.

The gentleman from Colorado.

**STATEMENT OF HON. JOEL HEFLEY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF COLORADO**

Mr. HEFLEY. Thank you, Mr. Chairman.

Mr. Chairman, it seems to me one of the fundamental roles of government is the preservation of its cultural values. To paraphrase one historian, we are unlikely to deal well with our future if we do not understand our past. Since 1966, the Historic Preservation Fund has been part of the way this Nation seeks to accomplish that.

The program has been successful, and what this bill is designed to do is to make it work even better. And I think all of us are in agreement on the goals, and it is the matter of how do we get from here to there. And I hope that we think in terms of H.R. 1522 as being a starting point, maybe not the end destination. And I would agree with my friend from American Samoa that I think we have an outstanding group of panelists here today and of experts, and we will take their input, and then we will try to put together the ideas that seem to work best.

The National Register of Historic Places includes over 800,000 building sites and objects. The National Trust for Historic Preservation appears ready to stand on its own without government funding. Most importantly today, it would be unthinkable to raze landmarks like New York's Penn Station without major public debate, but that hasn't always been the case.

H.R. 1522 attempts to reflect what is happening in the States. It makes no changes to a funding formula which through State innovation has resulted in a significant degree of private involvement in these programs. It also gives States the flexibility to design their own preservation offices. It leaves them the final arbitrator of the in-State eligibility disputes.

H.R. 1522 reserves the biggest changes for the Federal Government's role. The bill shifts the bulk of government administrative support from the National Park Service to the Advisory Council on Historic Preservation. The Council has demonstrated its ability as a lean, competent arbitrator of problems and disputes in the preservation arena. I believe it is time to see whether the Council can apply these skills in a broader role.

The bill codifies Executive Order 13006 on locating Federal facilities on historical properties in our Nation's central cities. Until recently, the Postal Service built new post offices every 10 years, moving further and further out of the central cities. Too often the Park Service opts for a new visitors' center, overusing historic buildings, these often connected with the very sites they seek to interpret.

I think Executive Order 13006 is a good idea, but the administration seems to feel it needs more time. Today I hope to find out why.

Finally, we will examine the place of preservation in our Nation's capital. The White House, the Capitol and the Supreme Court are exempt from historic preservation laws. Security concerns are blamed, but somehow DOD manages to do a pretty good job of complying, even though there are security aspects there. Why not for these three sites?

I realize historic preservation still makes some people nervous. How many sites are on the National Register is worthy of a hearing of its own, but I prefer to think this program reflects what we have attempted to do in the past two Congresses. It has devolved on its own over the past 30 years while helping communities retain a sense of their own uniqueness. I hope H.R. 1522 continues that effort, and with that I will close and look forward to hearing to-day's witnesses.

Mr. HANSEN. Thank you.

[The prepared statement of Mr. Hefley follows:]

STATEMENT OF HON. JOEL HEFLEY, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF COLORADO

Mr. Chairman, it seems to me a fundamental role of government is the preservation of cultural values. To paraphrase one historian, we are unlikely to deal well with our future if we do not understand our past. Since 1966, the Historic Preservation Fund has been a major element in how this nation seeks to accomplish that end.

While some may argue as to degree, I don't think anyone believes this program hasn't been a success. The National Register of Historic Places now includes over 800,000 buildings, sites and objects. Preservation is now a big enough industry that we can ask the National Trust to stand on its own. More importantly, it's now unthinkable to raze a landmark building—such as Penn Station in New York—without public debate. That wasn't always the case.

But even successful laws must reflect the reality of the outside world. H.R. 1522 attempts to reflect these changes. The bill reflects the success states have had at leveraging private sector involvement and in defining their own programs. It codifies the agreement to privatize the National Trust. It leaves the states as the final judge of eligibility disputes.

H.R. 1522 reserves its biggest changes for those areas involving the Federal Government. My bill shifts the bulk of government support for historic preservation from the National Park Service to the Advisory Counsel on Historic Preservation. Over the years, the Council has proven itself to be a lean, competent arbiter of problems and disputes which have arisen in preservation. I believe it is time to see whether they can bring these same attributes to a broader role.

Second, H.R. 1522 codifies Executive Order 13006, on locating Federal facilities on historic properties in our nation's central cities. Until recently, it has been the policy of the U.S. Postal Service to build new post offices every 10 years, leaving the old ones behind and moving further and further out from the cities' centers. There are Park Service units where visitors' centers have been built in sight of historic properties directly associated with the site these centers interpret. What is the logic of this? But while Executive Order 13006 is a good idea that will help communities and probably save us some money, the administration's reaction to H.R. 1522 has been, "We need more time?" We hope to examine this lack of confidence.

Finally, we will examine the place of historic preservation here in our nation's capital. Three of the nation's landmarks—the Capitol, the White House and the Supreme Court building—are exempted from the nation's preservation laws. Why is this so? Security concerns are mentioned yet defense facilities grudgingly manage to comply. I hope we'll find out why these sites feel they should be exempt.

I realize historic preservation makes some people nervous. How sites are listed on the National Register is worth a hearing of its own. But I prefer to think this program reflects all that we have attempted to do in the past two Congresses. It has devolved on its own over the past 30 years while helping communities retain a sense of their own uniqueness. I hope H.R. 1522 continues that effort. With that I'll close and I look forward to hearing from today's witnesses.

Mr. HANSEN. The gentlelady from the Virgin Islands.

**STATEMENT OF HON. DONNA M. CHRISTIAN-GREEN, A
REPRESENTATIVE IN CONGRESS FROM THE VIRGIN ISLANDS**

Ms. CHRISTIAN-GREEN. Thank you, Mr. Chairman, for allowing me to make these brief opening remarks, and I want to use my time to welcome the new Director of the National Park Service as he makes his debut appearance before the Subcommittee today.

As you know, Mr. Chairman, Director Stanton comes to the position of head of the National Park Service with a career in service which spans over 34 years, beginning as a seasonal park ranger at the Grand Teton National Park in Wyoming to regional director of the National Capital Region in Washington, DC. But of all the positions he has held with the Park Service, my constituents and I, especially those on the island of St. John, are especially proud of the 3 years he spent with us as the Superintendent of the Virgin Islands National Park. He came to that position at a time when there were a number of tensions between the Park Service and the local community, and the very small island of St. John, which is over two-thirds the national park. Seeking to instill more community input into the park's management decisions, Mr. Stanton established various NPS community councils, which served to resolve most of the local disputes at the time.

So as you can see, Mr. Chairman, people of the Virgin Islands and I are very proud of Mr. Stanton's appointment as National Park Service Director and look forward to him doing great things during his tenure in office.

And with respect to the legislation before us today, Mr. Chairman, I am reminded of the old axiom, if it ain't broken, don't fix it. And while the reauthorization of any major piece of legislation like the National Historic Preservation Fund is generally something we are all in favor of, it is unclear what problems may exist that warrant the changes that are being proposed. I am confident, however, that the issues, as I listened to the opening statement of my Ranking Member and Mr. Hefley, that the issues in dispute will be resolved, and I look forward to hearing from our witnesses this morning.

Mr. HANSEN. Thank you.

The gentleman from Nevada.

Mr. GIBBONS. No comments.

Mr. HANSEN. And the gentlemen from Michigan City has no opening remarks.

The Subcommittee welcomes our guests today. We are pleased to have Mr. Bob Stanton, recently confirmed as Director of the National Park Service. It is a pleasure to have you with us. We hope we have many occasions to have you here in a congenial and amicable, get-along attitude, which we know you portray.

We are also grateful Kate Stevenson is accompanying Director Stanton. We are happy to have you with us at this time. I guess this is your first testimony before this Committee; is that right, Director?

Mr. STANTON. That is right.

Mr. HANSEN. We appreciate having you here.

We are also pleased to have Mr. Bob Peck, Commissioner of the Public Building Service of the U.S. General Service Administration; Mr. John Fowler, recently selected as Executive Director of the Ad-

visory Council on Historic Preservation, after serving in his acting capacity for many months.

The second panel will consist of representatives of the National Conference of State Historic Preservation Officers. I welcome Mr. Eric Hertfelder, Executive Director of the Conference; Mr. Alexander Wise, Jr., the State Historic Preservation Officer for the Commonwealth of Virginia; Mr. John Keck, the Wyoming State Historic Preservation Officer; and Ms. Brenda Barrett, Director of the Bureau of Historic Preservation of the Commonwealth of Pennsylvania.

The third panel consists of historic preservation experts and advocates, representing the local, State and national levels. We welcome Mr. Richard Nettler, Chairman of the Board of Preservation Action; Mr. Edward Norton, Vice President of Public Policy of the National Trust for Historic Preservation. It is good to see Mr. Norton again. I think you were here the last time. You appeared before us discussing the Arches expansion; And Mr. Jack Williams, President-elect of the National Alliance of Preservation Commission.

We will ask the first panel to come forward at this time, and that again is Mr. Bob Stanton, and Mr. Bob Peck and Mr. John Fowler. Now, gentlemen and lady, let me say that we are always under a time constraint around this place. Whistles are going off, bells are ringing, and lights are flashing, and, therefore, we would really urge you to stay within your 5 minutes if you could. We will have a gentle reminder there in front of you, and it is three lights. It is just like a traffic light: Green, go wild; yellow, be careful you don't run it; and red, I bang this gavel and yell at you. No, honestly, I won't do that. If you have a burning desire to take a couple more minutes, and considering the gravity and seriousness of this situation, by all means take it, but I would appreciate it if you could stay within the 5 minutes.

Mr. HANSEN. Director Stanton, we will start with you, sir.

STATEMENT OF ROBERT G. STANTON, DIRECTOR, NATIONAL PARK SERVICE, ACCOMPANIED BY KATE STEVENSON, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES

Mr. STANTON. Mr. Chairman, distinguished members of this Committee, I appreciate the opportunity to appear before you, and certainly I am pleased to be joined by Associate Director for Cultural Resources, Ms. Kate Stevenson.

Mr. Chairman, again, thank you for this opportunity to offer the views of the Department of Interior on H.R. 1522, a bill to extend authorization for the Historic Preservation Fund and for other purposes. We strongly support the reauthorization of the Historic Preservation Fund; however, we have some opposition to the amendments to the Historic Preservation Act enumerated in bill H.R. 1522.

The Historic Preservation Fund established by section 108 of the Historic Preservation Act is the authority on which Congress appropriated matching funds to State tribes, local governments and the National Trust for Historic Preservation to carry out activities under the National Historic Preservation Program. The Historic Preservation Grant Program supports the identification and the

protection by citizens of the Nation's irreplaceable historical and archeological resources for this and for future generations.

Reauthorization of the Historic Preservation Fund has no direct budgetary impact in that outlays occur solely through the appropriation process. The annual cost of the Historic Preservation Fund Grant Program to each American citizen is roughly 12 cents a year. We believe this is a good value for all of us.

With regard to other elements of the bill, when taken together, amendments 4, 9, 10, 11, and 12 remove the Office of the Secretary of the Interior from its role as the Nation's leader and coordinator of historic preservation policy for Federal agencies. The Department, acting through the National Park Service, as the Nation's principal conservation agency, has unique authority and expertise in fostering sound use of our land and the preservation of our Nation's resources. The National Park Service is the most outstanding agency within the Federal Government to work closely with all organizations in carrying out the preservation of our culture and historical resources and to assist other agencies in their respective programs. This, in our judgment, should not be changed, and we recommend that the amendments be deleted.

Amendment 13 of H.R. 1522 gives the Advisory Council of Historic Preservation authority to take appropriate action to resolve historic preservation disagreements and thereby changes the Council's advisory role from a mediator to an arbitrator with final authority over every Federal undertaking affecting historic and archeological resources. As then Assistant Secretary for Fish and Wildlife Service George Frampton pointed out in his May 1996 letter to Congress, such a change in the Advisory Council authority has the potential to interfere with the primary mission of Federal agencies, and, according to a Department of Justice statement, would violate the appointments clause of the Constitution. The Department of Interior remains opposed to this provision and recommends that it be deleted.

Amendment 15 changes the definition of "undertaking" from "a project, activity or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency" to "a project, activity, or program with potential to affect historic properties funded in whole or in part under the direct or indirect jurisdiction of a Federal agency." The impact of this definition change is unclear, but it has, in our judgment, the potential to be interpreted to eliminate protection of a wide range of historic and archeologic resources. We therefore are opposed to it and recommend its deletion.

Amendment 2 of the bill restricts the Department of Interior's authority, acting through the Keeper of the National Register, to assess a property's historic significance by eliminating a determination of eligibility of National Register-nominated properties that cannot be listed because of owner objection. The Secretary, in our view, should not be precluded from making an unbiased professional determination of fact about the historical significance of such properties. Therefore, we recommend that amendment 2 be deleted from the bill.

State Historic Preservation Offices have previously overwhelmingly objected to the idea, proposed in amendment 5 to the bill, to remove the Secretary's authority to set professional standards for

State Historic Preservation Office staff. When offered the opportunity in late 1996 as part of a Federal Register review and comment process, no State Historic Preservation Office objected to the regulatory provision regarding professional staff H.R. 1522 seeks to erase. We oppose this amendment as well and recommend it be deleted.

Lastly, amendment 1 of the bill for National Historic Landmark districts, without officially established boundaries as of the year 2007, would automatically delist the district from the National Register and presumably redesignate the National Historic Landmark as well. This proposal potentially creates legal exposure for the government and property owners. In some of these districts, regardless of the final decision, both the process and result of settling boundary issues will be controversial and will entangle the government in legal challenges over notification issues and prior benefits derived from the National Historic Landmark and National Register status. Also, where tribal properties are concerned, it may be difficult to determine exact boundaries. Delisting these properties from the National Register, in our view, would conflict with the government's trust responsibilities for Indian tribes, and we therefore recommend the deletion of this amendment.

In summary, Mr. Chairman and members of the distinguished Committee, it is the Department of Interior's position that the Historic Preservation Fund be reauthorized through the year 2002, but that no substantive change be made at this time to the National Historic Preservation Act.

Mr. Chairman, this concludes my remarks. Ms. Stevenson and I would be more than happy to respond to any question or comments you and members of the Committee may have.

Mr. HANSEN. Thank you, sir.

[The prepared statement of Mr. Stanton may be found at end of hearing.]

Mr. HANSEN. Mr. Peck.

STATEMENT OF ROBERT A. PECK, COMMISSIONER, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION

Mr. PECK. Thank you, Mr. Chairman, Mr. Faleomavaega, members of the Subcommittee, I am pleased to be here on behalf of the General Services Administration; also happy to report to you that the President has recently announced his intention to designate our Administrator Dave Barram as a member of the advisory Council on Historic Preservation, a seat which we have held for many years.

I have a statement I would like to submit for the record, and I will summarize it.

We have a very large inventory of historic buildings in the General Services Administration. Of the 1,800 and some government-owned buildings which we operate, 200 are on the National Register and another 200 are eligible for listing; 12 are individual historic landmarks. We are proud of those buildings and work very hard to maintain them and keep them up.

I should tell you, although it is not your jurisdiction, that we have a very large backlog of rehabilitation needs. I know you hear this from the Park Service all the time. We have the same situa-

tion with our inventory as well. We are working very hard to try to find the funds for rehabilitation, both within our resources, which come in the form of rents from Federal agencies who are our tenants, as well as through appropriations and other creative financing means. One such means I will refer to in a few moments is the authority the National Historic Preservation Act gives us to help rehab our own buildings.

I grew up in Washington. I am very proud of the buildings we have here. I should tell you, the GSA was not always, in my opinion, the best steward of its properties. Years ago when I became active in what was called "Don't Tear It Down," subsequently the DC Preservation League, which I was proud to serve as volunteer president for 6 years, we had to go to court to keep GSA from tearing down some old buildings. That is no longer the case.

All over the country GSA has rehabbed buildings. In conjunction with a very large courthouse construction program which we have under way, we are renovating a great number of the 19th and early, mid-20th century courthouses which we inherited. I hope you will have an opportunity to see some of them. The recent renovation of the U.S. Court of Appeals building in San Francisco is truly a landmark renovation project; similarly in Denver, the Byron White Courthouse is a gorgeous building.

I would also note that we have a number of authorities aside from the National Historic Preservation Act which give us the opportunity to work with historic buildings. One is the Public Buildings Cooperative Use Act enacted in 1976, which allows mixed uses in Federal buildings and also orders the Administrator of General Services, where possible, in acquiring or leasing Federal building space for Federal agencies to make use of historic buildings not in the government inventory. We have under way at the moment a study to find out where in our various rules and regulations we may have self-inflicted some wounds on our ability to lease space in historic buildings around the country.

We are putting exhibits in our buildings to interpret them as well, so that the public is made aware of the magnificent history that Congress and Presidents have bestowed upon us.

I just wanted to note the one provision we strongly support in the Act is section 111, only enacted, I believe, in 1992, which gives Federal agencies the authority, when they no longer have a governmental need for a historic building, to lease it to the private sector. We are using this authority in GSA for the first time to solicit offers for redevelopment, including historic preservation for the General Post Office Building in Washington at 7th and F Street, this building was designed originally in the 1840s by Robert Mills as the general post office for the city, and was subsequently known as the Tariff Commission Building. It is a national historic landmark.

Of course, one of the reasons you have me here this morning is to discuss Executive Order 13006, which President Clinton issued last year, and which piggybacked on Executive Order 12072, issued by President Carter. 12072 directs Federal agencies, not just GSA, but all Federal agencies, to locate their facilities in the central business areas of cities. We obviously have a large responsibility in carrying out that order, and 13006 extended that by saying that in

addition to downtown locations, we should particularly look for buildings in historic districts and individual landmark buildings.

We do not believe it is necessary to codify Executive Order 13006, in part because we feel we are having success with the Executive Order as it stands. Moreover, Executive Order 12072 consistently has been construed, and there have been court cases on it, as a Presidential directive that to us has the force and effect of law, one that we cannot ignore in our procedures. We obviously regard Executive Order 13006 the same way.

I should note that I am concerned section 1 of H.R. 1522 establishes a priority for historic properties, without taking into consideration requirements of the Rural Development Act, which we are required by law to follow in making location decisions, and the location policy in Executive Order 12072. The language in the bill does not quite track with the language in Executive Order 13006. Moreover, in Executive Order 13006, we have the necessary flexibility and discretion we must have in locating Federal facilities in historic properties. Both mission needs and, particularly these days, security needs sometimes preclude our finding space in historic buildings. We know that many times I should hasten to say, those security and operational needs can be accommodated, but we think the language in particular that notes in the executive order that we find space in historic properties, "where operationally appropriate and economically prudent," is very important language.

Finally, I will just note in this regard, legislation and executive orders can order us to do things. Real estate is a business, which, as we say in the business, everything is location, location, location, and each decision is unique, and we need a little bit of flexibility there in making those decisions. Having said that, I want you to know I personally, our Administrator personally, because of his background and his values, and our agency as an agency, are very enthusiastic about locating our facilities in historic properties, and in making the very hard decisions, and doing the tough work that is necessary to make them work for modern government office space.

Mr. Chairman and members, I am happy to answer any questions you have.

Mr. HANSEN. Thank you, Mr. Peck.

[The prepared statement of Mr. Peck may be found at end of hearing.]

Mr. HANSEN. Mr. Fowler, I will return to you, sir.

**STATEMENT OF JOHN M. FOWLER, EXECUTIVE DIRECTOR,
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Mr. FOWLER. Thank you, Mr. Chairman. At the outset I would like to take this opportunity to express the appreciation of our Chairman Cathryn Buford Slater for the opportunity to convey the Council's strong support for reauthorization of deposits in the Historic Preservation Fund. Ms. Slater serves as the Arkansas State Historic Preservation Officer. She was not able to be here today, but her statement has been included for the record.

[The statement of Ms. Slater may be found at end of hearing.]

Mr. FOWLER. The Council, as you know, is an independent Federal agency charged by the National Historic Preservation Act of

1966 with advising the President and Congress on matters of historic preservation, and coordinating the activities of Federal agencies as they relate to historic properties and historic preservation issues. We do this under a number of authorities under the Historic Preservation Act, but most important of these is section 106 that requires Federal agencies to take into account the effects of their undertakings on historic properties and then afford the Council a reasonable opportunity to comment.

In the section 106 process that has been developed by the Council over the past three decades, we rely very heavily upon the SHPOs, State Historic Preservation Officers, to consult with and assist Federal agencies in meeting their legal obligations. In amendments we are now proposing to the section 106 regulations, we will bring tribal Historic Preservation Officers, authorized by the 1992 amendments to the Historic Preservation Act, into the partnership, in a similar way to State Historic Preservation Officers, to work with Federal agencies.

You can see from this that SHPOs and tribal Historic Preservation Officers are really essential to the section 106 process. Without them, serious burdens would be placed on Federal agencies and all of those who seek assistance from Federal agencies or permits required by Federal law. Continuation of Federal support for State and tribal historic preservation programs is essential. This comes from the annual appropriation that is authorized under the Historic Preservation Fund. Accordingly, the Council strongly supports reauthorization of deposits into the Historic Preservation Fund through the year 2002, and hopefully beyond.

But the importance of the Historic Preservation Fund supports for SHPO and THPO programs is such that we are concerned that some of the amendments in H.R. 1522 may cause controversy or delay in getting the essential authorization through. I think you have heard that and will hear that from witnesses this morning. Therefore, the action that the Council has taken is to support a simple reauthorization of the Historic Preservation Fund.

At the same time, we would hope that the Committee would take this opportunity to deal with some technical amendments of a minor nature that would help us, the Council, better do our job as a partner in the Historic Preservation Program. Since 1995, we have gone through an almost 20 percent downsizing in our operations, and there are provisions in the law that, if we could adjust them, would make it easier for us to deal with our constrained circumstances and carry out our fundamental mission. An example of this would be to put our reauthorization, which was recently done by this Committee through the year 2000, on the same cycle as the HFP. We would not have to put the resources out that we do as a small agency to get a bill through quite as soon as we would otherwise have to do it, and I think we could save time for the Committee by putting these two authorizations together.

We have some provisions and obligations in our laws, such as the requirement to submit an annual report to the Congress, that requires a commitment of staff resources. While it is a very useful report and a very useful exercise, with the evolution of technology for information dissemination and so on, it may be something that

has outlived its usefulness. We would prefer to have the discretion to go forward with an annual report as needed.

We would like to deal with our employees, who over the years have been hired under our excepted authority. We now have long-term Council employees that do not have the full benefit of career status under the General Schedule. Instead of going through individual conversions, we would like to work with the Committee to do a conversion of our staff to full GS status.

H.R. 1522 conveys some very useful and interesting ideas in it, but as our preservation partners will note today, in some cases the needs they seek to address have changed, such as the concern about the Interior Department issuing section 110 guidelines. We are pleased to say we worked closely with the Department, and these guidelines are near final issuance.

Other ideas, such as reinforcing the Council's dispute resolution authority, are certainly interesting, but as Mr. Stanton noted, need to be done in a manner consistent with the authorities of the Council and the relationships of the partners.

In closing, I would just like to note the Historic Preservation Act has evolved over 30 years. It is an excellent law. It can certainly be made better. We would like to work with the Committee to do this, but we are really concerned at the moment about getting the Historic Preservation Fund reauthorized. Thank you very much.

Mr. HANSEN. Thank you.

I will now recognize the members of the Committee for 5 minutes each to question the panel.

The gentleman from America Samoa, the Ranking Member of the Subcommittee.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Just a couple of questions to the members of the panel, if you could share with us, gentlemen and Ms. Stevenson, your sense of experience, if there has been in the past a backlog or a sense of disinterest or non-commitment on the part of the Secretary of the Interior—not this one, but even, you know, for the past several years—concerning historic preservation. Have there been any problems with the current law affecting the responsibilities given to the Secretary of the Interior, because I sense there is disagreement from all three of you gentlemen concerning the proposed bill. And I respect my good friend from Colorado; I was thinking perhaps this whole matter of historic preservation should be given to the States to run, rather than giving it to “Big Brother” here and have him be the final arbitrator.

Can you comment on that?

Mr. STANTON. Thank you. Mr. Faleomavaega, with respect to the backlog, obviously, as we consider the large number of existing as well as potential properties that could be added to national register historic places, there is a great deal of work that needs to be done at local, State and Federal levels. Clearly, in terms of our relationship with the national council of historic preservation, other Federal agencies, such as the General Services Administration and certainly working with the States and the trust territories, we are addressing the backlog.

There is a question of financial resources that are available to meet those needs, and what we have attempted to do is to come

up with some alternative approaches with respect to the private sector, as well as services from public agencies towards the preservation effort. But we believe that the framework, as embodied in the Historic Preservation Act and the Historic Preservation Fund, allows us to maximize the services and resources available at all levels of the government. But the extent to which we would be able to diminish the backlog within the next decade is difficult to speculate on at this time.

Mr. FALEOMAVAEGA. Mr. Peck and Mr. Fowler?

Mr. PECK. Thank you. It is probably more for the Interior Department and Advisory Council to comment on this process. I will just note that the historic preservation program, as it runs now, is a partnership. We get involved mostly when there are projects affecting our historic buildings or where we are looking at historic buildings in privately owned hands for possible use by the government. We find it is a very effective partnership at the moment between the Federal Government and the States, which have a very large role to play.

State historic preservation officers, in more instances than not, if you looked at the project objectively, call the shots. We have to rely on their resources to identify properties, give us most of the hard advice on what features of a building need to be preserved and where national historic landmark nominations are made. They obviously have a very strong role in making recommendations on these recommendations to the Federal Government.

Mr. FALEOMAVAEGA. Mr. Fowler?

Mr. FOWLER. I would like to emphasize what Mr. Peck said about the notion of a partnership. We work very closely, not just with the Interior Department and the National Park Service on carrying out the historic preservation program, but really closely with the States and, most recently, with tribes; and I think that really is a hallmark of this program, and it is something that the Congress, in its wisdom, has strengthened periodically. And I think that is the reason we are all here today, to support the continuation of the Historic Preservation Fund.

H.R. 1522 proposes some readjustments in the Federal dimension of that partnership, and I think that I should note for the record that our council membership, which includes the Secretary of the Interior and the Administrator of GSA, has not taken a formal position on these specific amendments. I would note from my experience in dealing with the Interior Department, we work very closely on implementing section 110; we have jointly drafted, for example, the section 110 guidelines that are referred to in the legislation, and we are pleased to see this come to fruition. What needs to be emphasized, we think, is the notion of consultation regardless of who has the responsibility under the law to ensure that this partnership continues the way it has.

Mr. FALEOMAVAEGA. So your best opinion is that the partnership is working very well, despite the backlog, the problems that you have, as it is, with limited resources?

My time is up, I guess, Mr. Chairman. Thank you.

Mr. HANSEN. The gentleman from Colorado.

Mr. HEFLEY. Thank you very much. I appreciate very much the input that each of you had, and I have great respect for your input

and I will certainly take your suggestions into consideration; and any additional suggestions you might have between now and the time we get to the markup phase of this bill, we would appreciate having those.

It seemed to me, in listening to your testimony, the major stickler, although there are a number of suggestions, is the role of the Advisory Council, and the reason for the changes we suggested in the bill is to strengthen the Advisory Council's hand as an arbitrator, simply because they don't have a dog in the fight. In a way, the park department does, the Department of Interior does and so forth, GAO does, but they don't; and they have proved, even under the present circumstances, at times, they can be an amazingly powerful arbitrator; and we thought that might be necessary. And I give one example in Victor, a mining district in my district, where they were opening up an old mine area and they found an Indian circle or something, and we had every agency known to man descending on the place; and several million dollars later the mine went on and began to operate. The Cheyenne Arapahoe tribe blessed it and all this kind of thing, we got through the whole thing. But it seemed to me we went through an enormous amount of rigmarole we wouldn't have had to do if we had had a powerful arbitrator who said, this makes a difference and that doesn't and so forth. But maybe that isn't the way to go. I'm not sure.

Would you, Mr. Stanton, describe the National Park Service's relationship with the Advisory Council as you see it, and then I would like Mr. Fowler to kind of talk from his standpoint as well.

Mr. STANTON. With respect to our relationship, I think it is excellent, but as in all relationships, there are opportunities to enhance, there are always some questions of adequacy of communication and coordination. But in terms of a major undertaking on the part of the National Park Service with respect to properties under our direct jurisdiction, as well as our consultation with State historic preservation officers and others with respect to properties in private ownership or in ownership of States or their political subdivisions, the relationship with the Advisory Council, I think, has been excellent.

What we attempt to do is to seek their advice with respect to maybe general management plans or the undertaking of the restoration of the Washington Monument as an example, and certainly with the siting of the new memorials here in the Nation's Capital.

The question has come up as to how effective have we been in analyzing what the requirements of a preservation project may be, and I might just add, Mr. Hefley, with respect to our own in-house capability, we try to assure that our projects are reviewed by historical architects, archeologists and historians, so the historic integrity of an undertaking is fully analyzed by my people before we even submit a proposal to the National Advisory Council, so it is a good relationship, it is a good give-and-take.

Mr. HEFLEY. Well, I know that your policy—in the case of the Victor example I gave, it was one person, I think, within the park department, who created the enormous difficulty that was created there; and it was just because of their own personal bias out there in the field, and this was not under your reign.

So Mr. Fowler—

Mr. FOWLER. I certainly echo the Director's characterization of the relationship. We deal with the Park Service in two somewhat distinct ways. One is, as a partner in carrying out the historic preservation program, the Department, acting through the National Park Service, has certain responsibilities relating to the status preservation programs, tribal programs, professional standards, et cetera. Likewise, the council has responsibilities when it comes to administering the project review process, and I think again the example of the cooperation that we both exhibited in developing the section 110 guidelines is exemplary of that partnership.

We also deal with the Park Service the way we deal with any other Federal agency that has actions that affect historic properties, and sometimes—we are not always in agreement as to what the outcome should be, but we deal with each other professionally.

You made some reference to the dispute resolution provision, and that, as you noted earlier, was a point of contention. We do attempt, through the section 106 process, to resolve disputes or prevent disputes from emerging by having good, early planning and early consideration of historic properties. We are currently charged by this Committee to come back with a report to you next spring on other ways, alternate ways we can implement the section 106 requirements; and I think the development of this report might provide a good opportunity to examine whether some additional authority, consistent with the council's basic legal authorities might be suitable to have to assist us in carrying—in doing a better job in dispute resolution or dispute prevention.

Mr. HEFLEY. My time is up. Let me ask one quick question.

Would you agree with Mr. Stanton, Mr. Fowler, that now is not the time to make the changes that are suggested in terms of your role?

Mr. FOWLER. I think they need to be made in—I hate to say now is not the time to consider them because the time to consider them is when you are looking at this Act and there may be some positive things that can be done.

I think it needs to be very carefully done, and it should not—as I noted in my opening statement, it should not be done to the delay of getting the primary reauthorization through.

Mr. HEFLEY. Thank you very much.

Mr. HANSEN. The gentleman from Nevada.

Mr. GIBBONS. Thank you, Mr. Chairman.

Director Stanton, maybe you can help me understand this a little bit better than in your testimony I have here before me. You indicated that changing the Advisory Council's authority has the potential to interfere with the primary mission of the Federal agencies, and according to a Department of Justice statement, would violate the appointment clause of the Constitution.

Can you explain that to me so that I can understand what you are getting at?

Mr. STANTON. I would only attempt to explain it in a layman's way, sir. I appreciate the question.

Again, based on advice from the Justice Department, is that the statute establishing the Advisory Council clearly gives authority to be advisory to the executive departments that have the ultimate re-

sponsibility of carrying out programs, activities affecting its responsibilities. Clearly, the Secretary of the Interior, clearly the Director of the National Park Service, as an example, have responsibilities of managing resources, and the final decision would rest with us in terms of the delegated authorities.

If I understand correctly the counsel from the Justice Department, it would, in essence, remove that kind of a line authority from the Department of the Interior, vested in the Secretary of the Interior and bureaus responsible to him; and therefore, a decision—ultimate decision affecting properties under our jurisdiction would reside then with the Advisory Council on Historic Preservation.

Mr. GIBBONS. Are you saying this jurisdiction is removed over existing property that is listed in the national historic records or over proposed property that would be listed, because we are talking about an advisory decision or a council here?

Mr. STANTON. If I understand the question correctly, it would remove, in some circumstances, the responsibility and indeed the authority from the Department of Interior to make the final decision on existing, as well as potential, properties that would be affected.

Mr. GIBBONS. Amendment 2, that you also disagree with here, deletes the Department of Interior's decision or authority to override property owners' consent, if you will, to having their property listed. That is what I believe you are stating in a paragraph on page 3, second paragraph, of your testimony, is that not correct, your interpretation that says that Amendment 2 deletes the Secretary of the Interior's ability to override objections of private property owners?

Mr. STANTON. The view that has been expressed in the testimony, as you describe, sir, is that we believe that the spirit of the historic preservation program for the Federal Government, vested in the Department of Interior and certainly with the advice of the national council of historic preservation should not preclude the Nation identifying its cultural resources or historic resources, irrespective of ownership. Obviously, the ultimate treatment of those resources will still be vested in the owner of that property, but to identify it as having historical significance to our Nation or to a State still should be in the public interest; but therefore, it does not, by listing these properties on a national register, remove any of the rights that run to the ownership of those properties.

Mr. GIBBONS. Help me out. Once a property is listed on a register, is it restricted in any form to the private owner's ability of development changes, that that owner may have or may wish to take with regard to the improvement or changes of that property?

Mr. STANTON. Actually, it does not, unless there is Federal money involved, or funding involved, but it does not in any way diminish the property owners' rights to exercise their treatment, development, rehabilitation, or removal of the property, as they see fit.

Mr. GIBBONS. Thank you, Mr. Chairman.

Mr. HANSEN. How does the cost compare between a remodeling, retrofitting and new construction? How does the cost compare when you put bids out, you talk to builders?

Mr. PECK. Mr. Chairman, since we do that, I can respond; and as always, it depends. It depends on the level of restoration work

you are doing in a building. And, in fact, we have a number of cases going now in which there are arguments on all sides about whether in one particular instance it is more expensive to rehab an existing building we do not currently own, or to build a brand new court house.

Here are the kinds of factors that come into play. The question is, in an existing building, will the floor-to-ceiling heights in the building take the heights we require in courtrooms, because we have a standard given to us by the courts that requires that the ceiling height be a certain level. Therefore, we might have to do some structural things to the old building.

On the other hand, as a general rule, you save a lot of money when you don't have to build a new foundation, put up structural steel or concrete framework; and you wind up—interestingly, in rehab projects, you wind up spending more of your money on labor and less on materials than you do on a new construction project.

But I can show you numbers that go both ways on what is more expensive. It depends on the quality of the new building you are talking about, too. But I would say, flush all that out and you wind up saying it is often a wash.

Mr. HANSEN. I guess that is kind of a retail question, isn't it, predicated on the building you are looking at, basically, what have you got? But if you look at some of these old buildings, you say, where could we find anybody who could figure out how to do that?

I know, as an old land developer, you look at some of the things and you say, that was wonderful, some real craftsman, some very skilled person did this particular thing; how can we find somebody in this day and age? But apparently somebody always seems to surface if we have enough money to pay them to do it.

Mr. PECK. Mr. Chairman, interestingly, since I got involved in preservation some 25 years ago, there are a lot more ornamental plasterers than there used to be because there is now a demand for them. More people now work in metal and wood to restore old buildings than at one time. When we rehabbed Union Station, we were pretty sure we had just about every ornamental plasterer on the East Coast working on the project. I think there are a lot more than that now.

Mr. HANSEN. I was just curious how that worked out. As I look at old buildings, especially religious buildings and historic buildings, I have just been amazed that people can restore them.

Any more questions for this panel?

Mr. FALCOMA. Mr. Chairman. I would like to ask Mr. Fowler, it has been my experience in working with the Majority, that once the train starts moving, you are either on board, or you are not going to catch up with them.

And I just wanted to ask, Mr. Fowler, you indicated there is some report you are going to be preparing—submitting sometime in the spring. Is there some way we can expedite that, because I think central to this proposed bill is exactly the situation with the Council on Historic Preservation and your activities—what it takes to have the historic preservation. You mentioned earlier in your testimony that you were preparing some kind of report, and I would like to ask if you can expedite that report and submit it to

the Subcommittee sooner. Perhaps it will be helpful to the Subcommittee as we prepare for the markup.

Mr. FOWLER. In all honesty, sir, when we were directed to provide that report, we were given no resources, no additional resources to do it. We programmed it so we can deliver it in May, and I am not sure that we are going to be able to move that schedule up. But we would certainly be happy to share with the Committee what we are finding in the development of that report, if that is necessary, in order to meet your time schedule.

Mr. FALEOMAVAEGA. Certainly I think it will be helpful to know exactly where you stand.

Mr. HEFLEY. If the gentleman will yield, I agree it would be helpful.

I also agree with panel members, I would hesitate to do anything that would slow this up. I think we need to go ahead with the reauthorization here; and maybe if you come in with a report that says some things that do mean additional changes, Mr. Chairman, we could take that up in the Committee with a separate bill and work on that next year. But I would hate to wait until next year to move forward with this.

Mr. FOWLER. I believe that is the way we were looking at the report, that hopefully it would be the beginning of a discussion about further ways to improve the National Historic Preservation Act.

Mr. STANTON. We certainly concur in that approach.

Mr. FOWLER. I should note, we are currently finalizing changes to our section 106 regulations to implement the 1992 amendments. We started that process in 1993. It usually takes—because of public comment and discussion among agencies and stakeholders and so on, it takes anywhere from 4 to 5 years to finalize major regulatory changes, so anything that we are looking at in substantial changes, in implementation of the 106 process, we are looking at the next round of legislative oversight discussion and regulatory implementation.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Mr. HANSEN. Thank you.

We want to thank the panel for their presentation.

And our next panel will be Mr. Eric Hertfelder, Executive Director of the National Conference of State Historic Preservation Officers; Alexander Wise, Virginia Department of Historical Resources; John Keck, Wyoming State Historic Preservation Office; and Ms. Brenda Barrett, Director of Historic Preservation of the Commonwealth of Pennsylvania.

If they would please come forward, everybody in the right place. You all heard the suggestion of staying in your time, if you could. If you want to go over a little bit, we understand.

I ask unanimous consent that the letter addressed to me on October 15, 1997, from the Architect of the Capitol be included in the record. Is there objection?

Hearing none, so ordered.

[The information may be found at end of hearing.]

**STATEMENT OF ERIC HERTFELDER, EXECUTIVE DIRECTOR,
NATIONAL CONFERENCE OF STATE HISTORIC PRESERVA-
TION OFFICERS**

Mr. HANSEN. We will start with you, Mr. Hertfelder.

Mr. HERTFELDER. Mr. Chairman and members of the Committee, thank you for having this panel today of SHPOs, the State Historic Preservation Officers.

The National Historic Preservation Act is the organic Act which defines governmental roles in historic preservation and creates the intergovernmental partnership, the Federal Government cooperating with State, local and tribal governments, which actually carry out the Federal Government's historic preservation program. The Historic Preservation Fund funding is absolutely critical to maintaining this partnership, and we are very grateful to Mr. Hefley for introducing legislation to continue the deposits to the fund.

At this point I am going to turn to the three officers who are here. First, Alexander Wise, who is the State Historic Preservation director in Virginia, appointed in 1994, and he is the director of the Division of Historic Resources in Virginia; and then John Peck, State Historic Preservation Officer appointed in 1992, of the SHPO office in Wyoming, which is located in the Department of Commerce; and then Brenda Barrett, Deputy State Historic Preservation Officer from Pennsylvania, appointed in 1980, who is director of the Bureau of Historic Preservation, a part of the Independent Pennsylvania Historical and Museums Commission.

So I will turn it over to Alex Wise.

**STATEMENT OF H. ALEXANDER WISE, JR., STATE HISTORIC
PRESERVATION OFFICER AND DIRECTOR, VIRGINIA DE-
PARTMENT OF HISTORICAL RESOURCES**

Mr. WISE. Mr. Chairman, distinguished Subcommittee Members, I am here today as Virginia's State Historic Preservation Officer to urge you to reauthorize deposits into the Historic Preservation Fund through year 2007.

Virginia is a State rich in history, but it is one thing to have history; it is another to put it to work for the benefit of our citizens, our communities, and our country. So much of our history has to do with the perceived liberty and shaping of our Nation in Virginia that, in a sense, we hold our history in trust for all Americans. The National Historic Preservation Fund plays a vital role in the development of this priceless asset for all of us.

Each year we receive approximately \$650,000 from the Historic Preservation Fund, a modest amount, but let me tell you what it does. It funds our National Register Program through which significant buildings, archeological sites, structures and districts are identified, documented and publicly recognized with the consent of property owners. These places and their settings give our communities their identity and our Commonwealth its character. Communities, like individuals, need identity and roots. Without a sense of past, there can be no sense of future.

In the past 30 years, nearly 2,000 individual Virginia properties and districts have been placed on the Register. Let me mention just one example. Aberdeen Gardens in the city of Hampton was a 1930s resettlement administration project designed and built by

and for African Americans. Former Secretary of Energy Hazel O'Leary grew up there. By the early 1990s, it was becoming run-down, but an extraordinary woman named Evelyn Chandler undertook registration of Aberdeen Gardens as a community project to build pride and begin the revitalization process. Working closely with my office, she succeeded in having Aberdeen's 160 buildings registered as an historic district, with the full support of the property owners. The community has leveraged its newfound pride and cohesion into political strength, better schools, higher property values, greater prosperity, and plans for a community museum to attract tourists.

The Federal historic rehabilitation tax credit, administration of which is also funded through the Historic Preservation Fund, converts listing on the National Register directly into an economic benefit for property owners and for their communities. In the past 20 years, the rehabilitation of some 674 income-producing historic buildings across Virginia has resulted in an investment of \$259 million in historic buildings and districts. As a result, an estimated 13,000 new jobs have been created with an increase of household income of nearly \$275 million. Half of these have been in the construction industry and half in the professions, lawyers and architects and so forth. Last year alone, over \$40 million was invested in completed rehab projects in Virginia under this program.

Adaptive reuse of old buildings through the Federal tax credit helps preserve the character of our communities, enhances their tax bases, brings blighted areas back to life, uses existing infrastructure, is environmentally responsible, and reduces urban sprawl. In Roanoke, for example, the \$28 million restoration of the Hotel Roanoke, a joint project of the city government, a university, a redevelopment authority, a bank consortium, and tens of thousands of citizens, demonstrated all of these advantages and has had a major impact on the city's downtown.

Mr. Chairman, the Historic Preservation Fund is first and foremost about helping communities maintain their historic fabric. The Certified Local Government Program in Virginia includes 23 communities which have made a special effort in historic preservation. One great example is Clarke County, which has used every possible means of advancing historic preservation, including doing a video for economic development and education, using the historic fabric as a way to attract businesses.

The fourth major program that the Fund funds is project review, section 106. Dulles Airport and National Airport are great examples of how citizens have been brought in to the review process to make projects better and to ensure historically sensitive rehabilitations that are also functional.

If I can, in closing, just say that the Fund also leverages many very positive State programs. Governor Allen and his Secretary of Natural Resources Becky Norton Dunlop, have provided a great deal of leadership in helping us leverage these Federal dollars into State projects as well that make the Federal dollars go very, very far indeed.

Finally, let me say that in my 3½ years, I have seen a tremendous improvement in the partnership between the States and the National Park Service, and it is a genuine State-Federal partner-

ship. It is a program where federalism is alive and well, and we are also very enthusiastic about the new section 106 regulations and think that our relationship with the Advisory Council is where we want it. We think this program is working well and that the emphasis should be on reauthorization. Thank you very much.

[The prepared statement of Mr. Wise may be found at end of hearing.]

STATEMENT OF JOHN T. KECK, STATE HISTORIC PRESERVATION OFFICER, WYOMING STATE HISTORIC PRESERVATION OFFICE

Mr. KECK. Mr. Chairman, thank you very much for the opportunity to come and speak to this panel this morning. I, too, am here to ask for your reauthorization of the Historic Preservation Fund and speak on its behalf.

I do not come to the historic preservation field as a trained academician, but the one thing that did become clear to me upon assuming the State Historic Preservation Office in Wyoming is the vast impact this program can have on the State and its citizens, and it is a vast, positive impact. What makes that happen is the grass-roots nature of this whole bill and the way it provides people, that is just your average citizen, with the opportunity to have a voice in how their resources are managed. The law States the parameters by which people can speak on behalf of things that they feel are important to them, because of their local significance, their State significance, their national significance. Absent that ability, there would be some very devastating effects on the resources. Within Wyoming, and I think in the majority of the Western States, it has really enabled us to develop numerous partnerships in a variety of areas to help with State development.

One example is heritage tourism. We have some wonderful relationships with Grand Teton National Park and Fort Laramie that are being tied into local tourism packages. We have excellent relationships with the Bureau of Land Management on Project Archeology that is being used to develop sites and information that is being used through the State Division of Tourism to attract people to those types of resources.

The Tax Act is a program that in Wyoming works integrally with the Department of Commerce. We, as a State Historic Preservation Office, are housed in the same building, and we work hand in glove with them on many issues of interest to our local citizenry on how we can maintain a sense of character in Wyoming while still providing for needed economic growth and development.

How do we maintain a life-style while confronted with vast changes that we know are coming in the future? The Historic Preservation Fund and the legislation provides a mechanism for doing that through the development of partnerships and by enabling the grass-roots support to be there so that the communities and the local citizens have a chance to speak and act on behalf of these resources.

One of the major perceptions that causes problems within the National Historic Preservation Act is the 106 program, and within that, most of the problems you will find are really one of perception rather than reality. When we come down to it, the Act itself is not

causing the problems, the Act is enabling that the resources be considered. It is the basic tensions that are created by a single-purpose agency, which the State Historic Preservation Office is, and in the West we have multipurpose agencies, such as the Bureau of Land Management and the U.S. Forest Service. The problems we have are issues that the Act was created to create, in that there are differences of opinions, and you have to accept that those differences are going to occur, but it does not, when it is handled responsibly, preclude those Federal agencies from making land management decisions. What it does is affords the public a chance to be involved and a responsible partner in the development of those resources.

When I talk about the potential for partnerships, one thing that we are doing, and I wanted to site this as an example to the Subcommittee, is we are working on an interstate partnership relationship with many of the Western States, California, New Mexico, Arizona and Colorado, to name a few, and also Massachusetts, for the development of a national database. The Park Service has one in effect now. They have done an excellent job with it, and they are also coming on board as a partner with us, too.

What we are looking at is with the vast amount of information that exists on these resources, how can we make it cross jurisdictional boundaries; how can we make it so it is more accessible to the public, so that if a citizen wants to know about their resources, they can do so easily and at a low-cost basis? How can we do it in such a fashion that permitted actions under section 106 can be handled in a more efficient manner?

These are the forces that are driving it, and all of these factors are available through the authorization of the Historic Preservation Fund. I see it as an opportunity that does not preclude, but enhances, the opportunities for those developments to occur, and for those developments to occur in a responsible fashion that meets the needs identified by that State who, in partnership with the Federal agencies and the local citizens, can effectuate and manage these resources in an appropriate and responsible fashion.

[The prepared statement of Mr. Keck may be found at end of hearing.]

**STATEMENT OF BRENDA BARRETT, DIRECTOR,
PENNSYLVANIA BUREAU OF HISTORIC PRESERVATION**

Ms. BARRETT. Mr. Chairman, on behalf of Governor Ridge of Pennsylvania, I want to thank the Chairman and members of the Committee for inviting me here today. I am Brenda Barrett, Director of the Historic Preservation Program.

Over 30 years ago, Congress passed what was then a unique partnership bill in the National Historic Preservation Act, and each of these partners brought special skills. The National Park Service has, of course, the national perspective and a long-standing expertise in historic preservation. The Advisory Council on Historic Preservation brings together an array of Federal land managing agencies and some of our key citizen partners, and, of course, the States deliver the program on the ground in the communities. As one of the stateside partners, I am here to attest to the success of this program and to urge its reauthorization.

In the Commonwealth of Pennsylvania, this success is demonstrated both by the numbers of historic properties preserved for new uses and by the less tangible value of a heritage that is saved for the next generation. But first, let us look at some of these numbers. We have over 3,000 properties listed in the National Register, and interest in the program is still growing. Our survey files of historic buildings and archeological sites contain over 150,000 records, and armed with this rich historic database, communities are initiating hundreds of mainstream programs in Pennsylvania. They have established over 80 local historic districts, and they are using it in tourist promotion. Housing, hotel and other commercial developers are taking advantage of the investment tax credit for historic preservation, and at the commission we are proud to report over \$1.7 billion in rehabilitation investment in Pennsylvania, where we are the national leaders.

Thanks to the farsighted funding formula and the framework of the National Historic Preservation Act, historic preservation programs have been woven into the fabric of every State. Now, these programs have the advantage of both being comparable State to State and tailored to the needs of each State's governance. My Governor, Tom Ridge, has supported generously our history programs. We have a bricks and mortar State grant program that assists hundreds of National Register buildings. We have a treasure trove of historic site information that supports, for example, our innovative heritage park program that is based on our industrial heritage in Pennsylvania. And I have actually brought several copies of our most recent publication. This is on the coal industry in Pennsylvania, and this history research is used as a baseline, as a context for National Register nominations, for heritage planning, for interpretation, for trails of history, for driving tours, and for historic site development.

But, while the Commonwealth programs are strong and diverse, Pennsylvania needs the funding, and we need the Federal support of a reauthorized National Historic Preservation Act. It is critical so that we can assist Federal agencies in fulfilling their mandates when they plan and develop projects in our borders; it is critical to providing a consistent baseline for history initiatives; and most importantly, to connect us to the larger story of our Nation. Thank you very much.

Mr. HEFLEY. [presiding] Thank you.

[The prepared statement of Ms. Barrett may be found at end of hearing.]

Mr. HEFLEY. Questions?

Mr. FALEOMAVAEGA. One quick question, Mr. Chairman, I would like to ask Mr. Wise.

I notice in your statement that you are recommending that the Secretary's authority be terminated, or rescinded, in terms of the transfer of property. Can you elaborate a little further on that, Mr. Wise?

Mr. WISE. Which section are you referring to?

Mr. FALEOMAVAEGA. You are recommending in your conclusions that the secretarial authority be rescinded on the transfer of property. I think you have that number 4 in your recommendation. I wasn't quite clear on that.

Mr. WISE. I am going to ask Mr. Hertfelder to speak on that, if I may.

Mr. FALEOMAVAEGA. Oh, sure, by all means.

Now, is there a suggestion that under the current law, the Secretary's authority is not used wisely, or is there some problems that we are having with the Secretary of the Interior doing his job according to the law?

Mr. HERTFELDER. I think we have found that it is generally not used, because in a sense it is duplicated by the section 106 procedures. Whenever the accessing of a Federal building, the transfer of Federal properties is, in fact, an undertaking under the law, and therefore it is subject to Advisory Council review. The Secretary of the Interior is a statutory member of the Council, and so that review takes place under 106. It was our feeling that to have another whole separate review process would be duplicative, and, in fact, it has not been implemented.

Mr. FALEOMAVAEGA. And if not by the Secretary, then how are you suggesting, that the Council make the final decision for the State Council of Historic Preservation?

Mr. HERTFELDER. I believe our suggestion is that since existing law creates a review which is duplicated by 106, that deleting it would have no effect, because—

Mr. FALEOMAVAEGA. But what is your preference?

Mr. HERTFELDER. Our preference is to have it under section 106, because there is wider public and agency involvement in that review than just having one Cabinet officer do a review of all Federal property transfer.

Mr. FALEOMAVAEGA. The officer being the? Which is the reviewing body that you are suggesting being the final arbiter of the transfer of property? You are saying that we eliminate the Secretary's authority. Who are you suggesting that we ought to give this authority to then?

Mr. HERTFELDER. Well, we are not suggesting transferring the existing authority anywhere else. Our suggestion is that this can be deleted, because the Advisory Council, in section 106 review, duplicates that process.

Mr. FALEOMAVAEGA. Your feelings are the Advisory Council should be the one doing it?

Mr. HERTFELDER. Yes.

Mr. FALEOMAVAEGA. Okay. Thank you, Mr. Chairman.

Mr. HEFLEY. Mr. Gibbons.

Mr. GIBBONS. Mr. Hertfelder, could you describe the process for me by which properties are nominated to the National Register of Historic Places, and also, is there a difference for landmark status and historic district status?

Mr. HERTFELDER. Right. Each of the States can further describe the details, but in general, the State Historic Preservation Officers receive suggestions for properties which should be nominated to the National Register from communities, from individuals, individual homeowners, from businesses who want to take advantage of the Federal tax credits and so forth. There are procedures involved, standards to be met in terms of documentation, so if someone wants to proceed with a nomination, they prepare a nomination according to the National Register, National Park Service's stand-

ards. Then that nomination is submitted to the State Historic Preservation Office, or, if a local government has assumed responsibility under the Act, to the local government, or to a tribal government if they have assumed responsibility under the Act. But anyway, the State Historic Preservation Office then reviews the nomination.

Before any action is taken to decide whether it is eligible or not, the property owners in the affected area are notified if it is a district, or an individual owner if it is an individual, and given an opportunity to object. Then the State Historic Preservation Review Board—I am sorry, the State National Register Review Board, which consists of various professionals appointed and qualified to comment on various aspects of history and archeology, review the nomination and decide whether it meets the National Register criteria. If it does, then it is forwarded through the National Park Service, and then the Park Service has to review it again to decide whether or not it is eligible for the Register.

In the case of owner notifications, if an individual owner objects to the nomination, the nomination—it may not be entered on the National Register. In terms of districts, if a majority of the owners object, it may not be entered on the National Register.

Mr. GIBBONS. I guess for each of the States here that are represented, does that mesh with your own State procedures?

Mr. WISE. Yes, it does, and we have a policy in Virginia; we do not ram things down property owners' throats, and we very much—are very concerned about what property owners want to do, and we track exactly what he is saying.

Mr. GIBBONS. So a private property owner would be given an opportunity to opt out of the system without any further incidents if he were just a single property owner within that group, or a historic place rather than a historic district?

Mr. WISE. Correct.

Mr. GIBBONS. Because if he is only a minority in a historic district, then it is the district that has the choice of selection and not a single property owner; is that correct?

Mr. WISE. If a single property owner objects, that is the end of it, as far as we are concerned.

Mr. GIBBONS. Would that take place in a district?

Mr. WISE. No, in a district, it is majority rules.

Mr. GIBBONS. If it is a single property owner, if he objects, he is off the list, no further recourse, no further action.

Mr. WISE. Well, I believe it came up earlier, Mr. Stanton was asked the question of whether the Secretary can still say that something is eligible, and yes. I think there was some confusion there because the Secretary could say that a property is eligible, but he could not place it on the Register.

Mr. GIBBONS. Okay.

Mr. WISE. And the eligibility determination is just an objective. It is a statement that this doesn't meet the criteria for nomination, but that is different from actually putting it on the Register.

Mr. GIBBONS. Now, let me find out, if the originating recommendation does not come from the property owner, how is a property owner notified?

Mr. WISE. Well, in Virginia we take care of that by working with the property owner up front.

Mr. GIBBONS. How is that? How do you do that? What is the process?

Mr. WISE. Well, we have field offices in Virginia, and if somebody came to us who was a third party and said, we want to put something on the Register, and then we would immediately go to the property owner and say, is this of interest to you? Do you want to do this? And if the property owner said no, well, we would not proceed.

Mr. GIBBONS. Maybe I should allow the other States, Wyoming and Pennsylvania, to add to this as well.

Mr. KECK. We do it much the same. If I can give you a couple of specific instances that may help clarify the situation, recently in the community of Cheyenne, there was a Lakeview Historic District created, which was a residential area encompassing about 50-odd houses, some of which were contributing, some of which were not. What we did was we worked with the local planning office, found out the names and addresses of all of the property owners within that proposed district, sent them a formal letter informing them of the pending nomination that had been created by our certified local government or local historic preservation board, and notified them of the status of that. Then we sent them a letter saying, do you want—that basically said, do you want to be part of this, do you want this to go ahead or not; and took a vote. And over—I can't give you the numbers, but over 50 percent said, yes, they did want to be a part of it. So we then at that point proceeded.

We also held a public meeting, at which point we offered an opportunity for all of those local residents to come, ask questions, have their concerns addressed as far as what it meant. So within that district allocation, we took the steps of, one, notifying them of the pending nomination so that they were aware of it and had some people to contact, word of mouth. They would have known about it, but would have been lost in the bureaucracy. But we also then took the step of doing a formal vote of those people who were property owners and then took a public hearing so that they had a chance to have their voices heard and any interest expressed.

One side issue that sometimes causes confusion is in the area of if you have a single property owner, if I had a piece of property that was historic, and I said, I do not want it listed, I have the authority to do that. The distinction that sometimes gets confusing or where it causes problems in Wyoming is that if you have a public entity that is the sole owner of a property, because they are an owner as a public entity, that a member of the public can go ahead and have that building listed on the National Register. An example would be the local high school in Pine Bliss, Wyoming, a small school, where the school board did not want the property listed, but the people of the community did. So, because it was a public building, the property was listed over the objections of the school board. So that would be an example of how there are some where you could say a sole-source owner could be overridden. But in the case where the owner is a private party, no, I am unfamiliar with any situations that would allow that to be overridden.

Mr. HEFLEY. Some States are more aggressive than others about historic preservation. I am reminded of the instance in Houston where the Houston Mission Control needed to upgrade and was held up for years because of preservation concerns.

Do you have mechanisms by which you say enough is enough and you photograph, document, and move on to the use that it is intended for? Anyone who wants to respond.

Ms. BARRETT. I think that is an important role that the Advisory Council plays. I think the—in a large and complex project, having the Advisory Council and the Federal agency who is involved, in that case NASA, you know, working directly on the issue is extremely important, and the Advisory Council regulations have very clear time frames for response to a party. When you have a large and complex project, this can take, you know, months of time to have public meetings and to get the input from all the different parties. But at some point, the Federal agency who is really in charge of the process and really sets the pace, the Advisory Council and the State Historic Preservation Office do have to come to some kind of resolution on the issue. My experience has been that it is usually hammered out, there is a good negotiation, and there is a solution, and in many cases that solution is documentation and demolition.

Mr. HEFLEY. Do any of these cases end up in court?

Ms. BARRETT. Very few.

Mr. KECK. One of the problems that ensues, too, a lot of times before it can go to the Advisory Council, the State Historic Preservation Office and the Federal agency can spend a great deal of time and discussion, and neither of them—both of them are wanting to, before it goes to that final arbiter of the Advisory Council, are wanting to work it out, and that can take extended periods of time. That is not the fault of the Act, that is a responsibility that we, the States, need to take on, and it is one that has caused problems between my office and the National Park Service, and one that we are working to get rid of, because we have made the decision that we want to establish internally at what point we are in a point of disagreement so that we can agree that we disagree and allow it to move forward; because it is too easy for the bureaucracy to allow something to continue to be debated and looked at when we are both in agreement that we mutually have looked at it every which way we can, we just can't come to a common agreement. So we are trying to set up a framework by which that can happen, where it can move on and be established within a time frame. So that those mechanisms do exist, it just takes the action of kicking it into those mechanisms that has to transpire.

Mr. HERTFELDER. Mr. Hefley, if I could add a footnote to your NASA example, as is the case with all highly technical or military resources, they have to be upgraded all the time to maintain their usefulness, so when Mission Control was proposed for demolition to have a new Mission Control for the space shuttle and so forth, I don't think anybody was saying that you can't do that. But as a result of the consultations between the Texas SHPO and the Council and NASA over the fate of that room which controlled the Apollo 13 moon landing, the equipment was stripped out and saved, as opposed to being demolished and thrown away.

I was informed recently by an article in the Texas SHPO newsletter that partially as a result of the Tom Hanks film *Apollo 13*, there has been a renewed interest in the landing on the moon, and visitation at the center in Texas is up, and I believe with the help of the Disney Company, they are now recreating that room for visitors, and because they have the equipment which they stored as opposed to getting rid of it, they are going to be able to reinstall those consoles in that strange green color that they used back then and all of those blinking lights and so forth. So there was a happier ending at least for the equipment than is often the case with historic properties.

Mr. HEFLEY. I thought that was probably a good solution, although it took so long.

Virginia had an eligibility dispute at Brandy Station Battlefield. What was the outcome of that dispute? Has it resulted in any change in how nominations are handled?

Mr. KECK. Yes, very much so. That was actually a little before my time when I came into office, but I think the sensitivity that we have today to the wishes of property owners is traceable to that event, which was a case where the SHPO's office, essentially on its own, decided to register Brandy Station Battlefield; and it was an extraordinary case, because the battle took place over some 14,000 acres, as I recall. It was the largest cavalry battle ever fought in the Western Hemisphere, 10,000 mounted men as a prelude to Gettysburg.

When it is a cavalry battle, it is like a tank battle. There is a lot of motion and people cover a lot of ground; and you can imagine, it is rural property, and the property owners are very upset about that.

The proper groundwork wasn't done in explaining what registration meant and what it didn't mean, as we heard. Registration of property does not bind property owners, and so anyway, there was a political backlash in Virginia. And our philosophy today is to work with the property owners up front; if they don't want it, leave it alone.

Mr. HEFLEY. I want to thank this panel. I would say to you, like I did to the former panel, if you have additional specific suggestions about how this piece of legislation should be amended, we would very much appreciate getting them; and we appreciate your expertise working on the front lines of this effort. Thank you very much.

The next panel, Richard Nettler, Edward Norton, Jack Williams.

STATEMENT OF RICHARD NETTLER, CHAIRMAN OF THE BOARD, PRESERVATION ACTION

Mr. HEFLEY. I would give the admonition that the Chairman did that we would like to be through by noon, if possible, and if you can keep your statements as brief as possible and still get the message in, we would appreciate it; and at the same time, any statements you have for the record will be put into the record.

Mr. NETTLER. Mr. Chairman, members of the Subcommittee, my name is Richard Nettler. I am Chairman of the Board of Preservation Action. Preservation Action takes great pleasure in testifying before the Subcommittee on National Parks, Forests and Lands of

the House Resources Committee, and as we have many times before, actively working for appropriate amendment to the Historic Preservation Act since 1976. Our success in 1976, 1980 and 1992, as well as a reauthorization of funding every 5 years, has fashioned a unique program that is working effectively with maximum cooperation at all levels of government.

We thank you, Mr. Hefley, for the introduction of H.R. 1522 and for the discussion it has produced within the preservation community, a lot of that discussion which we are hearing this morning. Preservation Action strongly supports the reauthorization of funding for the Historic Preservation Fund at \$150 million through fiscal year 2002; and we further support the codification of Executive Order 13006, which Mr. Keck spoke about, signed last year by the President to give preference to the reuse of historic buildings in historic districts for Federal office space needs.

We see no serious problem with the current divisions of responsibilities between the National Park Service and the Advisory Council as regards the administration of section 110, but we are very disappointed in the omission of required consultation between the two agencies, which the National Park Service references to the Advisory Council, which we think should continue. This change of present law is not a constructive one. Mandatory cooperation between the Council and National Park Service is more important than who has the lead responsibility on section 110.

Preservation Action believes that the National Historic Preservation Program is not broken and, therefore, there is little need for many changes or even some small changes in its administration, other than the ones that we have just mentioned. The reauthorization of the fund, as set up in law in 1976, is essential, however, and is needed to ensure the continuation of annual appropriations for the States, certified local governments, and the tribes.

Since its inception in 1965, the Historic Preservation Act, as amended, has become one of the finest examples of federalism that exists in government today. You have heard a lot of that from some of the State historic preservation officers who spoke. While the following description is an understatement of agencies' responsibilities in preserving cultural resources, the National Park Service program takes a leading role in listing qualified properties on the National Register, providing technical services to assist those in how to maintain those properties, and developing standards and criteria. The Advisory Council reports to the President and administers the review of proposed Federal projects that receive Federal funds.

The Park Service and Advisory Council are ably assisted by each State Historic Preservation Office which handles a workload associated with National Register designation as well as determining the historic structures that should be taken into account in the section 106 review. This is done usually in a minimum of time, ensuring that reviews and determinations are not exacerbating experiences, creating costly delays for private citizens, local governments or Federal agencies.

The "new kids on the block" in preservation are the certified local governments—2,000, I believe, at this time—which are mentored by the States in preparation for their supporting responsibilities.

Whereas National Register designation is honorific and makes no requirement upon an owner, as has also been discussed, locally designated properties are subjected to the provisions of an ordinance as passed at the local level. The local government can become a partner to the States if it meets the qualifications in the Historic Preservation Act for certification.

In short, historic preservation law has spawned a great program that works amazingly well throughout the Federal, State and local government system.

Preservation Action, founded in 1973, is the only national organization dedicated solely to grass-roots lobbying for historic preservation and neighborhood conservation. We have taken leadership roles in advocacy between the Historic Preservation Act and the Department of the Interior, including the enactment of tax incentives and the authorization of ISTEA enhancements. We have watched historic preservation issues come onto the screens of many other Federal agencies, such as the Departments of Transportation, Housing and Urban Development, the Treasury, the Department of Agriculture, the General Services Administration, and the Department of Defense.

In the latter, we see the fates of preservation and the military coming together as the Department of Defense and the services confront the maintenance of historic military quarters and buildings in a fiscal environment of declining budgets. We know you are keenly aware of this problem, Mr. Hefley, in your responsibility as Chair of the Subcommittee on Military Installations and Facilities of the Committee on National Security.

The coming together of preservation and military housing appeared on the scene a year ago. In fiscal year 1997, military construction appropriations, the services were directed to review their inventories of historic quarters and to report to Congress on their plans to remove all but the most historically significant from the National Register of Historic Places. Language in the report noted erroneously that work on homes must receive approval from the various historic preservation boards. Language further required the reports to note what statutory impediments are being encountered in implementing such plans, i.e. those to remove properties from the National Register.

Efforts to change this language last year were successful only in requiring consultation with the Advisory Council on the reports and made no attempt to clarify erroneous information about the National Register and the role of the Advisory Council. Much of that clarification you have heard this morning.

The reports from the services were forwarded to Congress in April, and we were pleased that both the Army and the Navy stated that their historic quarters were not a significant drain on their resources and that effective management was the answer to the military housing problem.

In fiscal year 1998, military construction appropriations language was again included, also attacking the National Register. The false notion that maintenance of historic military housing is more expensive has never been substantiated. There is no required treatment for historic housing, no mandates for a preservation outcome, and in fact, there is an economic value to these structures

simply because they are historic. Indeed, over the last year, the Army has been working closely with the Advisory Council and other historic preservation groups to fashion its own regulations dealing with its historic properties, and also looking at ways in which it can privatize many of those properties in a way that will take the heat off of the agencies in terms of budgeting funds.

I have taken up a few minutes to give some background on historic buildings in the military because we believe there are solutions. These solutions, however, will only come to fruition if there is a strong, efficient National Register and an expeditious system of Advisory Council review of Federal actions that is not beset with costly delays and decision-making.

On the Defense Department front, we have watched the privatization initiative with interest, but note it is very slow moving. Our interest in finding answers that work for both preservation and the military is advancing as Preservation Action is currently setting up a meeting to bring our experiences with private developers and capital, in a successful revitalization of commercial historic rehab using tax credits, to the table to assist Department of Defense and its services in finding creative answers to the maintenance of their historic buildings. This could be a precedent, in fact, for other agencies; and we have discussed this also with the General Services Administration.

In closing, Preservation Action most strongly supports the needed reauthorization of funds for the States, certified local governments and tribes. It is critical to maintain a strong and adequately funded program at the Federal level to ensure that all Federal agencies and the private sector perceive the historic preservation program and its designation and review process as a cost-effective guide to the creative use of historic structures for 20th century purposes. Section 110 is the critical tool needed to correct erroneous agency and departmental notions about the workings of the historic preservation programs and to assist Federal agencies in the protection and maintenance of the historic building inventory. A clear understanding of historic preservation will open new avenues for agencies to involve public-private partnerships to assist in meeting their preservation responsibilities.

We have taken a more limited approach in our testimony today on H.R. 1522 in the interest of illustrating how the work of this Committee impacts many other committees of Congress and agencies of Federal Government; and we are pleased to comment before you today and make ourselves available, as well as others, to answer questions.

Thank you very much.

[The prepared statement of Mr. Nettler may be found at end of hearing.]

STATEMENT OF EDWARD M. NORTON, VICE PRESIDENT—LAW AND PUBLIC POLICY, NATIONAL TRUST FOR HISTORIC PRESERVATION

Mr. NORTON. Thank you, Congressman Hefley, and thank you very much for the opportunity to testify here today.

I would like to begin by expressing the National Trust's appreciation for your introduction of this legislation for reauthorization of

the Historic Preservation Fund, and also to express our appreciation for the process that you have engaged in in this reauthorization. We have appreciated very much the opportunity to meet with you personally and work with you and your staff over the last 6 months in developing this legislation; and we think it has been a very productive process, and we thank you for that.

I will submit my testimony for the record and be very brief.

I would like to begin on a personal note and say that I just returned from New Mexico where the National Trust for Historic Preservation held its annual conference, a gathering, a rally, a rendezvous, if you will, of more than almost 2,000 preservations from all over the country, representing all segments of the preservation partnership that have been discussed here today. I must say that I was impressed with the vibrancy and the energy and the grassroots support at the local level. It really made you feel and taste what historic preservation does on the ground in communities.

The other aspect of that that was particularly noticeable—to me, at least—was the importance of this preservation partnership that you have heard referred to several times today, in particular, the role of the States and local government and State and local private organizations in that partnership. I think, after listening to the testimony today, that actually the State historic preservation officers have been modest in their statement of really the role that they perform under that—in that Federal, State and local partnership.

We strongly support the reauthorization of the Historic Preservation Fund. The States, of course, receive the bulk of the funding from the Historic Preservation Fund, and we think that that is exactly as it should be.

You noted in your opening statement that the National Trust is moving to support from the private sector. Historically, we have received, as you know, an appropriation from the Historic Preservation Fund that reached almost \$7 million in the early 1990s and then in 1996, 1997 and 1998 has been reduced to \$3.5 million, and after 1998 we will no longer receive an appropriation. We have supported that. But we do not support reductions in the appropriations for the Historic Preservation Fund, and we would urge this Committee, as the authorizing Committee and the Committee of primary jurisdiction, in its development of report language dealing with the reauthorization, to emphasize the important role that the State historic preservation offices and the tribes play, and that the funding that has, over time and historically, been received by the National Trust, should not be lost to the Historic Preservation Fund, but should, in fact, go to the States and the tribes and the other preservation partners, which will play an increasingly important role.

You have heard a number of the activities referred to here today about the States' role in the implementation of the Federal-State partnership, and as historic preservation builds in its successes, that role will not diminish. And the fact is, it will increase, and we think it is an enormously productive use of Federal resources to support the State and tribal element of the Federal-State partnership; and we would urge that that continue and it continue at at least the same level.

I would also like to comment very briefly—when you mentioned it in your opening statement, that the National Trust will no longer receive an appropriation from the Historic Preservation Fund, and that is a result which we support and we have worked very carefully to achieve with members of the Appropriations Committee—the legislation that we are discussing today, H.R. 1522, actually amends the Historic Preservation Act to remove the National Trust authorization to receive any funds.

I would point out that there have been other circumstances, other than the general appropriation from the historic preservation fund, that we have received appropriations, such as for disaster relief; and simply eliminating our entire authority to receive any appropriation may have unintended and unfortunate consequences, and we would ask, as we have in the past, that that be looked at.

I think that the other major topics have been covered. We worked very closely with the General Services Administration on the implementation of the executive order. The fact that we support the provision in your legislation which codifies the executive order should not reflect a lack of confidence in our authority and Mr. Peck, the Administrator of GSA, but we do think that that does give a very important and additive incremental emphasis on the executive order and will help people at the State and local level who are trying to ensure that that executive order is, in fact, being carried out. We would strongly endorse and support the codification of the executive order in your legislation.

Finally, I think since we met with you, Congressman Hefley, a number of developments have occurred with respect to the implementation of section 110. The National Park Service is now finalizing its guidelines, and we think that the removal of the 110 function from the general jurisdiction of the National Park Service is probably not a wise step to take at this time. Thus, I agree with what you said in your remarks that what we should do here is—with the additions that I have mentioned, we should simply go ahead and reauthorize the Historic Preservation Fund.

Thank you very much.

[The prepared statement of Mr. Norton may be found at end of hearing.]

**STATEMENT OF JACK WILLIAMS, AIA, PRESIDENT-ELECT,
NATIONAL ALLIANCE OF PRESERVATION COMMISSIONS**

Mr. WILLIAMS. Mr. Chairman, I would like to thank James Hansen, Chairman of the Subcommittee, for the opportunity to testify on H.R. 1522 to extend authorization of the National Historic Preservation Fund.

My name is John Williams. I am an architect in private practice in Seattle where I have a partnership with Robert Hoshide. I also serve on two historic preservation commissions—one in Oysterville, Washington, the Oysterville Design Review Board; and the second in Seattle, Washington, the Pike Place Market Historical Commission. Because of these activities, I was elected to the National Alliance of Preservation Commissions where I serve as chairman of its board of directors. It is from these two vantage points that I wish to describe my view of the value of the National Historic Preservation Fund.

The National Alliance of Preservation Commissions is a nonprofit organization committed to serving historic commissions created by city or county ordinances. We serve over 2,000 commissions that work at the local level. Each year, 10,000 citizens from our communities volunteer their time as public servants. They do so because preservation not only protects our culture's historic resources; it creates jobs, it saves neighborhoods, and it fosters pride in our communities.

Commonly, historic preservation commissions identify historic resources, nominate them to local registers, and enact protective measures to preserve our heritage; and in addition, these boards create educational programs and stimulate private investments.

As commissions, we can honor many of our responsibilities, but we cannot do it alone. We are dependent upon our preservation partners. They must be adequately funded for our commissions to be able to act effectively. For example, over 80 percent of our commissions seek assistance from their State Historic Preservation Office, and 50 percent receive help from the National Trust for Historic Preservation, whereas 25 percent are helped directly by the National Park Service. All of these receive funds through the National Historic Preservation Fund.

It is, however, the certified local government program which provides an explicit line of support to commissions. The National Historic Preservation Fund provides technical assistance as well as small, matching funds for planning and restoration. Over 1,000 communities voluntarily participate in this event.

Through my participation in the National Alliance of Preservation Commissions, I have seen the value of preservation partnerships. In the State of Washington, we have training funded by CLG grants; and in a similar fashion, in the State of Missouri, I was a participant in training, as well, of handbook production. This program is government at its best. It is an effective, cooperative program which we sponsored at the Federal level and enacted and controlled at the local level.

Finally, it is from Oysterville that I come, and its local government cannot participate in the CLG program. However, we still benefit by forming partnerships with organizations sponsored by the National Historic Preservation Fund. We were able to secure consultant assistance to create new guidelines only through the abilities of our preservation partners, notably the National Trust, who provided funding through grant programs; SHPOs, who provided advice and guidance in the person of Kay Austin, our CLG coordinator and preservation planner; and finally from the National Park Service. Funding for our effort and for our preservation partners comes from the National Historic Preservation Fund.

Because of my vantage point as a preservationist doing commission work at the local level, the local level of government, I understand my dependence on our partners at the State office and at the National level. I know that their ability to assist me in the work that I and my 10,000 fellow commissioners do comes through the financial support of the National Historic Preservation Fund. The partnership works, it is effective and efficient. I urge extension of the authorization of the National Historic Preservation Fund, and I thank you for allowing me to testify.

Mr. HEFLEY. I thank all of you. Questions?

Mr. FALEOMAVAEGA. I want to thank the gentlemen for their testimony, Mr. Chairman.

At least we can come to one basic conclusion in our hearing this morning. There is consensus about requesting reauthorization of the current law. Procedurally, some of the suggestions that were offered by Mr. Hefley in his bill are something that we need to work on a little better.

I would like to ask Mr. Nettler to comment on the provisions of the bill, as he had noted in his statement, if that would be all right, to submit for the record.

Mr. NETTLER. Yes, I will.

[The information may be found at end of hearing.]

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Thank you, gentlemen.

Mr. HEFLEY. Thank you. What has been the working relationship of the National Park Service? Has that worked well?

Mr. NORTON. Well, Congressman Hefley, from the perspective of the National Trust, it has worked I would say very well, extremely well, on a number of different fronts, both the historic preservation, the National Historic Preservation Act and generally relating to our national parks. As you probably know, of the 374 units of the national park system, I think, of those, 216 or 220 of them were created for their historic values. So the national trusts work with the National Park Service on a number of problems relating to the national parks and, specifically, the historic resources in the parks; and also with respect to the implementation of the National Historic Preservation Act, the National Park Service and Department of Interior's responsibility under section 4(f) of the Transportation Act. We found that relationship to be extremely positive in every respect.

Mr. HEFLEY. Let me ask our representative from the AIA here perhaps, what is your professional appraisal of the preservation movement industry today? Is there an industry? We heard earlier that there are more plasterers and so forth than there have ever been.

In other words, I guess what I am getting at, do we need something like the National Center for Preservation Technology in Louisiana, or is private industry taking care of those kinds of things?

Mr. WILLIAMS. I think that, for the most part, preservation succeeds where partnerships are active. I think that we do need the center in Louisiana. I would also like to say in regards to Mr. Hansen's concerns about whether or not there are plasterers available and there are painters available, there are fine mechanics and tradesmen who can produce any work of plaster that we see around us today. I have never failed in a preservation effort at the mechanics level. There are people there that can do the job; that is not a concern.

I think also one of the things that is noteworthy about preservation construction is that it keeps construction dollars local. I think alluded to today was the fact that many more of the construction dollars go into the laborers' hands, as opposed to the suppliers' hands; and classically, laborers are local. So I think it is a fitting partnership as it exists now.

Mr. FALEOMAVAEGA. Mr. Chairman, if I could, I would like to ask members of the panel, it was noted earlier—in earlier testimony; I think it was by Director Stanton. Do you agree that a 4- or 5-year period for the approval process of an historic site is a reasonable time period for the process to function? To me, it seems inordinately long; it takes quite a while to approve the process.

Do you think a 4- or 5-year period is too long, or is it just right? Is that the usual time schedule? Are there a lot of bureaucratic problems involved here, or do you think that the way it is now it is functioning pretty well?

Mr. NETTLER. Well, let me comment first. I think there were a number of different processes that were discussed, both the process in terms of approving national landmark designations or designations to the National Register, the process of working with the States, the process of drafting regulations, which I think was the one that we were talking about in terms of a 4- or 5-year process, and the process of reviewing applications for tax credits as well.

I think the process in terms of tax credits, in terms of applications to the National Register, is probably a time frame that is—that works very well, and it serves both the interests of those who are seeking the credits, which are generally the property owners and the developers, and those who are seeking to preserve, which may be the States, and ensuring that there is adequate participation by property owners and those who are otherwise affected.

The process in terms of adopting regulations, which I think is probably closer to the 4- or 5-year situation, is not a process that serves the interest of the community or those who are affected by those regulations. I think it is important that the regulatory process be one that works much, much faster than that, recognizing the fact that those regulations affect a wide variety of people in all of our States and there need to be comments received from both the industry, those who are affected in the communities, and the State and local governments. But I do think that 4 or 5 years is simply too long a process.

Mr. FALEOMAVAEGA. Mr. Norton, is that pretty much in your—

Mr. NORTON. I think we would defer, Congressman, to people who have much more experience on the ground. I think that there are—my general observation, which is, I think, from a fairly elevated or rarified level, is that there are probably some projects that get caught up and take too long, but there are many, many others that get resolved in an orderly and expeditious way; and sometimes I think—I don't think it is irrelevant or inappropriate to look at where the process goes awry, but on the other hand, I think that we should be careful not to overreact to those circumstances in which it does go awry. I don't think we want to—I think if there are problems, we should be careful to fine-tune it, rather than take draconian measures to change it.

Mr. FALEOMAVAEGA. Mr. Williams?

Mr. WILLIAMS. I will defer to Mr. Nettler. This is really a little bit beyond my area of expertise.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Mr. HEFLEY. You know, at the outset, I said that we have a good program and I think the testimony has exemplified that today; I think everybody agrees that we have a pretty good program. If

there are ways that we can improve this program, now would be the time to do it, and so again, any specific suggestions you might have we would like to have that.

This, in no way, I think, should be a controversial bill. There are no particular politics in this—no Democrat, no Republican, really no liberal-conservative philosophical differences. I think we have seen today that we are all headed toward the same goal. So we will work together, we will work with your side to try to see that you are comfortable with it and that we are comfortable with it, and I think we can come up with something we will all be proud of.

Mr. FALCOMA. I want to say to the gentleman, the sponsor of the bill, that I think the intentions are significant in the fact that we just want to fine-tune the current Act, and hopefully there are areas, with your recommendations—and we have heard both from the community and from the appropriate Federal agencies—where we can work together and see if we can make improvements on the current Act.

So I thank the gentleman and I thank our friends who have testified this morning.

Mr. HEFLEY. Thank you very much for being with us.

The Committee stands adjourned.

[Whereupon, at 12:00 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

105TH CONGRESS
1ST SESSION

H. R. 1522

To extend the authorization for the National Historic Preservation Fund,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 1997

Mr. HEFLEY introduced the following bill; which was referred to the
Committee on Resources

A BILL

To extend the authorization for the National Historic
Preservation Fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENT OF HISTORIC PRESERVATION**
4 **ACT.**

5 The National Historic Preservation Act (16 U.S.C.
6 470 and following; Public Law 89-665) is amended as fol-
7 lows:

8 (1) By adding the following new sentence at the
9 end of section 101(a)(1)(B): "Any National Historic
10 Landmark Districts for which the Secretary has not

1 published boundaries in the Federal Register by
2 January 1, 2007, shall be removed from the Na-
3 tional Register of Historic Places.”

4 (2) By striking the third sentence of section
5 101(a)(6).

6 (3) Section 101(e)(2) is repealed.

7 (4) Section 101(g) is amended to read as fol-
8 lows:

9 “(g) The Advisory Council on Historic Preservation
10 shall promulgate guidelines for Federal agency respon-
11 sibilities under section 110 of this title.”.

12 (5) Section 103 is amended by adding the fol-
13 lowing new subsection:

14 “(e) The State shall be solely responsible for deter-
15 mining which professional employees (in accordance with
16 section 112), are necessary to carry out the duties of the
17 State.”.

18 (6) Section 107 is repealed.

19 (7) Section 108 is amended by striking “1997”
20 and inserting “2002”.

21 (8) Section 110(a)(1) is amended by inserting
22 the following before the period at the end of the sec-
23 ond sentence: “, especially those located in central
24 business areas. When locating Federal facilities,
25 Federal agencies shall give first consideration to his-

1 toric properties in historic districts. If no such prop-
2 erty is suitable, then Federal agencies shall consider
3 other developed or undeveloped sites within historic
4 districts. Federal agencies shall then consider his-
5 toric properties outside of historic districts, if no
6 suitable site within a district exists. Any rehabilita-
7 tion or construction that is undertaken pursuant to
8 this Act must be architecturally compatible with the
9 character of the surrounding historic district or
10 properties.”.

11 (9) Section 110(b) is amended by inserting a
12 period after the phrase “appropriate agency” and
13 striking the remainder of the subsection.

14 (10) Section 110(e) is repealed.

15 (11) Subsection (h) of section 110 is amended
16 by striking “The Secretary” and inserting “The
17 Council” and by redesignating such subsection as
18 section 215.

19 (12) Subsection (j) of section 110 is amended
20 by striking “The Secretary” and inserting “The
21 Council” and redesignating such subsection as sec-
22 tion 216.

23 (13) Title II is amended by adding the follow-
24 ing new section after section 216:

1 **"SEC. 217. DISPUTE RESOLUTION.**

2 "Whenever a disagreement arises between two or
3 more Federal agencies, or between a State or political sub-
4 division thereof and one or more Federal agencies, or be-
5 tween a project applicant and any level of government con-
6 cerning an undertaking, and such disagreement is referred
7 to the Council by one or more of the parties involved in
8 that disagreement, the Council is authorized to take ap-
9 propriate action to resolve such disagreement."

10 (15) Paragraph (7) of section 301 is amended
11 by inserting "with potential to affect historic re-
12 sources" immediately after the word "program".

○

STATEMENT OF ROBERT L. STANTON, DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS, HOUSE COMMITTEE ON RESOURCES, CONCERNING H.R. 1522, A BILL TO EXTEND THE AUTHORIZATION FOR THE HISTORIC PRESERVATION FUND, AND FOR OTHER PURPOSES.

October 21, 1997

Mr. Chairman, thank you for the opportunity to offer the Department of the Interior's views on H.R. 1522, a bill to extend authorization for the Historic Preservation Fund, and for other purposes.

We strongly support the reauthorization of the Historic Preservation Fund. However, we strongly oppose the amendments to the Historic Preservation Act enumerated in H.R. 1522.

The Historic Preservation Fund, established by Section 108 of the National Historic Preservation Act, is the authority under which Congress appropriates matching grant funds to States, tribes, local governments, and the National Trust for Historic Preservation to carry out activities under the national historic preservation program. The Historic Preservation Fund grant program supports the identification and protection by our citizens of the Nation's irreplaceable historic and archeological resources for future generations of Americans. The Historic Preservation Fund grant program is highly cost-effective, and remains the cornerstone of the Federal-Tribal-State-local-private partnership in historic preservation. The Historic Preservation Fund grant program has had strong bipartisan support and has been reauthorized three times since its creation in 1976.

Reauthorization of the Historic Preservation Fund has no direct budgetary impact in that outlays occur solely through the appropriation process. The annual cost of the Historic Preservation Fund grant program to each American citizen is 12 cents a year. It is a good value for all of us.

With regard to other elements of the bill, when taken together, amendments 4, 9, 10, 11, and 12 remove the Office of the Secretary of the Interior from its role as the Nation's leader and coordinator of historic preservation policy for Federal agencies, as prescribed by Section 110 of the National Historic Preservation Act. The Department (acting through the National Park Service) as the nation's principal conservation agency, has unique authority and expertise in fostering sound use of our land and the preservation of our nation's historic places. The National Park Service is singular among Federal agencies (including the Advisory Council on Historic Preservation) in its ability to set state-of-the-art performance standards in historic preservation and to assist other agencies. This should not be changed and we recommend that these amendments be deleted.

Amendment 13 of H.R. 1522 gives the Advisory Council on Historic Preservation authority "to take appropriate action to resolve" historic preservation disagreements and thereby changes the Council's "advisory" role from a mediator to an arbitrator with final authority over every Federal undertaking affecting historic and archeological resources. As then Assistant Secretary for Fish and Wildlife and Parks George Frampton pointed out in his May 22, 1996, letter to the Congress, such a change in the Advisory Council's authority has the potential to interfere with the primary missions of Federal agencies and, according to a Department of Justice statement, would violate the Appointments Clause of the Constitution. The Department of the Interior remains opposed to this provision, and

recommends that it be deleted.

Amendment 15 changes the definition of “undertaking” from “a project, activity or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency” to “a project, activity or program with potential to affect historic resources funded in whole or in part under the direct or indirect jurisdiction of a federal agency.” The impact of this definition change is unclear, but it has, in our opinion, the potential to be interpreted to eliminate protection for a wide range of historic and archeological resources. We are therefore opposed to it and recommend its deletion.

Amendment 2 of the bill restricts the Department of the Interior’s authority (acting through the Keeper of the National Register) to assess a property’s historic significance by eliminating Determinations of Eligibility for National Register nominated properties that cannot be listed because of “owner objection.” The Secretary must not be precluded from making an unbiased and professional determination of fact about the historic significance of such properties. We therefore recommend that amendment 2 be deleted from the bill.

State Historic Preservation Offices have previously overwhelmingly rejected the idea, proposed in amendment 5 of the bill, to remove the Secretary’s authority to set professional standards for State Historic Preservation Office staff. When offered the opportunity in late 1996 as part of a Federal Register review and comment process for 36 CFR 61, no State Historic Preservation Office objected to the regulatory provision regarding professional staff that H.R. 1522 seeks to erase. We oppose this amendment as well and recommend that it be deleted.

Amendment 1 of the bill would, for National Historic Landmark districts without officially established boundaries as of the Year 2007, automatically delist the district from the National Register (and presumably dedesignate the National Historic Landmark as well). This proposal potentially creates legal exposure for the Government and property owners. In some of these districts, regardless of the final decision, both the process and results of settling boundary issues will be controversial and will inevitably entangle the Government in legal challenges over notification issues and prior benefits derived from National Historic Landmark and National Register status. Also, where tribal properties are concerned, it may be difficult to determine exact boundaries. Delisting these properties from the National Register would conflict with the Government's trust responsibility for Indian tribes; we therefore recommend that amendment 1 be deleted from H.R. 1522.

In summary, it is the Department of the Interior's position that the Historic Preservation Fund be reauthorized through the year 2002, but that no other substantive changes be made at this time to the National Historic Preservation Act.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to respond to any questions you and other members of the subcommittee may have.

STATEMENT OF ROBERT A. PECK

MR. PECK: Mr. Chairman, Mr. Faleomavaega, and Members of the Subcommittee, as Commissioner of the Public Buildings Service, I am pleased to appear before you today to support extending the authorization for the National Historic Preservation Fund and to discuss our historic preservation program in the General Services Administration.

We are proud that the President has announced his intention to designate the Administrator of the General Services Administration – Dave Barram – as a member on the Advisory Council on Historic Preservation.

Our historic preservation program has been a success because of our partnership with the National Park Service in the Department of the Interior, the Advisory Council on Historic Preservation, our client Federal agencies, and with States, local governments, Indian tribes, and the private sector.

In planning renovation, construction, and property disposal, GSA works hard to preserve the architectural, cultural, social, and historical integrity of affected buildings, neighborhoods, archeological sites, American Indian sacred sites, and other places of cultural value. Our agency is committed to a strong policy of support for the vitality of our central cities and to the preservation of our cultural heritage.

Of the 1800 buildings in our inventory, two hundred are on the National Register. We have approximately another 200 buildings that are eligible for listing. Twelve are individually listed National Historic Landmarks. We are proud of our record at GSA in stewardship of our inventory.

Let me cite a few good examples of stewardship, starting with one near and dear to my own heart. I grew up in Washington, and the D.C. Preservation League – Don't Tear It Down, as it was then called – led to the preservation of the Old Post Office Building, an 1899 neo-Romanesque structure. It was renovated, successfully preserved, and reopened in 1983. In St. Paul, Minnesota, an almost identical GSA building was rehabbed. In San Francisco, we rehabbed the U.S. Court of Appeals. If you get to San Francisco, please go see it. It is magnificent. We infilled the courtyard, with the appropriate approvals, with a very modern addition that is intriguing and compatible with the architecture.

GSA is rehabbing courthouses where we can. We are not abandoning them. Where we build new buildings, we believe we are building landmarks that people in the next century will be fighting hard to save. Every building that we build, every building that we own has to be regarded as an investment in our country, in our communities, and in our citizens.

My point, obviously, is that we have a long history of Federal government architecture. We have built a magnificent legacy for our people. I think that in partnership with local communities we can take that legacy a bit further.

Going back some 20 years, the Congress and the President enacted a law called the Public Buildings Cooperative Use Act. That law allowed "mixed uses" in Federal buildings by encouraging the location of commercial, cultural, educational, and recreational activities in the buildings. It also directed the Administrator of General Services, when acquiring, constructing, or renovating public buildings, to acquire and use space in historic buildings. What that act really did was to kick off a renaissance in GSA in stewardship of our historic buildings.

GSA's "Public Buildings Heritage Program" is designed to inform the public – through interpretive exhibits – of the history and importance of Federal public structures. We have installed interpretive exhibits – developed in cooperation with local preservation organizations – in Federal buildings across the nation. Our goal is to have interpretive information in all GSA National Register Federal buildings.

Similarly, our "Good Neighbor Program" is kicking off a new community spirit in GSA. The program emphasizes that our buildings are and should be vital components of their communities. Consistent with security concerns and the operational needs of the Federal agencies in our buildings, we can provide free or at-cost space to qualified organizations for cultural, recreational, or educational use.

The National Historic Preservation Act provides for alternative uses of historic properties. Section 111, which we strongly support, allows a historic property to be outleased, provided the lease will adequately ensure preservation of the property. Rents collected from GSA's outleased historic properties can be used exclusively for preservation of its historic buildings. We are working to identify and encourage new outleases in historic buildings which we no longer need to house Federal agencies. For example, we are soliciting offers to preserve and develop the General Post Office, also known as the Tariff Commission Building, which is a National Historic Landmark.

In accordance with Executive Order 12072, we are telling Federal agencies that our first obligation is to find them space in the central business areas of cities. Unless their mission – and, sometimes these days, their security requirements – do not allow them to go downtown, or if the economics just don't make sense at all, we will look for space in central business areas.

Executive Order 13006 -- on which we were happy to work with the National Trust for Historic Preservation -- takes that further and asks us to use space

where we can in historic districts and in individual landmark buildings. We work hard in the Public Buildings Service to make sure that we use the historic resources that are available and that what we are doing responds to local plans.

I do not believe that it is necessary to codify Executive Order 13006. I firmly believe that GSA and other Federal agencies will vigorously and effectively implement the President's directive to give first consideration to historic properties in historic districts when appropriate and feasible -- just as we have vigorously and effectively implemented the location requirements of Executive Order 12072. Executive Order 12072 consistently has been construed by the Federal courts as a Presidential directive that has the force and effect of law. I am confident that Executive Order 13006 will be similarly construed as a directive that has the force and effect of law.

Furthermore, I am concerned that section 1 of H.R. 1522 establishes a priority for historic properties without taking into consideration the requirements of the Rural Development Act (which requires agencies to give first priority to locating Federal buildings in rural areas) and the location policy in Executive Order 12072. Currently, GSA reconciles these mandates according to the mission and requirements of its client agencies. Section 2 of Executive Order 13006 provides the necessary flexibility and discretion in locating Federal facilities on historic properties. I believe that some clarification is needed to ensure the effective implementation of our historic preservation objectives together with our rural and urban location policies.

We need a partnership because we are a customer service agency. We service Federal agency clients. Sometimes to get them to go into old buildings and into downtowns, we need to convince them, as you would any firm thinking about locating in your town, that this is a good place to be. It can be done. Even in an era of very tough security requirements following the bombing of the Oklahoma City building, this can be done. Public buildings are not just places where the public business is conducted. They are a part of the nation's legacy -- a symbol to the American people in each community of our democratic form of government.

We are stewarding our properties, I believe, in an appropriate way. We are not only building for the people of the United States of America, we are reinvesting and preserving for the people of the United States of America.

This concludes my testimony, Mr. Chairman, and I would be happy to answer any questions which the Subcommittee may wish to address.

**Advisory
Council On
Historic
Preservation**

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

**STATEMENT OF
CATHRYN BUFORD SLATER
CHAIRMAN, ADVISORY COUNCIL ON HISTORIC PRESERVATION,
BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS,
COMMITTEE ON RESOURCES,
UNITED STATES HOUSE OF REPRESENTATIVES**

October 21, 1997

I am Cathryn Slater, Chairman of the Advisory Council on Historic Preservation and also Arkansas State Historic Preservation Officer. I am pleased to submit this testimony on behalf of the Council and wish to extend our appreciation to Mr. Hefley for introducing H.R. 1522 and to you, Mr. Chairman, for holding this hearing. As chief administrator of preservation programs involving both State and Federal governments, I feel uniquely qualified to address the merits of the historic preservation system established by passage of the National Historic Preservation Act (NHPA) in 1966 and the need for reauthorization of the Historic Preservation Fund (HPF) created under Section 108 of that Act. Drawing on the experience and knowledge gained from my positions in State and Federal government, I strongly and unequivocally advocate extension of the HPF authorization through the year 2002 as provided in H.R. 1522.

However, while H.R. 1522 has many provisions of merit, some amendments are highly controversial within the preservation community and their inclusion in a reauthorization bill may jeopardize or delay its passage. Because reauthorization of the HPF is the Council's primary objective, we are unable to unequivocally support H.R. 1522 as introduced. This position reflects the views of the Council's Executive Committee, as the full membership will not have the opportunity to discuss the issue until its next scheduled meeting on October 24.

The bulk of funding from the HPF, approximately \$30 million in FY 1997, goes directly to the SHPOs and is matched by States with non-Federal funds or in-kind contributions. As a SHPO I am fully cognizant of the need for these funds as a critical catalyst to generate State matching funds to support State preservation activities. From the Federal perspective, as Chairman of the

Council, adequate and predictable funding for the SHPOs is necessary for the Council to successfully continue its work as required under Section 106 of the NHPA. Without this support for the SHPO role, the success of our program would be greatly diminished.

Section 106 is the fundamental protection in Federal law for our nation's heritage. It requires Federal agencies to consider the effects of their actions upon historic properties and afford the Council a reasonable opportunity to comment on them. When crafting the process to implement Section 106, the Council recognized that the need to have the State interest represented and created a formal role for the SHPO. Rather than having each Federal project affecting an historic property reviewed by the Council, a fiscal and administrative impossibility for the Council, Federal agencies were encouraged to resolve preservation issues at the State level. As the process evolved, the central role of the SHPOs grew, as their day-to-day working relationships with Federal agencies became the basis of the Section 106 process. The SHPOs bring a unique expertise to Section 106 review, melding knowledge of the heritage of the State, its priorities for preserving it and a hands-on understanding of how to identify and resolve adverse effects on historic properties.

This Council partnership with States strikes a balance between thoughtful consideration of a Federal project's impacts to historic property and recognition of the need for expeditious review. A properly staffed SHPO office can more quickly and knowledgeably consult with Federal agencies regarding project impacts on local resources than can the Council's Washington or Denver offices. Unless the current level of SHPO activity is supported by reauthorization of the HPF, this advantage would be lost.

Increasingly, the Council relies on SHPOs to reach consensus with Federal agencies on ways to avoid or minimize harm to historic properties when planning Federal undertakings. Only the more complex or controversial cases, for which the Council forum would prove more beneficial, are forwarded to the Council for consideration. This shift of emphasis from Washington to the States is reinforced by the Council's revised regulations governing the Section 106 review process, expected to be finalized in the next few months. Without continued support for the SHPO role, the success of our program would be greatly diminished.

The 1992 amendments to the NHPA added a new dimension to the preservation partnership. Indian tribes were authorized to create tribal preservation programs. Fifteen Indian tribes have now been certified by the National Park Service, pursuant to Section 101(d) of the NHPA, to assume national preservation program responsibilities on tribal lands and many more are expected in the future.

Among the responsibilities assumed by these tribes are historic property surveys, maintenance of permanent inventories of historic properties, and reviewing Federal agency undertakings pursuant to Section 106 of the NHPA and the Council's regulations. Therefore, they have the same responsibilities as the SHPOs, with equal importance to the Council and its administration of the

Section 106 review process, but they have not yet been given adequate funding to effectively carry out these activities.

As Chairman of the Council, I urge your favorable consideration of the financial needs of Native Americans during this reauthorization process. Tribal programs are a welcome component of the national historic preservation program and it is important that they complement Council and SHPO work to the fullest extent possible. While Congress has consistently exhibited its commitment to tribal partnerships and expanded participation in management of cultural resources, adequate financial support must also be provided.

This testimony illustrates the important, symbiotic relationship between the Council and the HPF. As stated previously, H.R. 1522 contains many amendments that could benefit the preservation community, including the Council, yet consensus among the primary agencies and organizations directly affected by the amendments is unrealistic. Therefore, to ensure continued funding for SHPOs and tribal preservation programs, we are at this time supporting only the reauthorization, rather than the amendments contained in H.R. 1522. The Council is certainly interested in working closely with the Subcommittee as further revision of H.R. 1522 occurs. We would also like to take the opportunity presented in this reauthorization to pursue some technical amendments that would improve internal agency operations. For example, the Council's authorization presently extends through FY 2000. Extension of our appropriations authorization from FY 2000 to FY 2002, to coincide with the authorization cycle of the HPF, is one such amendment the Council would like to pursue with this Subcommittee. This would greatly simplify the efforts both the Council and the Congress need to expend to consider reauthorization of the Council.

We appreciate your invitation to provide this Subcommittee with the Council's view on reauthorization of the HPF and H.R. 1522. We look forward to building on the traditionally close relationship the Council has had with the Subcommittee as you move forward on this important legislation.

Subcommittee on National Parks & Public Lands
Legislative Hearing on H.R. # 1522

Mr. Chairman, Distinguished Subcommittee Members.

I am here today as Virginia's State Historic Preservation officer to urge you to reauthorize deposits into the Historic Preservation Fund through year 2007.

Virginia is a state rich in history. But it's one thing to have history; it's another to put it to work for the benefit of our citizens, our communities, and our country. So much of Virginia's history has to do with the pursuit of liberty and the shaping of our nation that, in a sense, we hold our history in trust for all Americans. The National Historic Preservation Fund plays a vital role in the development of this priceless asset for all of us.

Each year Virginia receives approximately \$650,000 from the Historic Preservation Fund--a modest amount. But let me tell you what it does.

It funds our National Register program, through which significant buildings, archaeological sites, structures and districts are identified, documented and publicly recognized with the consent of property-owners. These places and their settings give our communities their identity, and our Commonwealth its character. Communities, like individuals, need identity and roots. Without a sense of past, there can be no sense of future.

In the past 30 years nearly 7000 individual Virginia properties and districts have been placed on the register. Let me mention just one example. Aberdeen Gardens in the city of Hampton was a 1930's Resettlement Administration Project designed and built by and for African Americans. Former Secretary of Energy Hazel O'Leary grew up there. By the early 1990's it was becoming somewhat run down. But an extraordinary woman named Evelyn Chandler undertook registration of Aberdeen Gardens as a community project to build pride and began the revitalization process. Working closely with my office she succeeded in having Aberdeen's 160 buildings registered as an historic district. The community has leveraged its newfound pride and cohesion into political strength, better schools, higher property values, greater prosperity, and plans for a community museum to attract tourists.

The federal historic rehabilitation tax credit, administration of which is also funded

through the HPF, converts listing on the National Register directly into an economic benefit for property owners and for their communities. In the past 20 years, the rehabilitation of some 674 income-producing historic buildings across the state has resulted in an investment of \$259 million in historic buildings and districts. As a result an estimated 13,000 new jobs have been created with an increase of household income of nearly \$275 million. Last year alone, over \$40 million was invested in completed rehabilitation projects in Virginia.

Adaptive reuse of old buildings through the federal tax credit helps preserve the character of our communities, enhances their tax bases, brings blighted areas back to life, uses existing infrastructure, is environmentally responsible, and reduces urban sprawl. In Roanoke, for example, the \$28 million restoration of the Hotel Roanoke -- a joint project of the city government, a university, a redevelopment authority, a bank consortium, and tens of thousands of citizens -- demonstrated all these advantages and has had a major impact on the city's downtown.

Mr. Chairman, the Historic Preservation Fund is first and foremost about helping communities maintain their historic fabric to ensure that America both grows, and keeps its soul. Each year 10% of Virginia's HPF grant is marked for Certified Local Governments under the National Historic Preservation Act. Virginia has 23 such communities.

One of our most creative CLG's is Clarke County. Since becoming a CLG, Clarke County has used CLG funds for a wide variety of projects to identify and officially recognize its historic resources, for preservation planning activities and for a creative public education program including a CLG funded video. Using striking images of the County's built and natural resources, the film eloquently demonstrates how the preservation of Clarke County's heritage has created the unique quality of life and the associated economic opportunities found in the County today.

The fourth major use of HPF funds is assistance to federal agencies in meeting their responsibilities under Section 106 of the National Historic Preservation Act.

Funding from the Historic Preservation Fund enables my office to provide this mandated assistance. Since 1992, the Department has assisted in the review of 12,526 federally funded, licensed, or permitted actions. In 10,182 (81%) of these projects, the Department, by working with agency officials and the public, were able to arrive at solutions through which there was no effect on historic property and all parties' interests and goals were met. Of those remaining projects where there were effects to historic property, the Department has worked successfully with agencies to avoid, minimize or mitigate those effects to historic property while ensuring that the public benefits of the project are fully realized.

Outstanding examples of the public benefit of Section 106 are the renovations and new construction at National and Dulles Airports. The process afforded an opportunity for public participation in the review process, and resulted in work that was sensitive to the historic character of both airports.

In addition to the direct impact of HPF-funded activities in Virginia, the HPF funding leverages state assistance through preservation easements and survey grants to help communities identify and promote their historic resources. Behind the leadership of Governor George Allen and his Secretary of Natural Resources Becky Norton Dunlop, we have maximized this leverage by securing enactment of a new state tax credit, by establishing stewardship field offices, by forming a public/private partnership with the Virginia Historical Society, and by launching a public awareness campaign called the Virginia History Initiative.

Mr. Chairman, here is an example of a program in which there is a genuine partnership between the federal government and the state. In the three and a half years since I have been on the job, I have seen great improvements in the way the Park Service works with the states. Adoption of the new Section 106 regulations will also mean a great advance in the way the Advisory Council works with the states.

In sum, Virginia's annual grant from the Historic Preservation Fund strengthens our communities by building pride, identity, and cohesion, by revitalizing neighborhoods, by stimulating tourism, by creating jobs and helping us attract new businesses that value quality of life, and by promoting the civic education of future generations.

I urge you to reauthorize it.

Thank you.

NCSHPO

National Conference of State Historic Preservation Officers

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TESTIMONY

OF H. ALEXANDER WISE, JR., VIRGINIA STATE HISTORIC PRESERVATION OFFICER, FOR
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS ON

HR 1522

OCTOBER 21, 1997

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS
THE HONORABLE JAMES HANSEN, CHAIRMAN

The National Conference of State Historic Preservation Officers appreciates the opportunity to testify on HR 1522, Amendments to the National Historic Preservation Act. We support strongly the reauthorization of deposits into the Historic Preservation Fund.

EXPRESSION OF APPRECIATION

First and foremost, the National Conference of State Historic Preservation Officers wishes to express its thanks to Representative Joel Hefley for introducing this bill which will benefit all the States, territories and District of Columbia by reauthorizing the annual deposits into the Historic Preservation Fund.

We appreciate Representative Hefley's on-going and continued support for historic preservation and heritage. We also express our gratitude to Mr. Hefley for his staff's interest in historic preservation, particularly the support of Larry Hojo. Mr. Hojo has taken the time to focus on historic preservation, not just in this Congress but throughout his tenure. A decade ago the Colorado State Historic Preservation Office staff told the National Conference staff how interested, knowledgeable and helpful Larry Hojo was in historic preservation. Since the introduction of HR 1522, he has made time to meet with preservationists to discuss this bill in depth. We wish to go on record in expressing our appreciation for the interest and support of both Representative Hefley and Mr. Hojo.

ROLE OF THE STATE HISTORIC PRESERVATION OFFICERS

The State Historic Preservation Officers are the individuals who take the language of the statute and make it real on the ground.¹ The State Historic Preservation Officers carry

¹ In 1980 local governments were added as partners to the States in implementing the Act. In 1992, tribes received the option of implementing the preservation program on

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out the act and deliver the national historic preservation program to American citizens.

The federal government —National Park Service, Advisory Council on Historic Preservation—sets the standards and writes the regulations while the States do the work.

Therefore, any changes to the National Historic Preservation Act affect the States (and tribal preservation offices)² most directly. Since this bill will affect States' daily operations and since State Historic Preservation Officers were not involved in the original drafting, we are appreciative of the Subcommittee's invitation to testify.

BACKGROUND: THE AMERICAN PRESERVATION TEAM

From the beginning in 1966 when the Preservation Act was first passed, the National Park Service had determined to implement this initiative by establishing a relationship with the States. The Director wrote each Governor and asked the States to participate. Luckily, each Governor not only said "yes," but also agreed to pay half the cost of this federal program.

This 30-year old relationship is more than a partnership; it is a team effort. Just as you couldn't field a baseball team with only 2 players, the nation could not have a historic preservation program without the States. The National Park Service and the Council could not do it alone.

OVERVIEW OF HR 1522

The National Conference supports and urges the adoption of the reauthorization of the deposits into the Historic Preservation Fund.

The National Conference believes the Subcommittee should take a close look at the remaining provisions of HR 1522 both as a matter of national policy and for timeliness. As we indicate below we believe this bill, originally drafted during the 104th Congress, shoots at targets that have subsequently moved. Further, States' federal team members have not yet completed implementation of the 1992 Amendments to the Act, nor the 1994 improvements to the program adopted by the Secretary's National Park System Advisory Board.³ We be-

their reservations.

²While the National Conference of State Historic Preservation Officers supports the voluntary establishment of tribal preservation offices on reservations, the National Conference is focusing its testimony on the States. Tribal preservation officers speak for themselves.

³National Park System Advisory Board, *National Performance Review of the Historic Preservation Fund Partnerships*, March 6, 1994, Washington, DC.

lieve finishing these tasks has a higher priority than new initiatives or legislative fine tuning.

SECTION-BY-SECTION REVIEW OF HR 1522

The following section-by-section analysis of HR 1522 includes the views of the National Conference of State Historic Preservation Officers.

National Historic Preservation Act Amendments, HR 1522, Rep. Joel Hefley (CO), May 1, 1997

Text and NCSHPO views

Changes reflected in the Act⁴

HR 1522, Section 1, Paragraph (1) Add the following text at the end of section 101(a)(1)(B): "Any National Historic Landmark Districts for which the Secretary has not published boundaries in the Federal Register by January 1, 2007, shall be removed from the National Register of Historic Places."

Comment: This section micro manages National Park Service activities. We do not know of any problems created by the slow pace of finalizing the boundary effort.

The National Conference believes complying with this provision would draw limited Park Service staff time away from priority activities, including work with State Historic Preservation Offices.

(2) By striking the third sentence of section 101(a)(6).

Comment: The National Conference, including during discussions (1985-92) about the 1992 Amendments, supported and continues to support the role of private property owners in the National Register nomination process.

The deletion of this sentence may limit the Secretary's options in National Register decisions.

(a)(1) (A) The Secretary of the Interior is authorized to expand and maintain a National Register. . . .

(B) . . . All historic properties listed in the Federal Register of February 6, 1979, as "National Historic Landmarks" . . . are declared by Congress to be National Historic Landmarks . . . except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register. "Any National Historic Landmark Districts for which the Secretary has not published boundaries in the Federal Register by January 1, 2007, shall be removed from the National Register of Historic Places."

(6) The Secretary shall promulgate regulations requiring that . . . the owner or owners . . . shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property If the owner or owners . . . object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. ~~The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner~~

⁴The existing text of the Act is in sans serif type; additions are in serif type.

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Text of HR 1522 and views of NCSHPO

Changes reflected in the Act

(3) Section 101(e)(2) is repealed.

Comment: The National Conference accedes to the position of the National Trust on the removal of this section.

(4) Section 101(g) is amended to read as follows:

“(g) The Advisory Council on Historic Preservation shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.”

Comment: This is the first of several sections which transfer certain preservation authorities from the National Park Service to the Advisory Council on Historic Preservation. Since the Council is currently understaffed to meet its existing responsibilities, the transfer of responsibilities without adequate resources to carry them out means some area of Council activity will have to be dropped to accomplish new responsibilities.

Further, since the National Park Service has already issued the Guidelines, the provision is less timely than when introduced.

(5) Section 103 is amended by adding the following new subsection.

“(e) The State shall be solely responsible for determining which professional employees (in accordance with section 112), are necessary to carry out the duties of the State.”

Comment: Initially, this provision resulted from an informal conversation between Wilson Martin, Utah Deputy State Historic Preservation Officer, and National Park Service Subcommittee staff during the

~~or owners of such property, of his determination.~~ The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

(e) (1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act.

~~(2) The Secretary shall administer a program of matching grants in aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1948 (63 Stat. 947), for the purposes of carrying out the responsibilities of the National Trust.~~

Sec. 101(g) ~~In consultation with~~ The Advisory Council on Historic Preservation, ~~the Secretary shall promulgate~~ guidelines for Federal agency responsibilities under section 110 of this title.

Sec. 103 (c) A minimum of 10 per centum of the annual apportionment . . . shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101 (c) . . .

(d) The Secretary shall establish guidelines for the use . . . of funds under subsection (c) . . .

(e) The State shall be solely responsible for determining which professional employees (in accordance with section 112), are necessary to carry out the duties of the State.”

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104th Congress. Since that time the National Park Service has issued professional qualifications standards, in consultation with State Historic Preservation Officers (the sole body upon which the standards are binding). The current draft standards address State Historic Preservation Officer concerns including those of Utah. This provision is now out of date.

(6) Section 107 is repealed.

Comment: As government officials, State Historic Preservation Officers believe that it is impractical to delete this provision and require the Administration, the Congress and the Supreme Court to consult with the District of Columbia State Historic Preservation Officer on undertakings.

~~Sec. 107 Nothing in this act shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds.~~

The public interest in these properties provides a far stronger protection than exists in Section 106.

(7) Section 108 is amended by striking "1997" and inserting "2002".

Comment: The National Conference fully supports and urges the enactment of the reauthorization of deposits from the revenues from off shore oil leases in to the Fund.

Sec. 108 To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund. There shall be covered into the fund. . . \$150,000,000 for each of the fiscal years 1982 through ~~1997~~ 2002. . . .

We would prefer a 10 year authorization, we believe the 30-year successful track record supports a longer period.

(8) Section 110(a)(1) is amended by inserting the following before the period at the end of the second sentence:

" , especially those located in central business areas. When locating Federal facilities, Federal agencies shall give first consideration to historic properties in historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts, if no suitable site within a district exists. Any rehabilitation or construction that is undertaken pursuant to this Act must be architecturally compatible with the character of the surrounding historic district or

Sec 110 (a)(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency, especially those located in central business areas. When locating Federal facilities, Federal agencies shall give first consideration to historic properties in historic districts. If no such property is suitable, then Federal agencies shall consider other developed or unde-

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properties.”

Comment: This provision takes the President’s Executive Order and makes it part of the statute which may result in strengthening its implementation. Success will depend most on actions of federal agencies such as the General Services Administration.

veloped sites within historic districts, if no suitable site within a district exists. Any rehabilitation or construction that is undertaken pursuant to this Act must be architecturally compatible with the character of the surrounding historic district or properties. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(g), any preservation, as may be necessary to carry out this section.

(9) Section 110(b) is amended by inserting a period after the phrase “appropriate agency” and striking the remainder of the subsection.

Comment: This provision has the effect of editorial streamlining, but does not indicate who will determine what “such other appropriate agency” might be.

Sec 110(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency. ~~as may be designated by the Secretary, for future use and reference.~~

(10) Section 110(e) is repealed.

Comment: Since the transfer of federal property constitutes an undertaking under Section 106 of the Act, Secretarial review may be redundant.

~~(e) The Secretary shall review and approve the plans of transferees of surplus federally-owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.~~

(11) Section (h) of section 110 is amended by striking “The Secretary” and inserting “The Council” and by redesignating such subsection as section 215.

Comment: The Council has made historic preservation awards, while the Secretary has not. This is an example of statutory provisions never implemented by the Secretary. (See Section 104 of the Act.)

Sec. 215 The Council (h) ~~The Secretary~~ shall establish an annual preservation awards program under which he may make monetary awards . . . and provide citations for special achievements to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions. . .

(12) Subsection (j) of section 110 is amended by striking “The Secretary” and inserting “The Council” and by redesignating such subsection as section 216.

Comment: The NCSHPO believes this change is not necessary and the renumbering of the text (“this section”) makes its meaning unclear.

Sec 216. The Council (j) ~~The Secretary~~ shall promulgate regulations under which the requirements of *this section* [emphasis added] may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.

nation date of the authorization from 1997 to 2007.

SUCCESS STORIES OF THE NATIONAL HISTORIC PRESERVATION ACT

The National Historic Preservation Act of 1966 is a major turning point in the story of historic preservation in America. Most scholars agree that historic preservation began in the 1850's with the efforts of Ann Pamela Cunningham to save Mount Vernon. When Congress would not act, Miss Cunningham founded the Mount Vernon Ladies Association of the Union, raised the money and bought the property. Other prominent dates in historic preservation include the founding of the Association for the Preservation of Virginia Antiquities and the Society for the Preservation of New England Antiquities in the 1890's. In the 20th century the federal government showed its commitment to history through the Antiquities Act and the Historic Sites Act. Other than local government efforts to establish historic ordinances (Charleston, SC, 1930's), historic preservation activity focused on acquisition of threatened property which was opened to the public.

Purpose of the National Historic Preservation Act

"Section 1(b)"The Congress finds and declares that—

"(1) the spirit and direction of our Nation are founded upon and reflected in its historic heritage;

"(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;"

The National Historic Preservation Act marks a dramatic change in preservation. The focus changed from ownership and perpetual maintenance to making historic preservation a part of the federal government's planning process. The Act emphasizes the role of historic places in our daily lives and the benefits to all Americans of continuing to use and enjoy our heritage. The goal is not to create museums but to accommodate history within modern life.

The Act established a process for the federal and State governments to accomplish the planning and assistance objectives of the Act through

1. the identification, description and location of historic places,
2. the recognition of historic significance in the National Register,
3. federal agency acknowledgment of heritage and consideration of historic values in project planning and
4. the reliance on and acknowledgment of the seminal role of the private sector voluntarily funding the conservation of historic places.

Inventory: States supported by the Historic Preservation Fund, matched from non-federal sources, have located approximately 5,641,000 archeological sites, buildings, structures and objects associated with their history. This phenomenal archive provides information on individual places for scholarship about America's history. More importantly, this

(13) Title II is amended by adding the following new section after Section 216:

“SEC. 217. DISPUTE RESOLUTION.

“Whenever a disagreement arises between two or more Federal agencies, or between a State or a political sub-division thereof and one or more Federal agencies, or between a project applicant and any level of government concerning an undertaking and such disagreement is referred to the Council by one or more of the parties involved in that disagreement, the Council is authorized to take appropriate action to resolve such disagreement.”

Comment: The State Historic Preservation Officers have experienced the Council's ability to resolve conflicts among federal agencies. We are not sure if this language materially increases the Council's authorities in working with federal agencies.

The National Conference questions the appropriateness of giving authority to the Council to insert itself in disputes outside of the federal government in State or local government or private sector concerns.

(15) Paragraph (7) of section 301 is amended by inserting “with potential to affect historic resources” immediately after the word “program”.

(7) “Undertaking” means a project, activity, or program with potential to affect historic resources funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including--

(A) those carried out by or on behalf of the agency; . . .

Comment: This addition of text to the Act, while reflected in the intent of the Council's regulations (36 CFR Part 800) limits the Council's flexibility to adjust its regulations at a future date.

BACKGROUND ON THE HISTORIC PRESERVATION FUND

Congress established the Historic Preservation Fund in 1976, modeled on the Land and Water Conservation Fund (16 USC 460).

The Historic Preservation Fund, like the Land and Water Fund, is based on the idea that a part of proceeds from depletion of a non-renewable resource—off shore gas and oil leases—should be invested in the enhancement of other non-renewable resources: historic properties. The Historic Preservation Fund account supports roughly half the cost of the Nation's historic preservation program as created by the National Historic Preservation Act. (States and other non-federal sources pay the rest of the costs.)

Of the roughly \$3 billion annual revenues from off shore leasing, \$150,000,000 was deposited annually into the Historic Preservation Fund.

The National Conference wishes that Congress continue the authorization through an amendment of Section 108 of the National Historic Preservation Act changing the termi-

data is consulted on a daily basis by federal agencies and applicants for federal assistance in project planning. The Bureau of Land Management has acknowledged the importance of this data in their planning and is working with western States to provide direct, on-line access.

Research on places from the State's past has resulted in an enlarged understanding of local history. Southern States' work on African American history has lead to the formation of African American heritage councils of which Georgia's Minority Historic Preservation Committee was one of the first. In 1984 the SHPOffice published Carole Merritt's *Black Historic Resources A Handbook for the Identification, Documentation, and Evaluation of Historic African-American Properties in Georgia*.

"Five Views: An Ethnic Sites Survey for California" was a prototype study of the places important in the history of Indian, African, Chinese, Japanese and Mexican ancestry.

North Carolina has maintained a 30-year program of popular publications of the results of historic site surveys culminating in Catherine Bisher and Tim Buchman's award winning publication *North Carolina Architecture* (Chapel Hill, 1990).

Interest in local traditions led to the creation of the Vernacular Architecture Forum, a national organization of scholars drawn in large measure from State Historic Preservation Offices.

Pennsylvania used the data in its inventories as the basis for historical publications that provided the background for the very successful State program of heritage parks using historical places as a part of a cultural tourism/economic development strategy.

National Register: The success of the National Register over 30-years has resulted in the listing of 67,903 properties which, when adding individual properties within historic districts, comes to 1,038,354 (a fraction of one per cent of all the nation's buildings). Register listing has initiated countless of private sector historic preservation efforts across the country.

Significant sites from the 20th century have been recognized on the National Register from the historic aircraft nominations in Alaska to Cape Canaveral in Florida.

National Register listing brought needed national recognition to buildings and districts helping private citizens' preservation efforts. One of the first efforts was College Hill Historic District in Providence, Rhode Island. A National Historic Landmark/National Register listing in 1970 helped local preservationists led by Antoinette Downing convince skeptical city leaders to retain the then deteriorating neighborhood. The Old Market in Omaha, Nebraska, is one example of dedicated preservationists seeing the benefits of a run-down warehouse district and turning it into a thriving neighborhood and major tourist at-

traction.

Section 106 consultation: Federal agencies' involvement in considering our heritage as first set out in Section 106 of the Act has resulted in the preservation of thousands of historic places. The Fell's Point Historic District in Baltimore, Maryland, now a thriving community and tourist attraction, was threatened with demolition for an interstate highway.

In Chicago, Section 106 review of a federal project that threatened the demolition of the Yondorf Block and Hall, a community center for immigrants on the North Side, resulted in a relocation of the federal project and a \$3 million rehabilitation of the building by a private developer.

A Farmers Home Administration foreclosure triggered Section 106 review which led to the discovery of the Jaketown Archeological Site in Belzoni, Mississippi, an elaborate assemblage of mounds dating to 2,000 B. C., now a National Historic Landmark.

Tax credit: The rehabilitation tax credit, like the HPF dating to 1976, stimulated \$757,000,000 in private sector investment in rehabilitation for income producing activities in the last fiscal year. The National Park Service summarized the 19 years of accomplishment as follows.⁵

Number of historic rehabilitation projects certified by the NPS	27,064
Private sector investment leveraged	\$17.93 billion
Housing units rehabilitated	142,916
Low and moderate income housing units created	33,011

Washingtonians know one of the biggest rehab tax credit successes, Union Station. On the west coast, Washingtonians in Spokane watched the preservation tax credit rehabilitate apartment houses in Browne's Addition National Register Historic District for low and moderate income housing.

In the late 1970's when the Historic Preservation Fund withdrawals reached \$60 million, State Historic Preservation Officers participated directly in restoration projects. Except for the Jobs Bill of 1983 which provided a specific appropriation for restoration, the withdrawals have not allowed for restoration grants. From the Botetort County Courthouse in Fincastle, Virginia, to Fort Bridger, Wyoming, to the Kimball House in Central City, Colorado, the Historic Preservation Fund provided the seed funding and the professional standards for restoration projects.

⁵Heritage Preservation Services Program, National Center for Cultural Resource Stewardship and Partnerships, National Park Service, "Federal Tax Incentives for Rehabilitating Historic Buildings, Fiscal Year 1996 Report and Analysis," 1977.

SHPOs, without restoration grants, have focused on affecting historic preservation outcomes through building alliances with the general public and local and State government planning processes. Most States publish a newsletter that disseminates information about activities and technical advances to a general audience; conduct technical training workshops (Ohio's House Doctor program is one of the longest running); and hold annual conferences often in partnership with private, non-profit organizations.

Through Certified Local Governments and the Section 106 process, State Historic Preservation Officers have become participants in planning at the State and local levels. In Anne Arundel County, Maryland, for example, information on archeological sites is routinely considered by the County in reviewing subdivision applications. States' historic site inventories, once digitized in a geographic information systems format, become a factor in long range planning.

UNFINISHED AGENDA

The thirty years of success of the National Historic Preservation Act and the State Historic Preservation Offices evokes an image, not of a task completed, but of work yet to be done. State Historic Preservation Offices have a responsibility to respond to the demand activities from the public and federal agencies. The for-profit private sector expects the State Historic Preservation Office to assist on the certified rehabilitation of historic properties. Federal agencies look to the State Historic Preservation Office to consult on projects that may affect historic properties. No other agency exists to stand in for the States, not the National Park Service, not the Advisory Council on Historic Preservation.

The goals of the 1966 Act are not achieved.⁶ Limited withdrawals from the Historic Preservation Fund since 1980 slowed the pace and focused States' attention on demand function. Owners across the country continue to push for nominations to the National Register. Few States, with the notable exception of Rhode Island, have completed their inventories; they lack a comprehensive picture of the resources within their boundaries. Further, the up-grading of the data from paper records to computer data bases and geographic information systems proceeds far behind the pace of technological development. Discussions are currently underway among the States and with federal agencies, particularly the National Park Service and the Bureaus of Land Management and Reclamation, on cooperative efforts to accelerate the pace of digitizing information and providing on-line access to agency and industry users.

Local governments continue to be interested in partnership with the States in the national preservation program. Assistance from State Historic Preservation Offices is essen-

⁶Although a major need exists to assist interested Indian tribes in becoming part of the national historic preservation program and the National Conference of State Historic Preservation Officers supports the creation of tribal preservation offices, this testimony focuses on the States.

tial in initiating efforts and in maintaining local government programs. Information and data from State Historic Preservation Offices continues to be important to citizens and local governments in considering alternatives for their future.

Further, as time passes, properties become older, who will consider the question, "Are they historic?" State Historic Preservation Offices are now involved with that question working with local citizens and agencies on the significance of properties from the Cold War and the Fifties. When the Act was passed in 1966, properties from World War I had not been around for 50 years. During those three decades property types such as the elaborate movie houses of the 1920's have become "historic."

Finally, the millennium is approaching. State Historic Preservation Officers are considering 20th century legacies. What treasures speak of the achievements of our century? What steps will this generation take to leave our legacy in good condition for the future? The National Conference hopes that the Historic Preservation Fund will participate meaningfully toward legacy restoration.

CONCLUSION

The National Conference thanks Chairman Hansen and Mr. Hefley for holding this hearing. We appreciate the opportunity to inform the Subcommittee of the benefits of the historic preservation program launched here 30 years ago.

We strongly support the reauthorization of deposits into the Historic Preservation Fund.

In terms of HR 1522, the National Conference supports the passage of the following paragraphs in Section 1.

- (7) Reauthorization of deposits into the Historic Preservation Fund
- (8) Statutory requirement for government agencies to locate in historic downtowns
- (10) Elimination of Secretarial review of transfers of federal property

We thank the Resources Subcommittee on National Parks and Public Lands for their consideration of our views.

DIVISION DIRECTOR

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WYOMING

DIVISION OF CULTURAL RESOURCES

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Testimony
of John T. Keck, Wyoming State Historic Preservation Officer

HR 1522

October 21, 1997

U.S. House of Representatives
Committee on Resources
Subcommittee on National Parks and Public Lands
The Honorable James Hansen, Chairman

I sincerely appreciate the opportunity to testify on HR 1522, Amendments to the National Historic Preservation Act. My testimony is intended to augment and support the testimony provided by the National Conference of State Historic Preservation Officers by providing insights into the value the Historic Preservation Fund provides to the State of Wyoming. I strongly support the reauthorization of deposits into the Historic Preservation Fund.

One of the strongest aspects of the Historic Preservation Fund is the excellent example it provides for state's to participate in an active fashion in the development and management of resources located within a state's boundary. Through the State Historic Preservation Offices, each state is given the opportunity to assist in the development of resource management plans and project development in ways which reflect the values of the individual states. Each State Historic Preservation Office works with the federal agencies active within their state to protect the cultural heritage of that state and to do so in a fashion which reflects the interests and value of that state.

In Wyoming, a state heavily dependent upon the development of natural resources, the Historic Preservation Fund provides a mechanism by which the state can play an active role in the preservation and management of cultural resources. It affords the Governor and the people of the state with a voice in the management of the vast holdings of federal land within our boundaries. For Wyoming and its citizens, this voice is a critical element in the management of over 50% of the entire state.

Because of the dependence of the state upon its natural resources and the sluggish level of the state's economy, this opportunity to play a role in the development and management of public lands is a critical component. The responsibility of the State Historic Preservation Office within this framework is to find reasonable and efficient ways in which the needs of the state and its citizens are addressed while assuring due consideration for the importance of our heritage.

THE STATE OF WYOMING
Jim Geringer, Governor



DEPARTMENT OF COMMERCE
Gene Bryan, Director

The travel/tourism sector of Wyoming's economy is the 2nd largest industry in the state, trailing only the energy industry. As such, the value inherent in preserving our past is easily understood. Heritage tourism is becoming more and more popular with both visitors to the state and Wyoming's citizens. If the physical remains of our past are lost, this important growth sector of the state's economy will be lost. More importantly, the connections with our past and those resources which have led to the shaping of our people and our culture will be lost as well.

Wyoming, as all state's in the west, is undergoing change. Not at the level felt by most of western state's, but at a level that is beginning to have impacts on our lives. The preservation of the state's resources and the linkage this provides to our past, is going to be critical in our development. Change is not a comfortable process, but one which is inevitable. The transition to the future can be made much easier, when a firm grasp is held onto the past. Not as an anchor to hold us in place, but as a compass point upon which we can plan our future. It is much easier to move into the future, when you are secure in your past. The Historic Preservation Fund affords Wyoming the opportunity to move forward, with a firm grasp for our past.

In order for the state to move forward and develop its many resources in a sound and reasoned fashion, the Wyoming State Historic Preservation Office has initiated a dialogue within NCSHPO and with many federal agencies regarding the sharing of information and data relative to cultural records.

For a number of years, states and federal agencies have been accumulating data about their cultural resources through surveys. The data has been stored using a variety of mediums and to varying levels of detail. Unfortunately, the data collected has not been used to its full capacity in many states and Wyoming is no exception. For data to have value, it needs to be used. For it be used, it needs to be accessible to those who need it and in a format that can be understood. As an example, Wyoming currently has around 56,000 sites recorded with the SHPO Cultural Records Office. This information on site locations is used daily by representatives of energy industry and federal agencies to complete projects as directed by Section 106 of the National Historic Preservation Act. But that is almost all it is used for. It is only rarely used to determine what we have learned about Wyoming's past and to understand it. It has become a mechanism for fulfilling a bureaucratic function, rather than a tool to better understand our past. By not reviewing the information and developing a more comprehensive understanding of what we have learned, we are also increasing the costs which must be borne by industry and federal agencies in their attempt to fulfill their responsibilities under Section 106. We are both depriving ourselves of an understanding of our heritage and placing unnecessary burdens on federal agencies and industry.

Of the 56,000 sites identified in Wyoming, only 20% have been determined eligible for the National Register of Historic Places. Approximately 45% of the sites recorded are not eligible and 35% are unevaluated. With simple access to this information through media such as the Internet, it will be easier to develop an understanding of what exists. The 35% of the sites which are unevaluated may be easier to evaluate. Information shared with and between states and federal agencies could further improve our understanding of these resources and improve our decision making capabilities.

A legitimate criticism of efforts in Wyoming raised by industry is that they have spent millions on cultural resources in the state, but don't know what has been learned. No one can give them a comprehensive answer to this question. Not because nothing has been learned, but because no one has had time to analyze the existing information and use that information to guide planning and decision making. The information contained in the inventories provide the foundation for all programs managed within SHPOs and for the effective management of cultural resources by federal agencies.

The fact this data is not used, is not the fault of the Historic Preservation Fund. It is an issue that can be resolved within the existing laws, because of the opportunities afforded to the states to participate in the development of land management decisions. The information contained within each states' data base can be shared. The information and technology which exists within federal agencies can be directed towards efforts to better understand our past. This can happen under the existing law and should happen. There are many ways to make the system work better and they exist in a variety of forms and opportunities. The delegation of the authority of the historic preservation offices to the state affords this chance. It provides each state with an opportunity to direct their future while holding onto their pasts. It provides each Governor with an opportunity to be represented in discussions and issues that are importance to their citizens. It provides the people of each state with an opportunity to be heard. This last point, is probably the most important aspect of the Historic Preservation Fund. In the long run, whether a cultural resource is lost or not, is really not as important as the opportunity for the citizens of this country to be heard. The Historic Preservation Fund provides this opportunity.

The following information is an analysis of data management issues and some recommendation that have been formulated to resolve the issues. It has been presented to the National Conference of State Historic Preservation Officers and will be presented at the Federal Preservation Forum meeting in October. It provides recommendations which can improve the management and preservation of cultural resources in Wyoming and the nation within existing laws and regulations.

I. What's the big deal about records management? Who cares? And why should we care?

Data management issues have two levels of problems. The practical and the political. Both must be addressed in order to accomplish anything of value. The goal orientation of the Wyoming SHPO is that first and foremost, we must provide useful information to the users and the public. Providing information for the sake of fulfilling statutory and regulatory obligations is a waste of time and energy for all parties. It does nothing to improve our understanding and appreciation for the heritage of our state.

A second priority is more politically driven. We must find ways to reduce costs to users whether they be federal agencies, state agencies, permittees or researchers. The costs of providing services is of concern and if not managed, can have significant legal and budgetary repercussions.

It is also critical that data can be provided to users in a timely fashion. Time is money to private business and when too much time is spent on an activity, whether it be a 106 action, a tax act project or a determination of eligibility for a site, business gets angry. And in Wyoming, it is not politically prudent to unnecessarily anger an industry so important to the economic well being of the state. Nor is it good business practices. It is imperative that the Wyoming State Historic Preservation Office respond in a

timely and cost effective manner in order to meet the various user needs.

Although discussed as the final goal, the need to provide for better resource management decisions is a central element to data management. Data is managed first and foremost because of the information it holds for users. They need the information in order to proceed with projects. The provision of solid data in an accessible, easy to understand format is a key element in improving the management of cultural resources throughout the state. The ability to make better management decisions is what makes much of the cultural resources information useful to users and the public.

Basis for Better Automation

SHPO's by law are the defined legal repositories of cultural resources information. While each state accommodates the legal compliance in a multitude of ways, the core repository function resides within the respective State Historic Preservation Office. Within each state there is an expectation that the information maintained within these offices will be efficiently provided to users. Within Wyoming, the expectation for turnaround is one day.

The expectation for this information in most western states is derived from project proponents involved with permits on federal lands through Section 106. But the National Register, the tax act and cultural resource planning issues all depend upon access to and an undemanding of survey information. None of these programs can operate effectively absent the information contained within the various SHPO repositories. The large federal holdings in the west create a tremendous demand for information and data turnaround as well as the need for cooperative data management. But urban development and sprawl create issues common to states throughout the country. Data is central to dealing with the resolution of these issues as well. Collectively they create the pressure.

II. Is there a problem?

In some states, yes, there is a problem. The problem stems from the role of previous archaeological and historical research in guiding short-term and long-term management strategies. In the short-term, there are numerous users of records seeking lower costs and shorter time frames for their projects. In the long-term, context documents guide the management of our cultural resources. To work well, these documents must be based upon accurate, comprehensive, information. In Wyoming, we are seeking to address four different problems:

Lack of Dynamism in Cultural Resource Management

Management and preservation plans routinely state they will evaluate newly found cultural resources in the plan areas against known resources. However, several factors prevent such evaluations from occurring. First, the logic of cultural resources investigations limit new inventory and study areas to small parts of the landscape. Cultural resources themselves come up for review in small pieces. Without an easily accessible way to see how these small pieces fit into the larger cultural resource record and management-preservation plan context, evaluation and review of cultural resources is based upon very limited information. A second, related problem is that the criteria for site evaluation are not necessarily linked to the research issues, management plans, or preservation plans for a given area. The "pool of knowledge" is rarely revisited to examine the criteria of site evaluation. This creates a third problem because evaluation and review depend upon individual knowledge about the cultural resources of an area, not syntheses of research results and evaluation of past decisions. Decisions are based upon opinion and

perspective, not on an objective, synthetic review of documented resources. The next two issues stem from this problem. New professionals find it difficult to link their general knowledge of cultural resources with the management of those resources without spending years working in an area. This becomes a perpetual cycle. The result to an outsider, such as a petroleum company, management decisions seem to have no objective basis.

The last problem above, the lack of credibility, pervades outside perceptions of the entire cultural resource management process. Cultural resource professionals are perceived as unprofessional, unwilling to put opinion ahead of fact, because they cannot marshal facts quickly. This is not to say that individuals in the process are always making bad decisions or that they do so without a sound basis; rather, they are perceived as doing so because justifications are vague and internalized, hence inexplicable to an outsider.

Information Availability and Visualization

One of the primary causes of the problem listed above is the accessibility of information aside from that required for Section 106. Our data system has been satisfactory for the bare bones of Section 106 compliance. The data for other aspects of cultural resource management are available but accessible only with a large amount of labor and time input.

Visualization is the ability to synthesize large amounts of information into coherent and fairly accurate mental images of data elements and interrelationships between them. Maps are common, effective, visualization tools. With the exception of hand drawn, highly variable, U.S.G.S. quadrangles available only in the resource area offices of BLM archaeologists, no comprehensive set of maps exists for most areas of Wyoming.

Agency Cooperation through Coordination and Review

Several problems make coordination and review between and among federal and state agencies difficult. Federal agencies fail to coordinate the preparation of overviews and management plans with SHPO statewide preservation plan. The SHPO fails to insure that preservation plans "keep pace" with research issues devised by cultural resource specialists in the state, and preservation plans become irrelevant to the decision process. The inspection of overviews and management plans become protracted, because each document creates its own definitions of context and preservation plan. Each player in each agency creates his or her own way of doing things, so that decisions are incomparable and predicated on one individual or another "buying into" any given agreement.

The Public Is Left Out

Another problem has been the difficulty in serving the public audience through education about cultural resources and enhancement of them (i.e., Section 106). Again, partially because context documents (research, management, and preservation plans) are rarely put into effect, very few organized public education efforts have grown out of cultural resource management, despite everyone's best intentions that this would happen. Education is not considered part of the Section 106 process, where the bulk of money is spent. No formal mechanism exists within Section 106 compliance to fund educational efforts, although the bulk of knowledge obtained comes from this process.

The Cost of Undertakings is Too High

A constant complaint from users of public lands is that the cost of environmental regulation is too

high. Regardless of philosophical viewpoint regulation should be as cost-efficient, as possible. For cultural resources, this means that the collection of information must be well-focused, and review of that information must occur in a timely manner.

III. Is automation of our records the only solution? What is automation?

Automation is probably not the only solution. But, it addresses many of the needs expressed above. There are many different levels of archive automation. Some common archive configurations and possible configurations are shown below. Different states have opted to automate, or emphasize in automation particular categories of information. Each is valid as regards the needs of that state and can be made available to other states and federal agencies if properly coordinated.

These are just possible configurations. They also represent increasing levels of initial cost. The decision to automate records (of any sort) is not trivial. We think that because each state has its own unique cultural resource management heritage, which pathways to take in automation (or whether to automate at all) has to be decided at the local level. After all, each state has devised its own system of paper records, electronic data, and combinations thereof, that work (in some fashion) to meet the state's needs. Above, we outlined some of the "new" needs Wyoming is attempting to meet. The needs are not, of course, really new but their importance has increased. For Wyoming, automation is a way to solve the problems described above. Many of the needs, and detail about them, grew out of a user needs study conducted by the Wyoming SHPO. The goal of the study was to examine how well the present record system worked.

Automation for its own sake is pointless. The goals of automation programs must be clear from the outset to avoid becoming entangled in a quagmire of data input without useful data output. Of course, this same rule applies to paper archives too.

IV. If it is all local options and problems, why are we talking about this here?

We think that the information infrastructure that underlies the functioning of SHPOs is common to all states. The processes used are the same (or similar) from one state to the next. This is obviously true in western states where 106 review dominates the actions of SHPOs.

Since the fundamental logic of historic preservation is similar from state to state, one can devise a common logical model of information. So, while each state may organize its records in its own way (paper or electronic, on one software platform or another) the overall configuration of those records (how the different kinds of information go together in a logical way) will be the same. By using a common logical design (but not necessarily a common content design), we can all save money in the automation process, because we will all build similar systems. The cost savings lies in having information management strategies that are logical (and hence will endure the test of time, hardware changes, and software changes). For example, information management in a state with a paper archive could still be organized in the same way as a state with a fully populated database; when the "paper" state went to automate they could directly benefit from the experience of the "electronic" state. In short, developing and using a common information management model makes sense from the technical-automation perspective and from a fiscal viewpoint.

A second reason for multi-state collaboration is professional. Prehistoric and historic contexts are written state by state although we all acknowledge the arbitrary nature of state boundaries. The difficulty

in collating and comparing site and property information from one state to the next is a formidable barrier to context development not bounded by state lines. We think that there are kinds of observations on historic and prehistoric properties that need to be shared or "shareable", between states. For example, we would not care that a ranch is from Wyoming's "Territorial" period and from Colorado's "Early Ranch" thematic period if we were writing a context for the 1870's northwestern Plains and eastern Rockies. What we would want is to quickly gather information about all properties in Wyoming, Colorado, etc., that date between 1860 and 1900.

By using a common logical information design, "translating" state-specific designations into widely meaningful categories becomes possible.

V. Where to from here?

We think the formulation of a common information model is feasible and propose the following :

- gather together the "system designers" from states that have or are automating
- have each designer sketch the logical model of their system
- have each designer justify the logical model in a short brief
- compile these statements and circulate
- convene "designers" and interested parties to define a common logical model (this should be pretty quick)
- note that none of the above necessarily requires GIS; it is applicable to paper, tabular, and GIS information.

We propose a second action:

- convene a working group to define what information needs to be shared between states

And a third proposed action:

- seek funding sources for interstate design efforts
- advocate uniform approaches to information systems development across agencies

VI. What is already underway?

There are several efforts already underway that are complementary to the proposals made here. Indeed many of them are the source of these proposals. The list below is not exhaustive, nor do we mean to slight anyone if their state or project is not shown.

- California OHP - Mojave Desert GIS initiative, information center GIS implementation
- National Center for Preservation Technology and Training - funds requested by Wyoming and New Mexico to organize a spatial data model development process.
- Federal Geographic Data Committee -- funds requested for documentation standard for cultural resource spatial datasets (requested by Wyoming and New Mexico).
- Federal Geographic Data Committee - funds requested by National Park Service to develop digitizing standards and proposed working group on cultural resources data.
- Tri-Services (DOD) - Developing data standards for various DOD installations.
- National Park Service - proposed autumn workshop on automation
- Nevada State Museum and Naval Air Station Fallon - GIS and cultural records automation for

management.

- NCSHPO Super-SHPO Design effort (1990)
- Massachusetts - MACRIS (MA Cultural Resource Information System)
- New Mexico - Already has online ORACLE system, building GIS now
- Wyoming - redesigning cultural records database systems, beginning GIS creation in areas of management concern.
- Texas - Automating all cultural records through ISTEa (TexSite, other applications?).
- And others....

VII. This is great, but we don't have the money...

Unfortunately, the exigencies of SHPO funding dictate that no one state has the money for collaborative development. We think a useful analogy is creating a suit jacket: if one can agree on the fabric, the size, and how the pieces will fit together, different tailors can work on different parts of the suit. So, one can automate part of one's records at one time and some other part later. To continue the analogy, the tailors can go out and find someone who will fund one sleeve. Some other source (i.e., agency, developer, contractor) may fund the tailoring of a pocket.

As for the states, so for the Federal agencies. They too have a suit to create, but for most federal organizations, the "suits" spans many states. So, agencies have a vested (no pun intended) interest in seeing that states work to the same general design.

Creating automated record systems is only one hurdle in the overall automation process. Maintaining datasets is a key component. This too can present funding challenges. Again, there are no hard and fast rules. A survey of approaches being taken by the different states would be useful. How states are changing their charge models from paper files to electronic data would be most informative.

VIII. We are a paper archive (and probably will stay that way), so we don't need to be involved in this, right?

We disagree. Records are records are records. The logical ways in which information goes together are not specific to any medium. A truly collaborative solution necessitates the participation of states that are not (and may not) automate their site and project records, because any general standards and logic must apply to them too.

Conclusion

While the partnership suggested by Wyoming is not the only alternative available to improve the manner in which the states and federal agencies administer the Historic Preservation Fund, it is an option. One of the most beneficial aspects of the Historic Preservation Fund is the flexibility it provides to the states and federal agencies to work together to responsibly protect and preserve the cultural resources of this country in a reasonable and efficient manner.

Where do we go from here?

- Gather together system designers from states and federal agencies that have or are automating
- Sketch the logical model of each system
- Justify the logical model in brief
- Compile document and circulate
- Convene designers and users to define a common logical model
- Begin regional dialogues on information useful for regional, trans-state, context development
- Proposed task assignments from this meeting
- Establish a SHPO Working Group approved by NCSHPO
- Working Group would work with system designers to evaluate and recommend where collaboration can and should occur
- Working Group would assess funding needs and recommendation for consideration by SHPO's and Federal agencies
- Working Group would report to NCSHPO on status of automation and progress and help insure broad participation in effort including local, state and federal agencies
- Working group on cross-state "comparability"?

Testimony
Before
House Resources Subcommittee
on National Parks and Public Lands
on H.R. 1522
October 21, 1997

Thank you for inviting me to present testimony today. I am Brenda Barrett, Director of the Bureau for Historic Preservation at the Pennsylvania Historical and Museum Commission.

Over thirty years ago Congress, with the passage of the National Historic Preservation Act, established a then unique partnership with the lofty goal of preserving the historic heritage of our country. These partners each brought special skills: the Department of Interior has a national perspective and longstanding expertise in historical inquiry; the new Advisory Council on Historic Preservation brings together the interests of federal agencies and the key citizen partners; and the states deliver heritage assistance on the ground and in their communities. As one of the stateside partners, I am here to attest to the success of this relationship and to urge its reauthorization.

In the Commonwealth of Pennsylvania, this success is demonstrated both by the number of historic properties preserved for new uses and by the less tangible value of a heritage saved for the next generation. We have 3,000 listed properties in the National Register of Historic Places - the nation's official list of properties worth preserving. Interest in this recognition is still growing, with mayors, home owners, historians, and developers submitting nominations for this honor. Our survey files of historic buildings and archaeological sites number over 150,000. Records are consulted by planners, researchers, government agencies, and the public. Armed with rich information, base communities are initiating mainstreet programs, establishing local historic districts, and promoting their history. Housing, hotel, and other commercial developers are taking advantage of the investment tax credit for historic preservation. Our Commission is proud to report over 1.7 billion dollars in rehabilitation expenditures that reuse the past.

Thanks to the farsighted funding formulas and framework of the National Historic Preservation Act, preservation programs have been woven into the fabric of every state. These programs have the advantage of being both comparable and tailored to the needs of the individual state's governance. Today, we at the state level, are adding our own value to the preservation of the past. Governor Ridge has supported, generously, all of our history programs. We have a bricks and mortar state grant program that assists hundreds of National Register buildings. Our treasure trove of historic site information supports our innovative heritage park program that is based on our rich industrial heritage.

But, while Commonwealth programs are strong and diverse, Pennsylvania needs the funding and federal program support of a reauthorized National Historic Preservation Act. It is critical to fulfilling the mandates of federal agencies that plan and develop projects in our borders, to providing a consistent baseline for history initiatives and, most importantly, to connect us to the larger story of our nation.

P R E S E R V A T I O N

Action

TESTIMONY OF RICHARD NETTLER,
 CHAIRMAN OF PRESERVATION ACTION
 BEFORE THE
 SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND LANDS
 HOUSE RESOURCES COMMITTEE
 OCTOBER, 21, 1997

Chairman Hefley and Chairman Hanson. I am Richard Nettler, Chairman of Preservation Action (PA) and Partner in Robins Kaplan Miller and Ciresi. Preservation Action takes great pleasure in testifying before the Subcommittee on National Parks, Forests, and Lands of the House Resources Committee as we have many times before, actively working for appropriate amendment to the Historic Preservation Act since 1976. Our success in 1976, 1980, and 1992, as well as the reauthorization of the funding every 5 years, have fashioned a unique program that is working effectively - with maximum cooperation - at all levels of government.

We thank you, Mr. Hefley, for the introduction of HR 1522, Amendments to the Historic Preservation Act, and for the discussion it has produced within the preservation community. PA strongly supports the reauthorization of funding for the HPF at \$150 million through FY02. We further support the codification of Executive Order 13006 signed last year by the President to give preference to the reuse of historic buildings in historic districts for federal office space needs. We see no serious problem with the current division of responsibility between the National Park Service and the Advisory Council on Historic Preservation as regards the administration of Section 110 but are very disappointed in the omission of required consultation between the two agencies. This change in present law is not a constructive one. Mandatory consultation and cooperation between the Council and NPS is more important than who has the lead responsibility on Section 110.

Preservation Action believes that the National Historic Preservation Program is "not broke" and therefore, we don't need far-reaching changes - or even tweaks - in the law or its administration. The reauthorization of the Historic Preservation Fund, as set up in law in 1976, is essential, however, and is needed to insure the continuation of annual appropriations for the States, Certified Local Governments, and tribes.

Since its inception in 1965, the Historic Preservation Act, as amended, has become one of the finest examples of federalism that exists in government today. While the following description is an understatement of agencies' responsibilities in preserving cultural resources, the National Park Service program takes a leading role in listing qualified properties on the National Register, providing technical services to assist those in "how to" maintain their properties, and developing standards and criteria that determine eligibility for preservation tax incentives. The Advisory Council reports to the President and administers the review of proposed federal projects that receive federal assistance (funds, licenses, permits), insuring a cost-effective, time efficient process that protects historic properties from inadvertent harm.

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The Park Service and Advisory Council are ably assisted by each State Historic Preservation Office which handles the workload associated with National Register designation as well as determining the historic structures that should be taken into account in the Section 106 review. This is done in a minimum of time, insuring that reviews and determinations are not exasperating experiences creating costly delays for private citizens, local governments, or federal agencies.

The "new kids on the block" in preservation are the certified local governments (@2,000 at this time) which are mentored by the States in preparation for their supporting responsibilities. Whereas National Register designation is honorific and makes no requirement upon an owner, locally designated properties are subject to the provisions of an ordinance as passed at the local level. The local government can become a partner to the States if meets the qualifications in the Historic Preservation Act for certification. In short, historic preservation law has spawned a great program that works amazingly well throughout the federal/State/local government system. The missteps are few compared to the norm which provide timely designation and review.

Preservation Action, founded in 1973, is the only national organization dedicated solely to grassroots lobbying for historic preservation and neighborhood conservation. We have taken leadership roles in advocacy beyond the Historic Preservation Act and the Department of Interior, including the enactment of tax incentives and the authorization of ISTEA enhancements. We have watched historic preservation issues come onto the screens of many other federal agencies such as the Departments of Transportation, Housing and Urban Development, The Treasury, the Department of Agriculture, the General Services Administration, and the Department of Defense.

In the latter, we see the fates of preservation and the military coming together as the Department of Defense and the Services confront the maintenance of historic military quarters and buildings in a fiscal environment of declining budgets. We know you are keenly aware of this problem, Mr Hefley, in your other responsibility as Chair of the Subcommittee on Military Installations and Facilities of the Committee on National Security.

The coming together of preservation and military housing appeared on the scene a year ago. In the FY97 Military Construction Appropriations, the Services were directed to review their inventories of historic quarters and to report to Congress on their plans to remove all but the most historically significant from the National Register of Historic Places. Language in the report noted erroneously that "work (on homes) must receive approval from the various historic preservation boards." Language further required the reports to note "what statutory impediments are being encountered in implementing such plans" i.e. those to remove properties from the National Register. Efforts to change the language last year were successful only in requiring "consultation with the Advisory Council and other preservation organizations" on the Reports and made no attempt to clarify erroneous information about the National Register and the role of the Advisory Council.

The Reports from the Services were forwarded to Congress in April and we were pleased that both the Army and Navy stated that their historic quarters were not a significant drain on their resources and that effective management was the answer to the military housing problem.

In the FY98 Military Construction Appropriation in the Senate, language was again included, this time requesting a change in the criteria for listing and delisting properties on the National Register. This attack on the National Register was also misdirected since the problem was not one of National Register listing or delisting but was a problem that could only be resolved by improved management of historic housing. The false notion that maintenance of historic military housing is more expensive has never been substantiated. There is no required treatment for historic housing, no mandates for a preservation outcome, in fact, there is economic value of these structures simply because they are historic.

I have taken up a few minutes to give some background on historic buildings in the military because we believe there are solutions. These solutions, however, will only come to fruition if there is a strong, efficient National Register and an expeditious system of Advisory Council review of federal actions that is not beset with costly delays in decision-making. On the Defense Department front, we have watched the privatization initiative with interest but note it is very slow moving. Our interest in finding answers that work for both preservation and the military is advancing as Preservation Action is currently setting up a meeting to bring our experience with private developers and capital in the successful revitalization of commercial historic rehab using tax credits to the table to assist the Services in finding creative answers to the maintenance of their historic quarters and buildings. This could be a precedent for other agencies as well.

In conclusion, Preservation Action most strongly supports the needed reauthorization of the HPF - for the States, Certified Local Governments, and tribes. It is critical to maintain a strong, adequately funded program at the federal level to insure that all federal agencies and the private sector perceive the historic preservation program - and its designation and review processes - as a cost-effective guide to the creative use of historic structures for 20th century purposes. Section 110 is the critical tool need to correct erroneous agency and departmental notions about the workings of the historic preservation programs and to assist federal agencies in the protection and maintenance of their historic building inventory. A clear understanding of historic preservation will open new avenues for agencies to involve public/private partnerships to assist in meeting their preservation responsibilities.

We have taken a very limited approach in our testimony today on HR 1522 in the interest of illustrating how the work of this Committee impacts many other committees of Congress and agencies of the federal government. We would be pleased to comment in writing on other provisions of the proposed legislation if it would be helpful to the committee. We thank you for the opportunity to testify this morning.

Thank you for your time and interest in the Historic Preservation Act and its implementation at all levels of government.

Statement of Edward M. Norton, Jr.
Vice-President, Law and Public Policy
National Trust for Historic Preservation
on H.R. 1522
before the Subcommittee on National Parks, Forests, and Lands
Committee on Resources
U.S. House of Representatives
October 21, 1997

Mr. Chairman, members of the Committee, it is a pleasure to appear before this Committee to testify on H.R. 1522, legislation to extend the authorization of deposits to the Historic Preservation Fund, and for other purposes. The National Trust for Historic Preservation is a non-profit organization with more than 265,000 members, chartered by Congress to promote public participation and education in historic preservation and to engage the private sector in preserving our nation's heritage. As the leader of the national historic preservation movement, the National Trust is committed to saving America's diverse historic places and to preserving and revitalizing communities nationwide.

Congress established the Historic Preservation Fund (HPF) under the National Historic Preservation Act of 1966. The Historic Preservation Fund is capitalized by royalties paid to the federal government from Outer Continental Shelf oil drilling leases. Approximately \$150 million flows into the Fund every year. Historically, Congress has appropriated a fraction of this amount--\$36 million in Fiscal Year 1997--through the National Park Service. Annual appropriations from the HPF provide key support to the preservation activities of the state historic preservation offices, Indian tribes and Native Hawai'ian organizations, historically black colleges and universities and, through Fiscal Year 1998, the National Trust for Historic Preservation. Authorization for funding from the HPF to each of these entities is provided for in the National Historic Preservation Act.

The National Trust strongly endorses the reauthorization of deposits to the Historic Preservation Fund. HPF dollars help achieve the Congressionally-mandated objective of preserving our Nation's invaluable historic and cultural heritage for the education, benefit, and use of present and future generations. The States, Tribes, and National Trust utilize this funding to achieve the responsibilities with which they are charged in the National Historic Preservation Act. Through these activities, federal funding for historic preservation not only preserves our nation's historical legacy but also creates jobs, promotes local economic development, and produces much larger financial commitments from private sources as well as other public sources.

I will turn now to the other provisions of H.R. 1522, which amend the National Historic Preservation Act (NHPA). The NHPA was substantially amended in 1992, and it is our opinion that Act does not require amendment at this time, only five years after that reauthorization.

Nonetheless, the National Trust is pleased provide comments on H.R. 1522, and to specifically support several of its provisions.

The National Trust commends Congressman Hefley for proposing in H.R. 1522 to provide statutory support to Executive Order 13006, signed by President Clinton in 1996, which calls on the General Services Administration and other federal agencies to first consider historic districts and historic buildings in downtown areas when selecting sites for new federal facilities. Historic preservation often involves real estate activity, and historic buildings must be used in order to be preserved. Directing the federal government's considerable property acquisition and leasing requirements toward historic resources will significantly assist in that effort. In addition, by siting federal facilities in historic downtown areas, the federal government will be assisting local economic revitalization efforts and will save taxpayer dollars on land use and infrastructure development. The National Trust was an early advocate for this executive order, and we are presently working closely with the General Services Administration on its implementation. We believe that codifying this executive order in law will significantly assist in that effort. Making Executive Order 13006 a part of the National Historic Preservation Act will hold federal agencies accountable to law, and will improve its chances for broad implementation.

The National Trust also strongly supports Section 1 (6) in H.R. 1522. This provision would repeal Section 107 of the National Historic Preservation Act, which exempts the White House and its grounds, the Supreme Court building and its grounds, and the United States Capitol and its related buildings and grounds from the Act. Our most recent experience with Section 107 comes from our involvement last year with the Staunton Park Neighborhood Association, and other District of Columbia preservation partners, as well as Delegate Eleanor Holmes Norton and other members of Congress, in an effort to oppose demolition of a contributing 19th century rowhouse in the Capitol Hill Historic District owned by the legislative branch. The demolition had been ordered by the Architect of the Capitol in order that a new building could be constructed to house the Senate day care facility, a privately-operated enterprise.

This property, which has since been demolished, was located in the middle of a commercial and residential neighborhood several blocks from the Capitol grounds. We believe that this demolition was an unreasonable interpretation of the Section 107 exemption and was inconsistent with the legislative history of the National Historic Preservation Act. When the House of Representatives passed the NHPA in 1966, the House Committee on Interior and Insular Affairs included report language that specifically defined the intent of Congress in granting the Section 107 exemption, by specifying that this exemption be for "principal buildings and grounds." ("House Interior and Insular Affairs Committee, House Report 1916, August 30, 1966, to accompany S. 3035.") We recommend, therefore, that the Section 107 exemption only apply to those principal buildings and grounds as defined by 40 U.S.C. Subsection 193a. I have attached this language for your information.

The National Trust also supports the provision in H.R. 1522 which would add a new

Section 217 to the National Historic Preservation Act, to provide the Advisory Council on Historic Preservation with explicit authority to take appropriate action to resolve disputes which arise between and among parties to an undertaking, as defined in Section 106 of the National Historic Preservation Act. This provision provides statutory support in the National Historic Preservation Act to a function that the Advisory Council already performs and which is invaluable to the successful, timely, and economical resolution of conflicts which arise in conjunction with federal and federally-assisted projects.

I would like to turn at this point to Section 1 (4), which puts the responsibility for promulgation of Section 110 guidelines in the purview of the Advisory Council on Historic Preservation. Currently, administration of Section 110 is the responsibility of the National Park Service. The National Trust opposes a wholesale transfer of Section 110 responsibilities to the Advisory Council, for several reasons. First, the National Park Service is presently finalizing new Section 110 guidelines, which would make a change in this responsibility to another agency ill-timed. Second, given the Advisory Council's current staffing and budget levels, it would be very difficult for the Council to take on a significant new statutory authority without a corresponding increase in the Council's resources.

The National Trust does have a recommendation for amending Section 110 of the National Historic Preservation Act. Parts (k) and (l) of Section 110 directly refer to federal agencies' Section 106 responsibilities, which are under the purview of the Advisory Council on Historic Preservation. It would make sense, therefore, to move those parts to Section 106 of the Act.

Although the National Trust supports keeping Section 110 the responsibility of the National Park Service, we do believe that there is substantial room for improvement by all federal land managing agencies in implementation of this provision of the National Historic Preservation Act. Over the last couple of years, the National Trust has become increasingly engaged in the issues surrounding the federal government's stewardship of its historic resources, broadening this interest beyond the traditional purview of the historic resources managed as national park units. We have discovered, regrettably, that although good management of historic resources rarely conflicts with agency missions and responsibilities, in far too many cases there is missing a broad commitment to fulfillment of Section 110 requirements.

We believe that federal agencies, particularly the Department of Defense, the Department of the Interior, and the General Services Administration, which control a great deal of historic lands and resources, need to be held accountable to their Section 110 responsibilities. We will continue to work with our preservation partners, and with federal agencies to better achieve this goal. We urge this Committee, as the committee of jurisdiction for historic resources, to take an active interest in this matter.

Mr. Chairman, this concludes my prepared testimony on H.R. 1522. Thank you for the opportunity to testify before this subcommittee.

CH. 2 CAPITOL BUILDINGS AND GROUNDS 40 § 2

curb of Virginia Avenue Southwest to the north curb of D Street Southwest; that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest; that portion of Canal Street Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the north curb of the Capitol Grounds. The Mayor of the District of Columbia shall be permitted to enter any part of said United States Capitol Grounds for the purpose of repairing or maintaining or, subject to the approval of the Architect of the Capitol, for the purpose of constructing or altering, any utility service of the District of Columbia government.

(July 31, 1946, c. 207, § 1, 60 Stat. 718; 1947 Reorg. Plan No. 3, § 401, off. Nov. 3, 1947, 32 F.R. 11669, 81 Stat. 951; Oct. 20, 1947, Pub.L. 80-108, § 16a, 61 Stat. 275; Dec. 24, 1972, Pub.L. 92-106, Title IV, § 421, Title VII, § 739(a)(7), 87 Stat. 399, 829; Oct. 10, 1980, Pub.L. 96-432, § 2, 94 Stat. 1831.)

Historical Note

N.E. to D Street S.E. D Street from First Street S.E. to Canal Street S.W., and First Street from the south 24th of Louisiana Avenue to the south 24th of Independence Avenue. The area is bounded by the following streets: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof.

1947 Amendment. Pub.L. 80-108 added the following to the end of section 16a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof."

1972 Amendment. Pub.L. 92-106 added the following to the end of section 16a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof."

1980 Amendment. Pub.L. 96-432 added the following to the end of section 16a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof."

1987 Amendment. Pub.L. 100-107 added the following to the end of section 16a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof."

1992 Amendment. Pub.L. 102-190 added the following to the end of section 16a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof."

2002 Amendment. Pub.L. 107-170 added the following to the end of section 16a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof."

2012 Amendment. Pub.L. 112-106 added the following to the end of section 16a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended: "Provided," for "Provided." That these streets and roadways in said United States Capitol Grounds shall be subject to the jurisdiction and control of the Architect of the District of Columbia shall not be construed to mean that the Architect shall be responsible for the maintenance and improvements thereof."

40 § -73 PUBLIC BUILDINGS, ETC. CH. 2

§ 193. Protection of buildings and property

The Sergeant at Arms of the Senate and of the House of Representatives are authorized to use such force as they may deem necessary for preserving the peace and securing the Capitol and grounds therefrom from any disturbance or obstruction, and they shall have power to arrest and detain any person violating such regulations, until such person can be brought before the proper authorities for trial.

(R.S. § 1420.)

Historical Note

Capitol Grounds. R.S. § 1420 derived from Application of Other Laws. Section 1420 of the Revised Statutes of the United States, as amended by section 193a of the Act of July 31, 1946, c. 207, § 1, 60 Stat. 718, as amended, reads: "The Architect of the Capitol shall be responsible for the maintenance and improvements of the Capitol Grounds, including the grounds and buildings thereon, and shall be permitted to enter any part of said United States Capitol Grounds for the purpose of repairing or maintaining or, subject to the approval of the Architect of the Capitol, for the purpose of constructing or altering, any utility service of the District of Columbia government."

Cross References

Police of Capitol buildings and grounds, see section 212a of this title.
Use of Capitol Grounds as playground prohibited, see section 214 of this title.

§ 193a. United States Capitol Grounds, area comprising jurisdiction

The United States Capitol Grounds shall comprise all squares, reserves, front, streets, roadways, walks, and other areas as defined on a map dated July 31, 1946, approved by the Architect of the Capitol and recorded in the Office of the Sergeant at Arms of the House of Representatives, and including all additional areas added thereto by law subsequent to June 25, 1946, and the jurisdiction and control over the United States Capitol Grounds, extended prior to July 31, 1946, by law in the Architect of the Capitol, in the Architect of the Capitol shall be responsible for the maintenance and improvements thereof, including those streets and roadways in said United States Capitol Grounds as shown on said map as being under the jurisdiction and control of the Architect of the District of Columbia, except that the Mayor of the District of Columbia shall be responsible for the maintenance and improvement of those portions of the following streets which are situated between the outcrops thereof: Constitution Avenue from Second Street Northeast to Third Street Northeast, First Street from D Street N.E. to D Street S.E., D Street from First Street S.E. to Canal Street S.W., and First Street from the north side of Louisiana Avenue to the intersection of C Street and Canal Street S.W., Pennsylvania Avenue Northeast from First Street Northeast to Third Street Northeast, Maryland Avenue Southwest from First Street Southwest to Third Street Southwest, Second Street Northeast from F Street Northeast to C Street Southwest, C Street Southwest from Second Street Southwest to First Street Southwest, that portion of Maryland Avenue Northeast from Second Street Northeast to First Street Northeast; that portion of New Jersey Avenue Northeast from D Street Northeast to Louisiana Avenue; that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest; that portion of Third Street Southwest from the south curb of Third Street Southwest to the south curb of Third Street Southwest; that portion of Third Street Southwest from the south curb of Third Street Southwest to the south curb of Third Street Southwest.

N.B. §470g. - Exemption

2002

CH. 1A HISTORIC SITES, BUILDINGS, ETC.

16 § 470b

over with this section and where allowing State Department of Transportation to complete that portion without use of Federal funds would, in effect, allow Congressional intent and the policies behind its provisions, state agency and its employees would be obtained from construction of that portion of the project pending compliance with this section until the agency withdrew all requests for disbursement of further Federal funds for project construction and immediately reimbursed the Federal government for all funds previously disbursed for project construction. *Hall County Memorial Soc., Inc. v. Georgia*

Dept. of Transp., D.C. Cir. 1978, 447 F.Supp. 741.

25. Scope of review

Where urban renewal plan which included destruction of city hall was approved by Secretary of Housing and Urban Development prior to enactment of this section, nonprofit corporation for preservation of historic buildings was not entitled to judicial review of the approval on ground of failure to give consideration to this section. *Kent County Council for Historic Preservation v. Ramsey*, D.C. Mich. 1966, 304 F.Supp. 813.

§ 470g. White House, United States Supreme Court building, and United States Capitol not included in program for preservation of historical properties

Nothing in this subchapter shall be construed to be applicable to the White House and its grounds, the Supreme Court Building and its grounds, or the United States Capitol and its related buildings and grounds.

(Pub.L. 89-663, Title I, § 107, Oct. 15, 1966, 80 Stat. 917.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-663, see 1966 U.S. Code Cong. and Admin. News, p. 3307.

§ 470h. Historic Preservation Fund; establishment; appropriations; source of revenue

To carry out the provisions of this subchapter, there is hereby established the Historic Preservation Fund (hereafter referred to as the "fund") in the Treasury of the United States.

There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981 and \$150,000,000 for each of fiscal years 1982 through 1987, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 338 ¹), and/or under section 7433(b) of Title 10, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purpose of this subchapter and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.

(Pub.L. 89-663, Title I, § 108, Oct. 15, 1966, 80 Stat. 917; Pub.L. 91-343, § 1(e), May 9, 1970, 84 Stat. 204; Pub.L. 93-54, § 1(a), July 1, 1973, 87 Stat. 139; Pub.L. 94-422, Title II, § 201(6), Sept. 28, 1976, 90 Stat. 1320; Pub.L. 96-513, Title II, § 203, Dec. 12, 1980, 94 Stat. 2995.)

¹ So in original. Should be "1338".

N.B. p. 3311 - Cmte. Rept. lang.

HISTORIC PROPERTIES

This will assure members of the tribe continuation of their existing rights to hunt and fish—a matter not entirely clear under the existing language.

11. On page 5, line 12, delete the figure "\$320,000" and substitute therefor the figure "\$355,000".

Recent appraisals by this Department indicate that the value of the land to be acquired for the national recreation area has risen approximately \$35,000 since the original land acquisition cost estimates were made.

The man-years and cost data statement required by the act of July 25, 1956 (70 Stat. 652; 5 U.S.C. 642a), is enclosed.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN M. KELLY,
Assistant Secretary of the Interior.

HISTORIC PROPERTIES—PRESERVATION

P.L. 89-665, see page 1082

Senate Report (Interior and Insular Affairs Committee) No. 1368,
July 7, 1966 [To accompany S. 3035]

House Report (Interior and Insular Affairs Committee) No. 1916,
Aug. 30, 1966 [To accompany S. 3035]

Cong. Record Vol. 112 (1966)

DATES OF CONSIDERATION AND PASSAGE

Senate July 11, Oct. 11, 1966

House Oct. 10, 1966

The House Report is set out.

HOUSE REPORT NO. 1916

THE Committee on Interior and Insular Affairs, to whom was referred the bill (S. 3035) to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

PURPOSE

The purpose of S. 3035, as amended, is threefold: (1) to strengthen and expand the work being done under section 2(b) of the act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 462) and to establish a national register of sites, structures, and the like which are significant in American history, architecture, archeology, and culture; (2) to encourage local, regional, State, and National interest in the protection of such properties; and (3) to establish an Advisory Council on Historic Preservation charged with the duties of advising the President and the Congress on matters relating to preservation of such properties, recommending measures to co-

ordinate public and private preservation efforts, and reviewing plans for Federal undertakings and the undertakings of others involving Federal assistance or requiring a Federal license which affect sites, structures, and the like listed in the national register referred to above.

Bills dealing with many of the aspects of S. 3035 were introduced by Representative Aspinall (H.R. 13491) and Representative Saylor (H.R. 13716) upon receipt of an executive communication requesting that this be done. Other bills on this subject were introduced by Representative Widnall (H.R. 13792), Representative Fino (H.R. 14018), Representative Fulton of Pennsylvania (H.R. 15683), Representative Irwin (H.R. 16168), Representative McDowell (H.R. 16271), and Representative Blatnik (H.R. 16282).

BACKGROUND

An important share of the public interest in S. 3035 must be credited to the U. S. conference of mayors, the study made by its special committee on historic preservation, and the report on the study entitled "With Heritage So Rich." Former Representative Albert Rains was chairman of this committee and Representative Widnall and Senator Muskie were members of it.

Congressional interest in the protection and preservation of places of historic and natural interest has long standing in the United States. As early as 1906, the Congress provided authority for protecting and preserving antiquities located on Federal lands. The Antiquities Act of that year (34 Stat. 225; 16 U.S.C. 431 et seq.) authorized the President to set aside historic landmarks, structures, and objects, located on lands controlled by the United States, as national monuments.

The continued interest of Congress in historic preservation led to the enactment of the Historic Sites Act in 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.). In this act Congress declared it to be a "national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States." In addition to directing the Secretary of the Interior to conduct various programs with respect to historic preservation, the act established the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. This industrious, 11-member panel has played a vital role in the successful development of our national park system by, among other things, making constructive recommendations with respect to the restoration, reconstruction, conservation, and administration of our national historic and archeologic properties.

In accordance with the authority granted by Congress in 1935, the National Park Service was assigned the responsibility for the general supervision of the Nation's historic preservation efforts, a responsibility which it has exercised continuously to the present time. Its duties have included collecting and collating data on historic and archeologic properties and areas of national significance and the compiling of a survey of national historic sites and buildings. In addition, the Park Service has made an ambitious effort to encourage the preservation of nationally significant historic and natural sites through its landmarks program.

A new dimension was added to the Nation's historic preservation effort in 1949 when the Congress chartered the National Trust for Historic

HISTORIC PROPERTIES

Preservation in the United States (63 Stat. 927; 16 U.S.C. 468). The purpose of this charitable, educational, nonprofit corporation is "to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest." By accepting and administering donated properties and funds, the National Trust has made possible the preservation and maintenance of a number of significant historical properties and assisted in the protection of others in private ownership.

Progress toward preservation of historic buildings was also made in 1965 when the Housing and Urban Development Act of that year made provision for the inclusion in urban renewal projects of the relocation of "a structure which the local public agency determines to be of historic value and which will be disposed of to a public body or a private nonprofit organization which will renovate and maintain such structure for historic purposes" (79 Stat. 477).

NEED FOR AND MAJOR PROVISIONS OF THE LEGISLATION

Notwithstanding the progress which has been made with regard to historic preservation, most existing Federal programs and criteria for preservation are limited to natural and historical properties determined to be "nationally significant." Only a limited number of properties meet this standard. Many others which are worthy of protection because of their historical, architectural, or cultural significance at the community, State or regional level have little protection given to them against the force of the wrecking ball. Some of them are not even known outside of a small circle of specialists. It is important that they be brought to light and that attention be focused on their significance whenever proposals are made in, for instance, the urban renewal field or the public roads program or for the construction of Federal projects or of projects under Federal license that may involve their destruction. Only thus can a meaningful balance be struck between preservation of these important elements of our heritage and new construction to meet the needs of our ever-growing communities and cities. This is the aim of S. 3035.

After hearings by its Subcommittee on National Parks and Recreation, the Interior and Insular Affairs Committee considered S. 3035 in detail in an effort to establish the most effective preservation program possible at this time which is consistent with its recognition of the necessity for progress in our communities. Since knowledge of the extent to which there is need for assistance in preserving properties of local, State, and regional significance is somewhat limited, S. 3035 authorizes the Secretary of the Interior, under criteria to be established by him, to make matching-fund grants to States for the purpose of preparing statewide comprehensive surveys and plans for the preservation of such sites and buildings.

To meet its objectives, the bill, as recommended by the committee, also proposes a two-pronged grant-in-aid program designed to provide assistance for implementing well-rounded programs to preserve properties historically, architecturally, archeologically or culturally significant which are in accord with the State plans just mentioned, and to enhance the ability of the National Trust for Historic Preservation in the United States to carry out its responsibilities under the charter granted to it by Congress. Section 102 establishes the requirements which must be met before recipients can

LEGISLATIVE HISTORY

qualify for grants-in-aid. In no event can such Federal assistance be more than 50 percent of the cost involved.

In addition to this greatly needed financial assistance, S. 3035 provides for the creation of an Advisory Council on Historic Preservation which, among other things, is to advise and report to the President and to the Congress on matters relating to historic preservation, as well as to recommend measures to coordinate the preservation efforts of Federal, State and local agencies and private parties. The Advisory Council will be composed of 7 ex officio members and 10 others appointed by the President with special attention being given to representation by State and local officials.

To help provide the protection which is needed, S. 3035 authorizes the Secretary of the Interior to maintain a register of areas, structures, and objects which are significant historically, architecturally, archeologically, or culturally. This register, which will consist of places of local, State, and regional, as well as national, significance will serve as a convenient guide to properties which should be preserved for the inspiration and benefit of this and future generations. The committee agreed that Federal agencies having direct or indirect jurisdiction over various undertakings, either through Federal funding or through their licensing powers, should recognize these values. The bill therefore requires such agencies to afford the Advisory Council an ample, fair, and reasonable opportunity to comment with regard to such proposed undertakings before they are commenced.

By its revisions of S. 3035, with respect to the functions of other agencies of the Federal Government, the committee recognizes the necessity for a high degree of cooperation and coordination of Federal activities if the Nation is to enjoy both the fruits of progress and its heritage from the past. The committee feels that it has provided a means of avoiding conflicts of administrative jurisdiction. It feels strongly that the national historic preservation effort should continue to be, as it has been in the past, a function of the Department of the Interior and particularly of the National Park Service.

COMMITTEE AMENDMENTS

Numerous individual amendments were approved by the committee. These are incorporated in the rewritten text of S. 3035 which the committee recommends to the House for its consideration. The most important of these will:

- (1) Broaden the authority for grants-in-aid program to the National Trust for Historic Preservation by permitting the Secretary of the Interior, upon suitable application by the National trust, to provide assistance for the purpose of carrying out its responsibilities under its charter.
- (2) Expand the Federal agencies that are required to take into account the effect of their undertakings on places included in the National Register prior to approval of the expenditure of Federal funds to include Federal licensing agencies.
- (3) Require the agencies to afford the Advisory Council an adequate and reasonable opportunity, instead of a flat 60 days, as proposed in the original bill, to review proposed undertakings which affect sites included in the National Register and to prepare deliberate and considered comments on them.

N.B.
(enlarged)

HISTORIC PROPERTIES

(4) Add a new section 107 making the bill inapplicable to the White House, the Supreme Court Building, and the Capitol and related buildings and grounds. The committee generally agreed that the principal buildings and grounds of the three branches of the Federal Government should not be subject to the provisions of this general legislation.

(5) Revise the method of selecting the 10 public members of the Advisory Council on Historic Preservation in order to allow the President flexibility in selecting persons who are "significantly interested and experienced in the matters to be considered by the Council" instead of imposing upon non-Federal organizations the responsibility of nominating persons to be selected by the President.

(6) Reduce the duties of the Advisory Council outlined in section 202 to conform to the purposes for which it is being created—namely to perform advisory functions.

(7) Omit provisions authorizing the Advisory Council to hold hearings under oath; to compel attendance, testimony or production of records; and to exercise other powers not commonly granted to, and not necessary to the work of an advisory body. The Council will, however, be authorized to secure statistics, suggestions, and similar information directly from any Federal agency.

(8) Designate the Director of the National Park Service as the Executive Director of the Advisory Council, since the Secretary of the Interior is named in section 201 as a member of the Council. It is reasonable, in the light of the long-standing interest of the Park Service in historic preservation, that it continue its endeavors by participating actively in the work of the Advisory Council.

(9) Delete section 206 which is unnecessary since the committee is recommending that section 108 be amended to limit the maximum amount of money authorized to be appropriated under the entire act.

COST

Section 108, as recommended, limits the total authorized appropriation for the purposes of the act to \$32 million. Of this amount, not more than \$2 million is authorized to be appropriated in fiscal year 1967 and appropriations for the next 3 succeeding years are not to exceed \$10 million each year.

The amounts just stated are the maximum amounts authorized to be appropriated. The committee fully recognizes that, until the National Register is completed and full information is available as to what amounts will be necessary to fulfill the objectives envisioned by S. 3035, these amounts are tentative. After the preservation programs get underway, it will be possible to ascertain whether smaller or greater amounts will be required. In no event, under the bill as recommended, will appropriations exceed \$32 million during the first 4 years of the program without further consideration and authorization by the Congress, and appropriations beyond these years will be contingent on the enactment of future legislation.

The bill requires the Advisory Council to submit to the Congress each

N.B.
If the AOC
is exempt
from the
sect. 106
Fed. Gov't
review
process,
then why
is he not
subj. to
the local
law since
he is not
devel. a
"principa
bldg. or
ground?"

DISCLOSURE REQUIREMENT
Required by House Rule XI, clause 2(g)

1. Name: Edward M. Norton, Jr.
2. Business Address: 1785 Massachusetts Avenue, N.W., Washington, DC 20036
3. Business Phone Number: 202-588-6255
4. Organization you are representing: National Trust for Historic Preservation
5. Any training or educational certificates, diplomas or degrees which add to your qualifications to testify on or knowledge of the subject matter of the hearing: (See attached biography).
6. Any professional licences or certifications held which add to your qualifications to testify on or knowledge of the subject matter of the hearing: (See attached biography).
7. Any employment, occupation, ownership in a firm or business, or work related experiences which relate to your qualifications to testify on or knowledge of the subject matter of the hearing: (See attached biography).
8. Any offices, elected positions, or representational capacity held in the organization on whose behalf you are testifying: (See attached biography).
9. Any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1994, from the Department of the Interior, the source and the amount of each grant or contract: (See attachment).
10. Any federal grants or contracts (including subgrants or subcontracts) which were received since October 1, 1994, from the Department of the Interior by organization(s) which you represent at this hearing, including the source and the amount of each grant or contract: (See attachment).
11. Any other information you wish to convey to the committee which might aid the members of the Committee to better understand the context of your testimony: None.

EDWARD M. NORTON, JR.

Edward M. Norton, Jr. is Vice-President for Law and Public Policy of the National Trust for Historic Preservation in Washington, D.C. Mr. Norton practiced corporate and securities law and served as an Assistant Attorney General and Assistant United States Attorney for Maryland. He was the Founding President of the Grand Canyon Trust, a regional conservation organization in the Colorado Plateau, and the Founding Chairman of the Board of Directors of The Rails-To-Trails Conservancy.

Mr. Norton graduated from Washington & Lee University, attended the Russian Institute at Columbia University as a Woodrow Wilson Scholar, and received his law degree from the Harvard Law School. He served for three years in the U.S. Marine Corps and was a founding director of the Vietnam Veterans Reconciliation Project.

National Trust For Historic Preservation In The United States
Sources Of Federal Funds Received

AWARDING AGENCY AND PROGRAM NAME	FY95	FY96	FY97
Department Of The Interior			
National Park Service			
Historic Preservation Fund Grants-In-Aid	10,510,554	5,291,747	4,935,089
National Foundation On The Arts And The Humanities			
Institute Of Museum and Library Services	208,135	208,386	237,112
Institute Of Museum and Library Services			
National Endowment For The Arts	122,185	61,273	52,892
Promotion Of The Arts - Design Arts			
National Endowment For The Humanities			
Promotion Of The Humanities - Humanities Projects In Museums	10,790	34,880	0
And Historical Organizations			
Environmental Protection Agency			
Office Of Environmental Education	23,792	53,236	0
Environmental Education Grants			
Department Of Transportation			
Federal Highway Administration	0	98,143	10,918
National Recreational Trails Funding Program			
Department Of Justice			
Civil Rights Division			
Americans With Disabilities Act Technical Assistance Program	13,087	17,285	37,997
Department Of Commerce			
International Trade Administration			
ITA Special Projects	8,370	0	0

Acknowledgement

I would like to thank James V. Hansen, chairman of the
Subcommittee on National Parks & Public Lands

for the opportunity to testify on

H.R. 1322 to extend authorization for the
National Historic Preservation Fund.

Introduction

My name is John Williams

I am an architect in private practice in Seattle, Washington.
where I have a partnership with Robert Hookide.

I also serve on two Historic Preservation Commissions
one in Oysterville, WA; The Oysterville Design Review Board
and one in Seattle, WA; The Pike Place Market Historical Comm

And because of these activities, I was elected to the National
Alliance of Preservation Commissioners, where I serve as
Chairman of its Board of Directors.

It is from these two vantage points, Chairman of the National
Alliance of Preservation Commissioners and preservation commissioner
from the Oysterville Design Review Board, that I wish to
describe my view of the value of the National Historic Preservation
Fund.

National Alliance of Preservation Commissioners

The National Alliance of Preservation Commissioners is a non-profit organization committed to serving historic commissions created by city or county ordinance.

We serve over 2000 commissions, who work at the local level to protect our heritage and to stabilize our older established neighborhoods.

Each year 10,000 citizens from our communities, volunteer their time as public servants.

They do so because preservation not only protects our cultural historic resources, it
 creates jobs
 saves neighborhoods
 fosters pride in our community.

Commonly, historic preservation commissions
 identify historic resources
 nominate them to local registers &
 enact protection measures to preserve our heritage.
 In addition these volunteer boards
 create educational programs &
 stimulate private investment.

As commissions we can have many of our responsibilities but we cannot do it alone. We are dependent upon our preservation partners.

Therefore our partners must be adequately funded for commissions to be able to act effectively.

For example
 over 80% of commission seek assistance from
 the SHPO's
 and 50% received help from
 the National Trust for Historic Preservation
 while 25% were aided directly by
 the National Park Service

All of them receive funds through the National Historic Preservation Fund.

Certified Local Government

However, it is the Certified Local Government program which provides an explicit line of financial support to commissions.

This program, funded by the National Historic Preservation Fund, provides technical assistance as well as small matching grants for planning and restoration.

Over 1000 communities voluntarily participate in this program.

NAPC Summary

Through my participation on the NAPC, I've seen the value of preservation partnerships.

Washington - training funded by CLG grant
 Missouri - training & handbook production
 funded by a CLG grant

This program is government at its best.

It is an excellent, cooperative program sponsored at the federal level and enacted and controlled at the local level.

Oysterville

However, if the local government cannot participate in the CLG program, as in the case with my design review board in Oysterville, WA,

we still benefit by forming partnerships with organizations sponsored by the National Historic Preservation Fund

We were able to secure consultant assistance to create our Design Review Guidelines, only through the abilities of our preservation partners, notably

- * The National Trust - partial funding through the grant program
- * The SHPO - advice & guidance from Kay Austin the CLG coordinator & preservation planner
- * The NPS - documents & Smithsonian Standard.

Funding for our effort and for our preservation ^{partners} comes from the National Historic Preservation Fund

Conclusion

Because of my vantage point as a preservationist doing commission work at the level of local government I understand my dependence on our partners at the SHPO & at the national level.

I know that their ability to assist me and the work that I & my 10,000 fellow commissioners perform comes through the financial support of the National Historic Preservation Fund.

The partnership works; it is effective and efficient.

I urge extended authorization of the National Historic Preservation Fund.

I thank you for allowing me to testify.



Washington, DC 20515
October 15, 1997

The Honorable James V. Hansen
Chairman
Subcommittee on National Parks and Public Lands
Committee on Resources
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I am writing to express my views concerning the provision in H.R. 1522 (to extend the authorization for the National Historic Preservation Fund, and for other purposes) that would amend existing law and apply the National Historic Preservation Act to the Capitol Complex. As discussed more fully below, this amendment could, in my judgment, have serious impacts on the ability of this office to perform projects and provide services to the Congress, and would, in effect, subject activities of the Architect of the Capitol mandated by Congressional directives to scrutiny by local and Executive Branch officials.

Subsection (6) of H.R. 1522 deletes Section 107 of the National Historic Preservation Act (16 U.S.C. 470 and following, Public Law 89-665) (Act). Section 107 provides that nothing in the Act shall be construed to be applicable to the White House and its Grounds, the Supreme Court and its grounds, or the United States Capitol and its related buildings and grounds. As a result of the requirement of Section 106, as amended [16 U.S.C. 470(f)], repeal of this exception could have the effect of subjecting any project undertaken in the Supreme Court and Capitol, the House and Senate Office Buildings, and the Capitol Grounds to review by the Advisory Council on Historic Preservation, an agency in the Executive Branch. Furthermore, inasmuch as the Advisory Council typically defers to the local historic preservation review process, the proposed legislation might also subject any project undertaken by this office to the review of the Historic Preservation Officer of the District of Columbia. Under the National Historic Preservation Act, if the Advisory Council determines that a project has a potential "adverse effect" on an historic building, district, site or object, the Council has the authority to enter into negotiations to mitigate the adverse effect. Inasmuch as the Capitol, the Supreme Court, the House and Senate Office Buildings, and the Capitol Grounds would, in my judgment, be considered historic buildings and sites, or eligible for inclusion in the National Register, the proposed legislation has the potential for bringing virtually any significant project undertaken by

The Honorable James V. Hansen
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this office to an abrupt halt. For example, if it were determined by a District of Columbia historic preservation officer that a project undertaken by this office on the exterior or even interior of the Capitol, House or Senate Office Building, Supreme Court, Library of Congress or even the Capitol Grounds threatened the historic fabric thereof, this office could be forced to negotiate alternative designs and approaches, different installation techniques, or substitute materials. In my judgment, this is unacceptable.

It is noteworthy that House Report (Interior and Insular Affairs Committee) No. 1916, dated August 30, 1966, on the National Historic Preservation Act discussed Section 107, which was incorporated into the rewritten text of S. 3035 based on an individual amendment approved by the committee and recommended to the House for its consideration. Characterized as one of the most important amendments, the Report states:

Add a new section 107 making the bill inapplicable to the White House, the Supreme Court Building, and the Capitol and its related buildings and grounds. The committee generally agreed that the principal buildings of the Federal Government should not be subject to the provisions of this general legislation.

In my opinion, this rationale is equally applicable today as it was in 1966.

I am bringing this to your attention because the bill in question falls under the jurisdiction of your subcommittee, and directions to this office by the House regarding projects could be adversely affected by the provisions of H.R. 1522.

It is appropriate for me to add that in expressing my concerns I do not mean to imply that I have any intention of lessening the communications that I have opened up with representatives of the local community regarding activities of this office affecting local interests. It is my intent to continue an informal ongoing dialogue with the local community on matters of this nature. I would like to observe further that I have an experienced and able architectural historian on my staff and take quite seriously my duty to preserve and protect the historic nature of property under my jurisdiction, and my role as a member of the Advisory Council on Historic Preservation.

Unfortunately, a prior commitment involving myself and top agency staff precludes my provision of testimony to the Subcommittee on October 21, 1997. In view of that commitment, I request that you make this letter a part of the record. In this regard, the United States Supreme Court has reviewed this letter and has advised me that the Court completely supports the positions expressed herein.

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Should you have any questions regarding this matter I shall, of course, be pleased to respond further.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Alan M. Hantman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Alan M. Hantman, AIA
Architect of the Capitol

