

NATIONAL HISTORIC PRESERVATION AMENDMENTS ACT

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SEPTEMBER 12, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 2817]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2817) to amend title 54, United States Code, to extend the authorization of appropriations for the Historic Preservation Fund, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Historic Preservation Amendments Act”.

**SEC. 2. REAUTHORIZATION OF THE HISTORIC PRESERVATION FUND.**

(a) **IN GENERAL.**—Section 303102 of title 54, United States Code, is amended by striking “2015” and inserting “2023”.

(b) **FEDERAL NOMINATIONS.**—Section 302104 of such title is amended—

(1) in subsections (a) and (b) by striking “subsection (c)” and inserting “subsection (d)”;

(2) by inserting after subsection (b), the following new subsection:

“(c) **NOMINATION BY FEDERAL AGENCY.**—Subject to the requirements of section 302107 of this title, the regulations promulgated under section 302103 of this title, and appeal under subsection (d) of this section, the Secretary may accept a nomination directly by a Federal agency for inclusion of property on the National Register only if—

“(1) completed nominations are sent to the State Historic Preservation Officer for review and comment regarding the adequacy of the nomination, the significance of the property and its eligibility for the National Register;

“(2) within 45 days of receiving the completed nomination, the State Historic Preservation Officer has made a recommendation regarding the nomination to the Federal Preservation Officer, except that failure to meet this deadline shall constitute a recommendation to not support the nomination;

“(3) the chief elected officials of the county (or equivalent governmental unit) and municipal political jurisdiction in which the property is located are notified and given 45 days in which to comment;

“(4) the Federal Preservation Officer forwards it to the Keeper of the National Register of Historic Places after determining that all procedural requirements have been met, including those in paragraphs (1) through (3) above; the nomination is adequately documented; the nomination is technically and professionally correct and sufficient; and may include an opinion as to whether the property meets the National Register criteria for evaluation;

“(5) notice is provided in the Federal Register that the nominated property is being considered for listing on the National Register that includes any comments and the recommendation of the State Historic Preservation Officer and a declaration whether the State Historic Preservation Officer has responded within the 45 day-period of review provided in paragraph (2); and

“(6) the Secretary addresses in the Federal Register any comments from the State Historic Preservation Officer that do not support the nomination of the property on the National Register before the property is included in the National Register.”; and

(3) by redesignating subsection (c) as subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) Section 303102 of such title is amended by striking “**Contents**” in the heading thereof and inserting “**Funding**”.

(2) The table of sections for chapter 3031 of such title is amended by striking the item relating to section 303102 and inserting the following new item:

“303102. Funding.”.

#### PURPOSE OF THE BILL

The purpose of H.R. 2817 is to amend title 54, United States Code, to extend the authorization of appropriations for the Historic Preservation Fund.

#### BACKGROUND AND NEED FOR LEGISLATION

In 1976, Congress established the Historic Preservation Fund (HPF) to support the preservation initiatives mandated by the National Historic Preservation Act of 1966 (NHPA, 54 U.S.C. 302101 et seq.). In accordance with the purposes of the NHPA, the HPF provides grants to State and local governments and private entities for conserving cultural and historical assets and sites. The National Park Service administers HPF grants, which are typically awarded on a 60% federal/40% State matching share basis to States and tribes. State Historic Preservation Officers (SHPOs) administer the National Historic Preservation Program and award individual sub-grants at the State level, and Tribal Historic Preservation Officers (THPOs) administer the program and award individual sub-grants for tribal lands. Federal agencies seek the views of the appropriate SHPO or THPO when identifying historic properties and assessing the effects of new projects on historic properties.

The HPF is funded by Outer Continental Shelf (OCS) oil and gas revenues. Funds deposited in the HPF are available for expenditure only when appropriated by Congress. In 1980, Congress extended the funding authorization for the HPF and authorized \$150 million in OCS revenues for deposit annually into the HPF to carry out the purposes of the NHPA. Since the 1980 reauthorization, Congress has reauthorized HPF funding four additional times, extending deposits through September 30, 2015. Although the authorization of deposits into the HPF has expired, monies previously deposited in the HPF remain available for appropriation. Congress has historically appropriated less than the full amount that is deposited into the HPF each year, and unappropriated amounts total-

ing over \$3 billion remain in the fund. H.R. 2817, as reported, extends the annual authorization of \$150 million for the HPF from OCS revenues through fiscal year 2023.

In addition to extending the funding authorization for the HPF, H.R. 2817, as reported, makes changes to the process by which federally-owned properties are nominated and listed on the National Register of Historic Places (NRHP). These changes stem from Committee concerns about the process by which federally-owned properties are nominated and approved for inclusion on the NRHP. Specifically, the bill requires SHPOs to provide a recommendation on the nomination of federally-owned properties for inclusion on the NRHP. The bill also requires the Secretary of the Interior to respond publicly to any SHPO comments in opposition to the nomination, prior to listing the property on the NRHP.

#### COMMITTEE ACTION

H.R. 2817 was introduced on June 17, 2015, by Congressman Michael R. Turner (R-OH). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On February 11, 2016, the Subcommittee held a hearing on the bill. On July 12, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Paul A. Gosar (R-AZ) offered an amendment designated #1. The amendment was adopted by unanimous consent. No additional amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives on July 13, 2016, by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and Section 308(a) of Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 9, 2016.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2817, the National Historic Preservation Amendments Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 2817—National Historic Preservation Amendments Act*

H.R. 2817 would require \$150 million of the receipts earned from oil and gas development on the Outer Continental Shelf to be credited each year, through 2023, to the Historic Preservation Fund (HPF). The HPF is permanently authorized to spend any amounts deposited in the fund if they are subsequently appropriated. The National Park Service (NPS) uses appropriations from the HPF to make grants to state, local, and tribal governments; nonprofit organizations; and other entities to support the conservation of historic and cultural sites and assets. The bill also would establish a process for federal agencies to nominate properties for inclusion on the National Register of Historic Places.

If the legislation was enacted, transfers into the fund, as well as the amounts available for appropriation, would increase. In 2016, the NPS received an appropriation of \$65 million from the HPF to make grants and carry out other activities under the National Historic Preservation Act. At the end of 2015, the HPF had unappropriated balances of \$3.3 billion. Assuming appropriations from the fund are provided at historical levels, the fund has sufficient balances to cover appropriations for the next five years. On that basis, CBO estimates that authorizing the transfer of OCS receipts to the HPF would not affect spending subject to appropriation over the 2017–2021 period.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2817 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 2817 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would benefit state, local, and tribal governments by authorizing federal grants for conservation of historic and cultural sites and assets. Any costs incurred by those entities, including cost-sharing contributions, would result from participation in a voluntary federal program.

The CBO staff contact for this estimate is Jon Sperl. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend title 54, United States Code, to extend the authorization of appropriations for the Historic Preservation Fund.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

## COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

## COMPLIANCE WITH H. RES. 5

**Directed Rule Making.** The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

**Duplication of Existing Programs.** This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139. However, the bill does reauthorize a program identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs. The historic preservation grants funded under the Historic Preservation Act of 1966 are divided into related categories of assistance, as described in this bill report. These include: 15.904 Historic Preservation Fund Grants-In-Aid; 15.914 National Register of Historic Places; 15.915 Technical Preservation Services; 15.912 National Historic Landmarks; 14.218 Community Development Block Grants/Entitlement Grants; 15.923 National Center for Preservation Technology and Training; and 15.957 Historic Preservation Fund Grants to Provide Disaster Relief to Historic Properties Damaged by Hurricane Sandy. These sub-grants benefit different constituencies and while related, are not duplicative. In addition, the changes made to the process by which federal properties are included on the National Register of Historic Places by H.R. 2817 as reported, which grants State Historic Preservation Officers a more formal role, will help integrate federal and State historic preservation efforts.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**TITLE 54, UNITED STATES CODE**

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**SUBTITLE III—NATIONAL PRESERVATION PROGRAMS**

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## DIVISION A—HISTORIC PRESERVATION

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### SUBDIVISION 2—HISTORIC PRESERVATION PROGRAM

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#### CHAPTER 3021—NATIONAL REGISTER OF HISTORIC PLACES

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#### § 302104. Nominations for inclusion on National Register

(a) **NOMINATION BY STATE.**—Subject to the requirements of section 302107 of this title, any State that is carrying out a program approved under chapter 3023 shall nominate to the Secretary property that meets the criteria promulgated under section 302103 of this title for inclusion on the National Register. Subject to section 302107 of this title, any property nominated under this subsection or under section 306102 of this title shall be included on the National Register on the date that is 45 days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves the nomination within the 45-day period or unless an appeal is filed under [subsection (c)] *subsection (d)* .

(b) **NOMINATION BY PERSON OR LOCAL GOVERNMENT.**—Subject to the requirements of section 302107 of this title, the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if the property is located in a State where there is no program approved under chapter 3023 of this title. The Secretary may include on the National Register any property for which such a nomination is made if the Secretary determines that the property is eligible in accordance with the regulations promulgated under section 302103 of this title. The determination shall be made within 90 days from the date of the nomination unless the nomination is appealed under [subsection (c)] *subsection (d)* .

(c) **NOMINATION BY FEDERAL AGENCY.**—*Subject to the requirements of section 302107 of this title, the regulations promulgated under section 302103 of this title, and appeal under subsection (d) of this section, the Secretary may accept a nomination directly by a Federal agency for inclusion of property on the National Register only if—*

*(1) completed nominations are sent to the State Historic Preservation Officer for review and comment regarding the adequacy of the nomination, the significance of the property and its eligibility for the National Register;*

*(2) within 45 days of receiving the completed nomination, the State Historic Preservation Officer has made a recommendation regarding the nomination to the Federal Preservation Officer, except that failure to meet this deadline shall constitute a recommendation to not support the nomination;*

(3) the chief elected officials of the county (or equivalent governmental unit) and municipal political jurisdiction in which the property is located are notified and given 45 days in which to comment;

(4) the Federal Preservation Officer forwards it to the Keeper of the National Register of Historic Places after determining that all procedural requirements have been met, including those in paragraphs (1) through (3) above; the nomination is adequately documented; the nomination is technically and professionally correct and sufficient; and may include an opinion as to whether the property meets the National Register criteria for evaluation;

(5) notice is provided in the Federal Register that the nominated property is being considered for listing on the National Register that includes any comments and the recommendation of the State Historic Preservation Officer and a declaration whether the State Historic Preservation Officer has responded within the 45 day-period of review provided in paragraph (2); and

(6) the Secretary addresses in the Federal Register any comments from the State Historic Preservation Officer that do not support the nomination of the property on the National Register before the property is included in the National Register.

**[(c)]** (d) APPEAL.—Any person or local government may appeal to the Secretary—

(1) a nomination of any property for inclusion on the National Register; and

(2) the failure of a nominating authority to nominate a property in accordance with this chapter.

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**CHAPTER 3031—HISTORIC PRESERVATION FUND**

Sec.  
303101. Establishment.  
**[303102. Content.]**  
303102. Funding.

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**§ 303102. [Contents] Funding**

For each of fiscal years 2012 to **[2015]** 2023 , \$150,000,000 shall be deposited in the Historic Preservation Fund from revenues due and payable to the United States under section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), section 7433(b) of title 10, or both, notwithstanding any provision of law that those proceeds shall be credited to miscellaneous receipts of the Treasury.

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