Historic Preservation Advocacy in the 118th Congress

FEBRUARY 23, 2023
Shaw Sprague
Vice President of Government Relations
National Trust for Historic Preservation
Agenda

1. Historic Tax Credits
2. Committee Activity and Legislation
3. Historic Preservation Fund
4. Legal Advocacy
5. ACHP Policy Priorities
Historic Tax Credits Encourage Private Investment in Historic Buildings
Challenges within the Industry

- Factors Contributing to the Loss of Value (Since 2010)
  - IRS Guidance/50D
  - Spreading the credit over 5 years (TCJA)
  - Pandemic Slow Down
  - Skyrocketing Costs of Materials
  - Rising Interest Rates
Historic Tax Credit Enhancements

- Historic Tax Credit Growth and Opportunity Act
  - More Credits
  - More Value
  - More Buildings
  - More Nonprofit Uses
  - More Simplicity
- Potential legislative vehicles
Ask to Congress:

• Cosponsor the Historic Tax Credit Growth and Opportunity Act (HTC-GO) and include the provisions in future moving tax legislation
Legislative Wins in the 117th Congress

- Key committees: House Natural Resources Committee (HNRC) and Senate Energy and Natural Resources Committee (SENR)

- Legislative wins:
  - Amache National Historic Site Act
  - Brown v. Board of Education National Historical Park Expansion and Redesignation Act
  - African American Burial Grounds Preservation Act
  - New Philadelphia National Historical Park Act
  - Safeguard Tribal Objects of Patrimony (STOP) Act
  - Great Dismal Swamp National Heritage Area Act
  - National Heritage Area Act
House Natural Resources Committee (HNRC)

- Chairman Bruce Westerman (R-AR)
- Ranking Member Raúl Grijalva (D-AZ)
- 24 Republicans and 20 Democrats
- New committee names
  - Federal Lands (was: National Parks, Forests, and Public Lands)
  - Indian and Insular Affairs (was: Indigenous Peoples of the United States)
  - Water, Wildlife, and Fisheries (was: Water, Oceans, and Wildlife)
House Natural Resource Committee: Republicans

- Chair, Bruce Westerman (R-AR)
- Vice Chair, Douglas Lamborn (R-CO)
- Robert Wittman (R-VA)
- Thomas McClintock (R-CA)
- Garret Graves (R-LA)
- Aumua Amata (Coleman) Radewagen (R-AS)
- Daniel Webster (R-FL)
- Jennifer Aydin González-Colón (NPP-PR)
- Russell Fulcher (R-ID)
- Peter Stauber (R-MN)
- Thomas Tiffany (R-WI)
- Jerry Carl Jr. (R-AL)
- Matthew Rosendale (R-MT)
- Lauren Boebert (R-CO)
- Cliff Bentz (R-OR)
- Dr. Paul Gosar (R-AZ)
- Douglas LaMalfa (R-CA)
- John Curtis (R-UT)
- Harriet Hageman (R-WY)
- Wesley Hunt (R-TX)
- Jennifer Kiggans (R-VA)
- Anna Paulina Luna (R-FL)
- John Duarte (R-CA)
- James Moylan (R-GU)
House Natural Resource Committee: Democrats

- Ranking Member, Raúl Grijalva (D-AZ)
- Vice Ranking Member, Sydney Kamlager-Dove (D-CA)
- Grace Napolitano (D-CA)
- Jim Costa (D-CA)
- Gregorio Kilili Camacho Sablan (D-MP)
- Jared Huffman (D-CA)

- Ruben Gallego (D-AZ)
- Joseph Neguse (D-CO)
- Michael Levin (D-CA)
- Katherine Porter (D-CA)
- Teresa Leger Fernandez (D-NM)
- Melanie Stansbury (D-NM)
- Mary (Sattler) Peltola (D-AK)

- Alexandria Ocasio-Cortez (D-NY)
- Kevin Mullin (D-CA)
- Val Hoyle (D-OR)
- Seth Magaziner (D-RI)
- Ed Case (D-HI)
- Deborah Dingell (D-MI)
- Nydia Velazquez (D-NY)
House Natural Resources Committee: Dynamics and Issues

• Oversight Agenda
  – February 7 committee hearing
  – Authorization and Oversight Plan for the 118th Congress

• Permitting Reform

• On/Offshore Oil and Gas

• Other focus items: Antiquities Act, mineral withdrawals
Legislative and Policy Priorities in the 118th Congress

• Route 66 National Historic Trail Designation Act

• National Monument designations

• Advancing policy issues
  – Climate change
  – Historic Leasing
  – Preserving diverse places
  – Appropriations

• Historic Preservation Fund
  – Appropriations
  – Reauthorization
Lauren Cohen
Associate Director of Government Relations
National Trust for Historic Preservation
Congressional Appropriators

U.S. House of Representatives
Appropriations Subcommittee on Interior, Environment, and Related Agencies

• Rep. Mike Simpson (R-ID), Chair
• Rep. Chris Stewart (R-UT)
• Rep. Mark Amodei (R-NV)
• Rep. Guy Reschenthaler (R-PA)
• Rep. Michael Cloud (R-TX)
• Rep. Ryan Zinke (R-MT)
• Rep. Jake Ellzey (R-TX)
• Rep. Chellie Pingree (D-ME), Ranking Member
• Rep. Betty McCollum (D-MN)
• Rep. Derek Kilmer (D-WA)
• Rep. Josh Harder (D-CA)

U.S. Senate
Appropriations Subcommittee on Interior, Environment, and Related Agencies

• Sen. Jeff Merkley (D-OR), Chair
• Sen. Dianne Feinstein (D-CA)
• Sen. Jack Reed (D-RI)
• Sen. Jon Tester (D-MT)
• Sen. Chris Van Hollen (D-MD)
• Sen. Martin Heinrich (D-NM)
• Sen. Gary Peters (D-MI)
• Sen. Lisa Murkowski (R-AK), Ranking Member
• Sen. Mitch McConnell (R-KY)
• Sen. Shelley Moore Capito (R-WV)
• Sen. John Hoeven (R-ND)
• Sen. Deb Fischer (R-NE)
• Sen. Katie Britt (R-AL)
## Congressional Appropriations

<table>
<thead>
<tr>
<th>January-February</th>
<th>March-April</th>
<th>May-June</th>
<th>July</th>
<th>September</th>
<th>October-December</th>
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<tbody>
<tr>
<td>• New Congress Convenes and begins. Speaker is selected, rules are adopted, committees are assigned, and business commences.</td>
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<td>• President's Budget Request is released (March 9)</td>
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<tr>
<td>• U.S. House Subcommittees receive testimony, hold hearings, and write legislation</td>
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<td>• Entire U.S. House votes on appropriations packages</td>
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<tr>
<td>• U.S. Senate Subcommittees receive testimony, hold hearings, and write legislation</td>
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<tr>
<td>• U.S. Senate full Appropriations Committee vote on subcommittee legislation</td>
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<td>• End of fiscal year on September 30</td>
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<td>• Continuing Resolution (CR) triggered to finish work</td>
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<tr>
<td>• Entire U.S. Senate votes on appropriations packages</td>
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<td>• Final passed House and Senate bills sent to conference</td>
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<td>• Final passage</td>
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<td>• President signs into law</td>
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Historic Preservation Fund Appropriations

$0

$50,000,000

$100,000,000

$150,000,000

$200,000,000

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<thead>
<tr>
<th>Category</th>
<th>FY22 Omnibus Levels</th>
<th>FY23 Omnibus Levels</th>
<th>FY24 NTHP Recommendation</th>
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<tbody>
<tr>
<td>State Historic Preservation Officers</td>
<td>$57.675</td>
<td>$62.15</td>
<td>$70.00</td>
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<tr>
<td>Tribal Historic Preservation Officers</td>
<td>$16.0</td>
<td>$23.0</td>
<td>$34.00</td>
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<tr>
<td>African American Civil Rights Grants</td>
<td>$21.75</td>
<td>$24.0</td>
<td>$28.00</td>
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<tr>
<td>History of Equal Rights Grants</td>
<td>$4.625</td>
<td>$5.0</td>
<td>$7.00</td>
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<td>Semiquincentennial Grants</td>
<td>$10.0</td>
<td>$10.0</td>
<td>$11.00</td>
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<td>HBCUs Grants</td>
<td>$10.0</td>
<td>$11.0</td>
<td>$13.00</td>
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<td>Underrepresented Communities Grants</td>
<td>$1.25</td>
<td>$1.25</td>
<td>$5.00</td>
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<tr>
<td>Save America’s Treasures (SAT) Grants</td>
<td>$26.5</td>
<td>$26.5</td>
<td>$40.00</td>
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<td>Paul Bruhn Historic Revitalization Grants</td>
<td>$10.0</td>
<td>$12.5</td>
<td>$17.00</td>
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<tr>
<td>Congressionally Directed Spending Projects</td>
<td>$15.272</td>
<td>$29.115</td>
<td>N/A</td>
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<tr>
<td>Historic Preservation Fund (HPF)</td>
<td>$173.072</td>
<td>$204.515</td>
<td>$225.00</td>
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</tbody>
</table>
THE PRESERVATION BUDGET

Select Preservation Priorities for FY 2023 Appropriations

April 2022

Preservation Leadership Forum
HPF Reauthorization

• Must be reauthorized periodically
  – Currently set to expire in September 2023

• Key reauthorization asks:
  – Permanent authorization
  – Increase to $300 million annually

• Congressional Champions
  – Rep. Teresa Leger Fernández (D-NM)
  – Rep. Earl Blumenauer (D-OR)
  – Rep. Mike Turner (R-OH)
Potential for “Permitting Reform”

• The House Natural Resources Committee has expressed an interest in exploring “permitting reform”

• While NEPA will likely be their primary focus, the NHPA has also been implicated

• The National Trust Law Division’s Legal Advocacy Team regularly works with both laws and plans to advocate for their defense
The Administration is Working to Restore the NEPA Regulations

• In July 2020, the long-standing NEPA regulations were severely weakened, eliminating the requirement to consider cumulative impacts, limiting public input, and giving private applicants much more control over the process.

• The Council on Environmental Quality (CEQ) is in the process of restoring the NEPA regulations. Analysis of cumulative impacts is now required again, and CEQ is expected to propose a second round of revisions within the next couple of months.

• Watch for advocacy alerts, as it will be important for preservation advocates to ensure that the NEPA regulations are strengthened.
Importance of NEPA and the NHPA to Historic Preservation

• Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings upon historic properties.

• NEPA has a slightly different scope, but NEPA and the Section 106 reviews should be conducted concurrently, and Section 106 must be completed before a final NEPA decision.
The NHPA is a Flexible and Effective Law

• The vast majority of Section 106 reviews result in findings of “no adverse effect”

• Sophisticated agencies consult early and often and have little trouble navigating the Section 106 process

• The unique consultation process can often lead to creative win-win outcomes

• For decades, SHPOs have created targeted agreements with federal agencies to streamline Section 106 consultation
Systemic Streamlining of the Section 106 Process is Increasing

- Nationwide program alternatives are increasingly being developed by federal agencies with the help of the ACHP
- These program alternatives streamline Section 106 compliance
- Agencies currently developing program alternatives include: NASA, USPS, USFS, Army, USCG, NPS
- The ACHP can even grant exemptions from Section 106, when appropriate
- Examples: GSA Exemption, Electric Vehicles Exemption
Opportunities for Improvement

• The most common causes of extended Section 106 reviews are due to a lack of adequate staffing to oversee reviews, not the law itself.

• SHPO staffs are typically overburdened and extremely underpaid. Agencies with large programs (e.g. transportation) often fund a dedicated SHPO staff position to ensure faster reviews.

• Federal agencies have the challenging task of guiding applicants.

• Federal agencies report a lack of sufficiently qualified candidates for Section 106 compliance work.

• Bottom line: More funding is needed, not changes to the NHPA!
Sara Bronin
Chair
Advisory Council on Historic Preservation
ACHP 24-Person Membership:

- 11 Presidential appointments:
  - 4 public members
  - 4 experts
  - Tribal member, governor, mayor
- 10 agency heads
- 3 national orgs:
  - National Trust for Historic Preservation
  - NCSHPO
  - NATHPO
ACHP Role in Legislation

• Advises the President and Congress on historic preservation policy

• Develops legislative priorities based on membership consultation and membership vote
ACHP Legislative Priorities (Draft)

• Supporting preservation-friendly programs and funding
• Reauthorizing/making permanent the Historic Preservation Fund
• Maintaining/enhancing tax incentives for preservation
• Balancing regulatory/permitting reform and streamlining with protection of historic properties
• Fostering stewardship of historic properties on federal lands or under federal management.
ACHP Legislative Priorities (Draft)

• Promoting consideration of historic properties in the federal response to climate change, as discussed in the ACHP’s [draft] Climate Change and Historic Preservation Policy Statement

• Supporting designation or protection of historic properties that reflect the full American story

• Supporting preservation of historic properties in community development, including in creation of affordable housing
ACHP Legislative Priorities (Draft)

• Digitizing and mapping known resources subject to Section 106 processes, and expanding survey work of unknown/undocumented resources

• Addressing the impacts of accelerated infrastructure development on historic properties
QUESTION AND ANSWER

Use the Q&A box located on the bottom of your screen ask questions of the speakers.
Staying Up-To-Date

• The National Trust will continue sharing resources and federal advocacy opportunities as they become available

• Visit our website and our social media channels

• Engage with our monthly Advocacy Newsletter

• Additional webinars forthcoming
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forum@savingplaces.org