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FEDERAL UPDATE

Rehab Tax Credit Amendments Headed for House Floor Consideration

The House Financial Services Committee began its markup of a broader housing bill (H.R. 5830) this week that will also include the Housing Assistance Act (H.R. 5720), which contains three amendments to the federal rehab tax credit approved in markup on April 9th in the House Ways & Means Committee. The three provisions affecting the rehab credit include:

1. **Leaseback for not-for-profits.** Under current law, taxpayers are not eligible for the full amount of the rehabilitation credit if more than 35% of a rehabilitated building is leased to a State or local government. In such a situation, expenditures that are allocable to the portion of the building that is leased by the government will not be counted in calculating the rehabilitation credit. In general, HR 5720 would allow taxpayers to qualify for the full amount of the rehabilitation credit *so long as less than 50% of the rehabilitated building is leased to State and local governments* or other tax-exempt entities. *This proposal is estimated to cost \$265 million over 10 years.*
2. **AMT relief for rehab projects twinned with the low-income housing credit.** The alternative minimum tax (AMT) can increase the cost of implementing housing programs. Under current law, interest on tax-exempt housing bonds is subject to the AMT and both low-income housing tax credits and rehabilitation tax credits cannot be taken against the AMT. This limits the marketability of these bonds and limits the incentive effect of these credits. The bill would allow the low-income housing tax credit and the rehabilitation tax credit to be used to offset the AMT and would ensure that interest on tax-exempt housing bonds is not subject to the AMT. *These proposals are estimated to cost \$2.05 billion over 10 years.*
3. **Including historic rehab under State QAP criteria.** A hybrid provision in HR 5720 providing State housing agencies with greater flexibility to select sites for low-income housing projects and allocate adequate amounts of credit for projects while also including historic rehab as one of the twelve criteria under state Qualified Allocation Plans (QAPs).

The net effect of these provisions would be to create a much greater incentive for using the federal rehab credit in the context of affordable housing while simultaneously providing relief from the Alternative Minimum Tax.

The larger housing bill is expected to hit the House floor next week. Stay tuned for late breaking developments and alerts.

Omnibus Lands Package Includes Important Cultural Studies, Boundary Adjustment and National Heritage Area Bills

Omnibus Public Lands Bill Includes Key Historic Sites and Studies

The House passed an omnibus public lands package (S. 2739) of 61 separate House- and Senate-passed measures dealing with a wide range of National Park, public lands, water and territorial issues on April 29th by a vote of 291-117. Included among the provisions in S. 2739 were key historic sites and cultural studies that the National Trust has been actively supporting, including: a boundary adjustment to the Minidoka National Historic Site (H.R.162); the Cesar Chavez Study Act (H.R. 357); and, the Journey Through Hallowed Ground National Heritage Area bill (H.R. 319).

The omnibus lands package now goes to the President for signature.

NLCS Permanence Bill to be Included in Second Omnibus Lands Package in Senate

Senate NCLS Permanence Bill to be Included in Mega Public Lands Omnibus Bill Being Assembled by Senate Energy Committee

The Senate Energy Committee is trying to work on a second public lands package (upwards of 80 bills) that would include the Senate companion bill (S. 1139) establishing a permanent authorization for the National Landscape Conservation System under the Bureau of Land Management.

The House passed its own version of the permanence bill (HR 2016) with amendments last week which substantially differs from the Senate version. The National Trust and its Conservation System Alliance partners have been working to remove some of these amendments regarding grazing rights, legal cause and energy development because of their potential impact on the Conservation System lands.

The Energy Committee panel is expected to conduct a series of mark ups on the various bills to be included in the omnibus parks/lands package up until the Memorial Day recess.

House Education Committee Approves Bill Funding “Greening” of Public Schools

Preservationists Optimistic that Green Public Schools Bill Will be a Boon for Older and Historic School Structures

The House Education and Labor committee approved bill (HR 3021) on Wednesday by a vote of 28-19 that would authorize \$6.4 billion for school construction, repair and modernization projects for fiscal 2009 and “such sums as necessary” for the next four fiscal years. Under a substitute amendment by Rep. Dave Loebsack (D-IA) and adopted by voice vote, the bill would also authorize separate funds — \$500 million over five years — to help reconstruct and renovate public schools damaged by the devastating Gulf Coast hurricanes in 2005. Preservationists are excited at the prospect of having a major source of funding that could be steered towards rehabilitation of older and historic public schools under the rubric of “greening” these structures for

environmental sustainability.

The measure requires the federal funding to go toward schools built according to environmentally friendly standards such as those set by the government's Energy Star rating system. The bill would waive the green building requirements in cases where the construction would be impractical, but it would require that 90 percent of the funds set aside in the measure be used for green building projects by 2013.

Allowable uses for a local educational agency receiving a grant under Section 105 of this bill would include the following:

- (1) Repair or modernization of public school facilities to ensure the health and safety of students and staff, including--
 - (A) repairing, replacing, or installing roofs, electrical wiring, plumbing systems, sewage systems, windows, or doors;
 - (B) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and
 - (C) bringing public schools into compliance with fire and safety codes.
- (2) Modifications necessary to make public school facilities accessible to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that such modifications shall not be the primary use of the grant.
- (3) Asbestos abatement or removal from public school facilities.
- (4) Implementation of measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls, abatement, or a combination of each.
- (5) Upgrading or installation of educational technology and educational technology infrastructure to ensure that students have access to up-to-date educational technology.
- (6) Upgrading school facilities to make them energy-efficient.
- (7) Construction of new school facilities that ensure the health and safety of students and staff, are energy-efficient, and include up-to-date educational technology and educational technology infrastructure, including where such construction is economically or otherwise more feasible than large scale modernization or repair of existing facilities.

Farm Bill Conference Extended

After weeks of closed door deliberations, House and Senate conferees met publicly late Thursday evening into early Friday morning to attempt to finalize a Farm Bill Conference Report. Earlier in the day, the House and Senate passed, and the President signed into law, an extension of the Farm Bill through May 16th.

Although negotiators approved every title of the Farm Bill, the conference is expected to reconvene next week to resolved outstanding issues such as

government subsidies and food stamps. The White House expressed concerns that the legislation is “bloated” with farm subsidies and continues to threaten to veto the measure in its current form. Senate Saxby Chambliss (R-GA), Ranking Member on the Senate Agriculture Committee, went so far as to meet with President Bush yesterday to encourage him to sign the bill; however, because the meeting was private, Bush’s reaction was not reported.

The National Trust continues to work closely with our preservation partners and conferee staff to ensure the strongest possible historic preservation language is included in the final conference report. Additional details about specific historic preservation language will be available when the conference language is made public.

STATE & LOCAL UPDATE

Colorado State Tax Credit Extension Sent to Governor for Signature

As reported last week, the state legislature is considering a ten-year extension of the Colorado state historic rehabilitation tax credit program set to expire in 2009 (HB 1033) with two amendments; 1) elimination of the annual resolution process for Certified Local Governments, and 2) if the state’s general fund revenues are predicted not to meet a minimum percentage in a given year the credit may not be taken that year but the 10-year carry-over period is extended for each year this occurs. This week, the Senate passed the bill and it now awaits Governor Ritter’s signature.

For more information about the advocacy efforts surrounding this 20% tax credit to both income-producing and homeowner rehabilitation projects, visit Colorado Preservation, Inc. at <http://www.coloradopreservation.org/>.

Maryland Legislative Session Ends with Secured Funding for Preservation

When the Maryland Legislative session ended on April 27, preservationists had reason to thank Governor Martin O’Malley for his support of the preservation budget items. Preservation Maryland, who coordinates the advocacy campaign, reported level funding was secured for Maryland Heritage Area Grant (\$3 million), Maryland Humanities Council (\$107,000), and for several Maryland Historical Trust Grant programs. Preservation Maryland also reported that the Heritage Tax Credit for commercial projects received \$14.7 million, down from the original budget request of level funding at \$25 million.

For more details, visit their website at <http://www.preservationmaryland.org/html/advocacy.html>.

State Rehab Tax
Credit Extension
Bill Includes
Automatic One-
Years Extensions
of Credit if
State’s General
Revenues are
Insufficient to
Cover Costs

Preservation
Funding Secured
but Tax Credit
Projects
Received Less
Than Original
Budget Request

Program Cap for
State Rehab
Credit Bumped to
\$5 million per
Project and
Credit Made
Refundable

Maine Advocates Celebrate Victory to Expand Tax Credit Program

This year preservation advocates in Maine were successful in promoting several changes to the state's historic preservation tax credit. With assistance from Harry Schwartz, consultant to the National Trust, Maine preservationists fought for and won an increase in the program's cap to \$5 million per project (up from \$100,000 per project), a provision that would allow the state credit to be bifurcated from the federal credit, and the ability to make the credit refundable. The amendment that passed in the supplemental budget bill requires the credit be taken in four installments and offers a new 30% credit for qualified rehabilitation projects that create new affordable housing.

Advocates under the leadership of Maine Preservation, Inc. have worked hard over the past two years to see this important amendment adopted. For more information about this successful advocacy campaign, visit <http://www.mainepreservation.com/>. To see the amendment, go to <http://janus.state.me.us/legis/LawMakerWeb/externalsiteframe.asp?ID=280028565&LD=2289&Type=1&SessionID=7> and scroll down to WW-1.