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Retrofit
Incentives
Included in
House but
Transmission
Siting Concerns
Remain in House
and Senate
Energy Draft Bills

FEDERAL UPDATE

House Energy and Commerce Approves Climate Change Bill with Historic Preservation Boost

The House Energy and Commerce Committee approved a climate change bill (HR 2454) after a week-long markup that includes a 120 percent boost for incentives to retrofit historic structures listed in the National Register of Historic Places. In addition, committee chairman Henry Waxman (D-CA) agreed to hold at least one day of hearings after the Memorial Day recess on the bill's provisions to cap greenhouse gases and set up a market-based program for businesses to buy and sell emission allowances as they work to meet the agreed-upon cap limits. As approved by the committee, the bill would do the following:

- Cap emissions at 17 percent below 2005 levels in 2020, 42 percent below in 2030 and 83 percent below in 2050. A company could buy pollution allowances from another business in lieu of meeting its obligation to reduce emissions.
- Require the government to sell about 15 percent of these allowances at an auction and distribute the rest for free. A much greater percentage would be auctioned in future decades.
- Require 15 percent of the nation's electricity to come from renewable sources including wind, solar, biomass and geothermal by 2020. An additional 5 percent in energy savings would have to come through greater efficiency. States could petition to meet a standard for 12 percent renewable use and 8 percent from efficiency.

While preservationists were pleased the bill includes expanded incentives for retrofitting historic structures, there is still concern that the House bill largely skirts the issue of how the federal government could site transmission lines to deliver renewable energy. However, Waxman said he would work on an amendment for when the bill reaches the House floor and stated "that we must have a transmission provision in this legislation." To date, Waxman was relying on the Senate Energy and Natural Resources Committee to provide the provisions for siting new transmission corridors, which have raised thorny issues about federal eminent domain and agency jurisdictional authority when states reject corridor siting decisions. The National Trust opposes federal efforts to override State objects to corridor siting decisions which may not take into full account historic and cultural resources on public and private lands.

However, the Senate Energy and Natural Resources Committee did not complete its mark up a draft renewable energy bill on Thursday that would help settle the transmission siting issues necessary to meet the requirement in the House bill that 15 percent of the nation's power come from renewable sources such as wind, solar and geothermal. Instead of moving forward with the full mark up, Energy and Natural Resources Committee chairman Sen. Jeff Bingaman (D-NM) announced that he had reached an agreement with Democratic Sens. Mary Landrieu (D-LA), Evan Bayh (D-IN) and Blanche Lincoln

(D-AR), who all opposed the renewable energy title out of concern that their states could not generate enough renewable power to meet the 15% mandate. However, Lincoln finally agreed to support the measure, as did Sen. Sam Brownback (R-KS) whose state has the third-largest wind power generation capacity in the country and stands to emerge as a big winner if the legislation is passed.

Although the Senate Energy Committee did not complete the full mark up of the draft renewable title, it did take up an amendment by Sen. Jeff Sessions (R-AL) that proposed striking the entire renewable title out of the bill, which was rejected by a vote of 9-13. To date, more than 50 amendments have been filed which will be reviewed by committee staff before the next markup after the Memorial Day recess. The Trust is working with Energy Committee staff and several committee members to try to get the 120 percent historic boost for retrofitting historic structures (as approved in the House bill) included in the state retrofit grant program under the building title of Senate bill before the committee's next markup.

Senators Seek Support for Historic Preservation Funding in FY'10 Appropriations Cycle

Senators Richard Durbin (D-IL) and Olympia Snowe (R-ME) are circulating a "Dear Colleague" letter this week in support of the Administration's FY2010 spending request for Historic Preservation Fund programs, including: \$46.5 million for State Historic Preservation Offices (SHPOs), \$8 million for Tribal Historic Preservation Offices (THPOs), \$20 million for Save America's Treasures (SAT) and \$3.175 million for Preserve America (PA). As of Thursday, only nine senators had signed the letter, including Durbin and Snowe. The other Senators to sign the letter were Blanche Lincoln (D-AR), Mark Begich (D-AK), Roland Burris (D-IL), Carl Levin (D-MI), Sherrod Brown (D-OH), Jack Reed (D-RI) and Sheldon Whitehouse (D-RI).

In addition, the Conservation Alliance is helping to circulate a "Dear Colleague" letter addressed to the chairmen and ranking members of the House and Senate appropriations subcommittees in support of \$75 million for operation of the National Landscape Conservation System. The deadline for getting other members to sign on to the letter is May 29th. The request comes on the heels of passage of an authorization establishing and codifying the conservation system under the Bureau of Land Management (BLM) earlier this year.

No date has been established as yet for mark up of the Interior spending bill in the House, which includes funding for historic preservation and BLM programs. Subcommittees should receive their 302(b) budget allocations for FY 2010 spending after the Memorial Day recess and mark ups could conceivably begin in early- to mid-June.

Appropriators
Ready to Kick Off
FY 2010
Appropriations
Cycle After
Memorial Day
Recess and Take
Up HPF and
Conservation
System Funding
Requests

Concurrent
Streamlining of
Reviews to Be
Major Issue for
Historic
Preservation in
Upcoming
Transportation
Reauthorization

Streamlining Issues Confront Preservationists as Surface Transportation Reauthorization Gains Momentum

House Transportation and Infrastructure Committee chairman James Oberstar (D-MN) proposed the creation of a single office within the Department of Transportation that would ensure a transportation project is either approved or denied for all necessary permits and reviews simultaneously. Oberstar stated back in April that one of the goals "in the next transportation bill is for the Federal Highway Administration to have an office of project expediting to coordinate with all entities that have a permitting issue. Whether it is Fish and Wildlife Service, National Park Service, the National Trust for Historic Preservation, the EPA, all of them have to be in the room at the same time, not this sequential process that drags things out for 20 years."

Of primary concern to preservationists would be the structure of such a coordinating office and if there would be the necessary project funding and resources for agencies to conduct a concurrent permitting process that fully take into account Section 106 reviews under the National Historic Preservation Act. The Trust is working with its transportation coalition partners to look at individual state models for streamlining permitting that would be appropriate for environmental and cultural resource reviews at the federal level.

STATE AND LOCAL UPDATE

... Around the States

Senate Finance Committee Passes Historic Preservation Tax Credit in New York Legislature

On May 19, the New York State Senate Finance Committee passed the Historic Rehabilitation Tax Credit bill (S2960-A/Valesky), sending it to the full Senate which is expected to pass the measure next week.

The bill strengthens the program first launched in 2006 by:

- Increasing the percent of qualified rehabilitation costs that can be claimed for the credit from 6-percent to 20-percent, allowing for a higher percentage of qualified rehabilitation costs.
- Increasing the program cap on the commercial credit up from \$100,000 to \$5 million and the residential credit up from \$25,000 to \$50,000.
- Making the credit assignable, transferable, and conveyable within business partnerships, to allow for greater flexibility on the part of the investor, and attract out-of-state financing to in-state rehabilitation projects.
- Offering the rehabilitation tax credit as a rebate to make the program a

New York State
Rehab Credit Bill
Advances to Full
Senate for Vote
Next Week

stronger financial incentive for homeowners without significant income tax liability.

- Limiting the availability of the residential and commercial credit of the program to “distressed” areas, which is defined as an area located within a census tract identified at or below one hundred percent of the median family income.

Senator David J. Valesky (D-Oneida), Vice President Pro Tempore of the Senate and lead sponsor said, “the Historic Rehabilitation Tax Credit will provide real incentives to stimulate Main Street and downtown development that will create jobs, increase property values and provide a better quality of life for all upstate New Yorkers. This program has great potential to revitalize the upstate economy and reduce the strain on urban, suburban and rural communities alike.”

Missouri Legislators Cap Historic Preservation Tax Credits

Missouri’s 25% rehab tax credit was capped at the end of this year’s legislative session but a coalition of preservation advocates that included Preservation Missouri worked hard to negotiate a sizable cap of \$75 million for FY 2010 and \$140 million thereafter — along with a small deals exemption for projects with under \$1.1 million in qualified rehab expenses. Advocates estimate that the small deals make up 75 percent of the current tax credit projects. The legislators also placed a cap of \$250,000 in credits for rehabbing an eligible residential property. For more information about the changes, visit <http://www.preservemo.org/publicpolicy.html>.

New Jersey Assembly’s Environment Committee passes Historic Preservation Tax Credit

On May 11, the NJ Assembly’s House Environment Committee unanimously passed the Historic Property Reinvestment Act (A791) which would establish historic preservation tax credits for qualifying rehabilitation projects.

Advocates are urging legislators in the Senate’s Wagering, Tourism, and Historic Preservation Committee or the Assembly’s Appropriations Committee to consider the proposed bill.

Minnesota Legislature Fails to Include Historic Preservation Tax Credits in Final Tax Bill

Up to the last day of the session, Minnesota had the opportunity to be the 31st state in the nation to offer a state historic preservation tax credit program. Unfortunately, the program originally introduced by Senator Larry Pogemiller in the Senate (Senate File 1724) and Representative Paul Marquart in the House (House File 1974) failed to be included in the final tax bill although it was one of two tax credits taken into final negotiations with the

Preservation
Advocates
Secure Sizeable
Cap for FY10 and
Beyond for
Missouri State
Rehab Credit

New Jersey
Advocates Press
for Historic Tax
Credits in Senate
Committee

Minnesota
Advocates Fall
Short in Securing
State Rehab Tax
Credit in
Negotiations
Over Final Tax

Bill

legislative leadership. The valiant grassroots campaign, led by Preservation Alliance of Minnesota, involved new coalition partners this year focused on job creation and gained additional support of key legislators.

