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### ***FEDERAL UPDATE***

Congress Adjourns for Summer Recess But Leaves Major Preservation Issues Unresolved Until Fall

Congress adjourned for the August congressional recess and left major issues unresolved for when lawmakers return in September. Top priorities for both House and Senate will be finishing FY'10 appropriations bills, health care reform, a climate change bill, and possibly a six-year transportation reauthorization bill. For historic preservation, there are a number of issues that will be on the agenda in September, as detailed below.

#### Interior Appropriations and Historic Preservation Funding

The House has passed the FY'10 Interior Bill that provides \$90.675 million for the Historic Preservation Fund (HPF), while the Senate Appropriations Committee mark up provided just \$74.5 million for preservation funding. The full Senate is expected to take up the Interior Bill in mid-September and an ensuing conference committee will have to resolve the major differences between spending levels in two of the HPF accounts — Save America's Treasures (SAT) and Preserve America (PA) grants. The House provided \$30 million for SAT and \$6.175 million for PA while the Senate mark funded SAT at \$20 million and PA at \$3.175 million.

#### Energy and Climate Change - Energy Efficiency Retrofits for Historic Properties

Easily the most contentious issue facing the 111<sup>th</sup> Congress, the House-passed "American Clean Energy Security Act of 2009" (HR 2454) will be front and center as will be a Senate version of the bill, which is expected to be introduced in the Senate Environment and Public Works Committee when lawmakers return in September. At stake for preservation are energy efficiency provisions in both bills that would provide a 120% boost in incentives to retrofit properties listed in the National Register of Historic Places. Preservationists remain optimistic that incentives for older and historic buildings will be in any final bill, but questions remain about whether the incentives are adequate to spur energy retrofits on a large scale, and if older and historic buildings need a separate and more generous timeline to meet energy efficiency targets mandated in the bill.

#### Surface Transportation Reauthorization and Appropriations

The White House and the House Transportation and Infrastructure chairman, James Oberstar (D-MN), remain at odds over whether to move forward with a six-year, \$450 billion reauthorization of the nation's surface transportation programs. The Senate has acceded to the White House's demands for an 18-month extension of funding under the current authorization (SAFETEA-LU) and produced a bill that has passed the three committees of jurisdiction. In addition, both chambers passed a temporary infusion of \$7 billion for the Highway Trust Fund in July to keep surface transportation programs solvent until the end of the fiscal year. However, chairman Oberstar has vowed to

### Committee will Press Ahead with Draft Bill

move ahead with a six-year reauthorization bill and have it completed by the end of the fiscal year. While the Transportation and Infrastructure Committee may move ahead with marking up its draft reauthorization, the Senate may be able to defer consideration of the bill until the Spring of 2010 at minimum. At stake for historic preservation are continued funding of the Transportation Enhancements (TE) program, historic bridge language, retaining Section 4(f) protections for historic and cultural resources from any streamlining provisions, and including historic preservation in any new language that addresses “livable communities.”

### Preservationists Remain Concerned About High-Speed Rail Funding Impact on Historic and Cultural Resources

On the transportation appropriations front, the Senate Appropriations Committee has approved a \$122 billion spending measure for housing and transportation programs that contains substantially less funding for high-speed rail than its House companion. The National Trust has been monitoring high-speed rail developments in Congress because of its potential effect on historic resources adjacent to rights-of-ways in the path of the system. The Senate bill would include \$1.2 billion for high-speed-rail grants. The House-passed bill (HR 3288), however, would increase the amount for high-speed rail to \$4 billion with the stipulation that the Transportation Department could transfer \$2 billion of it to a national infrastructure bank, if such a bank is authorized before the end of fiscal 2010. At stake for historic preservation will be ensuring that high-speed rail funding take into account the need for planning that incorporates historic and cultural resources that could be affected by new rights of way.

### Public Lands

### NLCS Funding, Energy Development, Mining and OHV Use All Major Issues for Preservation

Among the many issues facing historic and cultural resources on public lands are funding for the National Landscape Conservation System (NLCS) within the Bureau of Land Management; the impact of mining reform on Native American sacred sites and other cultural resources; development of renewable energy and National Interstate Transmission Corridors on public lands; and greater regulation of Off-Highway Vehicle (OHV) use on public lands.

### Tax

### Expanded Federal Rehab Credit to Include Major Energy- Efficiency Provision

Preservationists can expect the reintroduction of the “Community Restoration and Revitalization Act” in mid-September that will include major amendments to the federal historic and non-historic rehabilitation credits, including a new energy-efficiency provision incentive for historic buildings that will bolster similar incentives already provided in the House and Senate climate change bills.

### Agriculture Appropriations and Conservation Funding

### Conservation Programs under USDA Get Major

The Senate passed the Agriculture Appropriations Bill (HR 2997) prior to the recess by a vote of 83-17 in the nature of a substitute. The bill allows for major increases to farm bill conservation programs. In its fiscal 2010 budget

Increase over  
FY'09 Levels in  
FY'10  
Agriculture  
Appropriations  
Bill

request, the White House proposed hundreds of millions of dollars in cuts to those farmland conservation programs in order to find money for other priorities, but both the House and Senate Appropriations committees rejected the cuts. In total, the Natural Resources Conservation Service, which oversees most farmland conservation programs under USDA, would receive nearly \$950 million for conservation operations, an increase of almost \$100 million compared to 2009 spending levels. At stake for preservation is the preservation of historic and cultural resources located on rural farmland as well as preservation of open space that provides a buffer against urban sprawl.

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