

CRS Report for Congress

Historic Preservation: Background and Funding

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Summary

Historic preservation can be defined as the protection of cultural resources. It is supported through a variety of federal government, state government, and private programs. Among the major historic preservation programs given federal support are the Historic Preservation Fund (HPF), the Advisory Council on Historic Preservation, and the National Register of Historic Places. All of these were created, authorized, or amended by the National Historic Preservation Act of 1966 (P.L. 89-665), as amended.

Some Members of Congress support proposals to eliminate a federal government role in financing historic preservation programs, leaving such programs to be sustained by other levels of government or private support. Others feel a federal role in supporting historic preservation should be maintained. The National Historic Preservation Act (NHPA) Amendments of 2000, enacted as P.L. 106-208, reauthorized the HPF and the Advisory Council on Historic Preservation through FY2005. The House Subcommittee on National Parks of the Committee on Resources held oversight hearings on the NHPA (May 21, 2005). S. 1378 and H.R. 5861 (and related bill H.R. 3446) were introduced to reauthorize the HPF (Section 8, NHPA) and primarily to amend provisions pertaining to the operation of the Advisory Council on Historic Preservation. H.R. 5861, the National Historic Preservation Act Amendments Act of 2006, passed the House on September 25, 2006, and S. 1378 passed the Senate on September 29, 2006 (S.Rept. 109-235). S. 1378, as amended, was cleared for the White House on December 9, 2006, and was enacted as P.L. 109-453 on December 22, 2006. P.L. 109-453 reauthorized the HPF through FY2015. For FY2007, the Senate Appropriations Committee approved \$70.7 million for the HPF, \$44.5 million below the FY2006 appropriation (\$115.2 million) and \$1.2 million below the Administration's FY2007 budget of \$71.9 million. The FY2006 figure included a \$43.0 million emergency appropriation to help historic sites recover from Hurricane Katrina. Both the House-passed and Senate Appropriations Committee-reported bill for FY2007 would have included \$35.7 million for grants-in-aid to state historic preservation offices, \$3.9 million for Tribal grants, and \$1.0 million for preserving and restoring historic buildings and structures on campuses of Historically Black Colleges and Universities (HBCUs).

During the 109th Congress, both the full House and the Senate Appropriations Committee disagreed with the Administration's FY2007 request to create the America's Heritage and Preservation Partnership program within the Historic Preservation Fund and to reduce National Heritage areas by 50%. The Administration sought to combine funding for National Heritage Areas, Save America's Treasures, and Preserve America Grants. Both the House and the Senate Appropriations Committees would have retained the Heritage Partnership program within the National Recreation and Preservation programs line item. The Senate Appropriations Committee-reported bill would have provided \$30.0 million for Save America's Treasures, whereas the House-passed bill would have provided \$15.0 million. Also during the 109th Congress, the third continuing appropriations resolution for FY2007 extended appropriations through February 15, 2007, at the spending level of the lower of FY2006, the House-passed, or Senate-passed FY2007 levels.

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Historic Preservation: Background and Funding

This report summarizes the federal role in historic preservation. It provides descriptions of and funding information for some of the major preservation programs, including the Historic Preservation Fund (HPF), the Advisory Council on Historic Preservation, the National Trust for Historic Preservation, and the National Register of Historic Places. Some Members of Congress have given historic preservation programs close scrutiny, recommending that these programs be supported increasingly by the private sector. The FY2007 House-passed Interior appropriations bill (H.R. 5386) would have provided \$58.6 million for the HPF, compared to the Senate Appropriations Committee-reported bill, which would have provided \$70.7 million — both amounts are below the FY2007 Administration budget amount of \$71.9 million. The final FY2006 emergency supplemental appropriations for hurricane recovery (P.L. 109-234) provided \$43.0 million for the HPF, for repair of historic structures damaged by hurricanes, an amount that exceeds the current FY2006 appropriation for grants-in-aid to states (\$35.7 million) under HPF programs. The National Historic Preservation Act of 2006 was enacted (P.L. 109-453) on December 22, 2006, to extend the National Historic Preservation Act (NHPA). Both H.R. 5861 (which passed the House on September 25, 2006) and S. 1378 (S.Rept. 109-235)(which passed the Senate on September 29, 2006) extended the NHPA through FY2015. The Department of Defense Appropriations Act, 2007 (H.R. 5631, P.L.109-289) contained a continuing resolution for funding programs including HPF through November 17, 2006. A third continuing resolution, P.L. 109-383, provided funding for the HPF through February 15, 2007, at the lower of the FY2006, House-passed, or Senate passed FY2007 levels. The House-passed FY2007 level (\$58.6 million) was the lowest appropriation level provided.

Introduction

Historic preservation can be defined as the protection of cultural resources. It is supported through a variety of federal government, state government, and private programs. Although it is not within the purview of this report to discuss all federal programs that support historic preservation, a selected few are highlighted. Among the major historic preservation programs given federal support are the Historic Preservation Fund (HPF), the Advisory Council on Historic Preservation, and the National Register of Historic Places. All of these were created, authorized, or amended by the National Historic Preservation Act of 1966 (P.L. 89-665), as amended. Some Members of Congress support proposals to eliminate a federal government role in financing historic preservation programs, leaving such programs to be sustained by other levels of government or private support. Others feel a federal role in supporting historic preservation should be maintained. The National

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Selected Federal Preservation Programs

The HPF, administered by the National Park Service, provides grants-in-aid (funded on a 60% federal/40% state matching share basis) to states and territories for activities specified in the NHPA.¹ States carry out program purposes² directly through State Historic Preservation Offices (SHPOs) or subgrants and contracts with public and private agencies, organizations, institutions of higher education, and private individuals. Section 103(c) of NHPA, as amended, requires 10% of each state's annual allocation distributed by the Secretary of the Interior to be transferred to local governments that are certified eligible under program regulations.³ The HPF also administers a grant program for Indian Tribes, Alaska Natives, and Native

¹ The HPF was established as a funding source for NHPA activities in 1976, when it was amended by P.L. 94-422 (which amended the Land and Water Conservation Fund Act of 1965 and established the NHPA) and was further amended by P.L. 102-575 (the Reclamation Projects Authorization and Adjustment Act of 1992, containing the National Historic Preservation Amendments of 1992). Section 108 of the act provides the HPF with \$150 million in annual revenue from Outer Continental Shelf (OCS) mineral receipts. Section 108 allows annual transfers from OCS receipts. However, Congress has rarely approved more than half of the \$150 million annually, and has \$2.8 billion in unexpended dollars from these deposits.

² Some of the expressed purposes include the following: to conduct a comprehensive survey of historic properties (approximately 222,000 properties nationwide), to help develop comprehensive statewide historic preservation plans, and to advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for federal financial or tax assistance.

³ According to the NPS, approximately \$40 million in HPF grants has been allocated to the Certified Local Government program since 1985. Currently, there are approximately 1,228 certified local governments in charge of local historic preservation programs.

Hawaiians for cultural heritage projects. In addition, the fund has provided matching grants to Historically Black Colleges and Universities (HBCUs) to preserve threatened historic buildings on their campuses.⁴ In recent years, HBCU preservation funding has ranged from \$2.9 million to \$3.5 million, with \$2.9 million provided in FY2006. The FY2007 Administration budget would have eliminated such funding. Both the House-passed and Senate Appropriations Committee-reported bills would have provided \$1.0 million in funding for HBCU's for FY2007.

Save America's Treasures. Save America's Treasures grants, under the jurisdiction of HPF, are given to preserve "nationally significant intellectual and cultural artifacts and historic structures," including monuments, historic sites, artifacts, collections, artwork, documents, manuscripts, photographs, maps, journals, still and moving images, and sound recordings. Funds were appropriated in FY1999 (the first year of its creation) and used for restoration of the Star-Spangled Banner, the Declaration of Independence, and the U.S. Constitution, as well as for federal agencies' historic preservation priority millennium projects. Other properties throughout the United States receiving Save America's Treasures grants included the Rosa Parks Museum in Alabama, the Mark Twain House in Connecticut, and the Sewall-Belmont House (the National Woman's Party headquarters) in Washington, D.C. Although appropriations were continued for Save America's Treasures for FY2000 and FY2001, criticism was lodged generally against the program, alleging a lack of geographic diversity. As a result, the FY2001 Interior appropriations law (P.L. 106-291) required that project recommendations be subject to formal approval by the House and Senate Committees on Appropriations prior to the distribution of funds. These projects require a 50% cost share, and no single project can receive more than one grant from this program. The final appropriation for FY2006 was \$29.6 million, with a portion specified by Congress for designated projects; the FY2007 request for Save America's Treasures was \$14.8 million.

Preserve America. The FY2006 and the FY2007 Administration budgets requested funding for a "Preserve America" grants program (established by Executive Order 13287) that is characterized as a supplement to the Save America's Treasures program. The Preserve America program would provide assistance to encourage community preservation of cultural, historic, and natural heritage through education and heritage tourism. Preserve America grants would be awarded on a 50/50 matching basis, as one-time seed money. The FY2005 appropriations law did not include funding for Preserve America. The FY2006 final appropriation included language specifying that up to \$5.0 million of the Save America's Treasures allocation could be used to provide for Preserve America pilot grants.

The FY2007 House-passed Interior appropriations bill would have provided \$15.0 million for Save America's Treasures and \$3.0 million for Preserve America.

⁴ In FY1995, Morris-Brown College, Atlanta, Georgia, and Shaw University, Raleigh, North Carolina, received grants to help preserve their historic buildings. On Nov. 12, 1996, provisions of H.R. 1179 (the Historically Black Colleges and Universities Historic Building Restoration and Preservation Act) became part of the Omnibus Parks and Public Lands Management Act of 1996 (P.L. 104-333). Funds in Section 507 were provided to specific universities.

The FY2007 Senate Appropriations Committee-reported bill would have provided \$30.0 million for Save America's Treasures, of which \$10.0 million could be used for Preserve America grants.

The National Trust for Historic Preservation. The National Trust no longer receives an annual federal appropriation through the NHPA (except for funds expressly earmarked for its endowment for endangered properties in FY2002, FY2003, and FY2004).⁵ The Trust was chartered by Congress in 1949 as an organization *national* in scope. It is a private nonprofit corporation, responsible for encouraging the protection and preservation of historic American sites, buildings, and objects that are significant to the cultural heritage of the United States. The Trust owns some historic properties, 17 of which are historic houses that are operated as museums. These include such houses as the Frank Lloyd Wright home and studio in Oak Park, Illinois, and Woodlawn Plantation at Mount Vernon, Virginia. The Trust provides technical and educational services and promotes historic preservation activities from regional offices, as well as through its Washington, D.C. headquarters. It maintains several financial assistance programs, including the *National Preservation Loan Fund*, providing below-market-rate loans to nonprofit organizations and public agencies to help preserve properties listed in the National Register of Historic Places, particularly those on the Trust's "Most Endangered Historic Places" list. The final FY2004 appropriation provided \$494,000 for a grant to the "endowment" of the National Trust Historic Sites Fund, to be matched dollar for dollar with non-federal funds, for the care and maintenance of historic sites, including restoration and protection of the most endangered historic places. FY2004 was the last year the Trust's endowment was funded through Interior appropriations.

The Advisory Council on Historic Preservation. The Advisory Council, in cooperation with the Secretary of the Interior, helps to manage the NHP programs as authorized under the NHPA. Those programs include, but are not limited to, the HPF and the National Register. The Advisory Council oversees the Section 106 NHPA authority for *consultation*, the primary federal mechanism for protecting historical properties.⁶ In addition to consultation, the Advisory Council provides coordination, mediation, education, and advice on historic preservation matters. It

⁵ The conference agreement (H.Rept. 104-402) for the Department of Interior and Related Agencies Appropriations Act for FY1996 stated that the managers agree "to a 3-year period of transition for the National Trust for Historic Preservation to replace federal funds with private funding." The House Reports (H.Rept. 104-625) accompanying the FY1997 Interior Appropriations and the FY1998 Interior Appropriations (H.Rept. 105-163) indicated that the National Trust should become self-supporting by FY1999. *From FY1998 through FY2001 there was no further federal funding for the National Trust.* For FY2002, FY2003, and FY2004, an appropriation was provided to the Trust to help sustain its "endowment" for endangered historic properties. Also, the language of the law does not preclude the Trust from accepting some federal funds for NHPA purposes, although it is no longer on a permanent annual basis.

⁶ In 1966, Congress created a process in Section 106 of NHPA that requires federal agencies to take into account the effects of their actions on historic properties. Congress also charged the Council with commenting on those actions and administering Section 106 of NHPA. Section 106 of the act has become a tool for the public and governmental representatives to interact in decision-making that affects communities' heritage across the United States.

does *not* have responsibility for making historic agencies' *final* decisions, or controlling property actions, although during the Section 106 process, its recommendations are to be *seriously considered*. The Advisory Council works closely with federal agencies and state historic preservation officers.⁷

The Advisory Council is an independent federal agency established to help shape national policies dealing with preservation of cultural heritage. It was composed of 20 members and a small professional staff. Eleven members were presidentially appointed: the chairman, three members from the general public, a governor, a mayor, four experts from preservation-related disciplines, and a Native American or Native Hawaiian. The Council also included six federal agency heads whose activities affect historic preservation (the Secretaries of Agriculture, Interior, Housing and Urban Development, and Transportation; the Administrators of the Environmental Protection Agency and the General Services Administration), the Architect of the Capitol, and ex-officio representatives of the National Trust for Historic Preservation and the National Conference of State Historic Preservation Officers. In the 109th Congress, P.L. 109-453 reauthorized the HPF through FY2015 and amended provisions for the operation of the Advisory Council. It added members to the Council, and authorized "amounts as necessary" for appropriations for the Advisory Council. It provided that the Council may make recommendations for funding levels for federal grants and assistance programs meeting the purposes and policies of the National Historic Preservation Act. The new law (P.L. 109-453) provides that the Advisory Council may enter cooperative agreements with federal agencies that administer grant assistance programs in order to improve effectiveness of the administration of programs to meet the policies of the NHPA.

The National Register of Historic Places. The National Register is maintained by the Department of the Interior (DOI) and in particular by the National Park Service under the authority of the NHPA as amended.⁸ The National Register stands as the United States "official list" of properties significant in "American history, architecture, archeology, engineering and culture." The NHPA requires the Interior Secretary to maintain the Register, develop guidelines and regulations for nominations, consider appeals, make determinations of eligibility of properties, and make the National Register accessible to the public. The National Register information is used for public education efforts, planning, and setting preservation compliance standards, all of which assist in the preservation of cultural resources. The National Register develops standards and guidelines to help federal, state, and

⁷ The Advisory Council was established by Title II of the NHPA of 1966 (16 U.S.C. § 470). Some of the issues the Advisory Council has had as its charge include working with the Department of Housing and Urban Development's HOME program for affordable housing while preserving historic areas, improving preservation of historic properties during natural disasters, and promoting preservation and reuse of historic properties during military base closures. The Advisory Council was previously authorized through FY2005, and has had its funding extended by P.L. 109-453.

⁸ Although the primary authority for operating the National Register is the NHPA (originally enacted as P.L. 89-665), other laws that affect administration of the National Register include, but are not limited to, the Antiquities Act of 1906, the Historic Sites Act of 1935, the Archeological and Historic Preservation Act of 1974, and the Archeological Resources Protection Act of 1979, as amended.

local governments to prepare nominations for the Register.⁹ As part of the National Register program, DOI has developed a National Register Information System (NRIS) computerized database — an automated system that gives information on the National Register's more than 79,000 listings available for use by states, federal agencies, and the public.¹⁰

National Historic Landmarks. The actual designation of **National Historic Landmarks** (NHL) as properties of national significance is a separate program under the National Register, and is also supported by federal funds. NHLs that are listed in the Register are a relatively small group of registered properties, representing an estimated 3% of all entries in the Register (consisting of approximately 2,300). They are designated by the Secretary of the Interior under the authority of the Historic Sites Act of 1935.

Funding for FY2006 and FY2007

FY2006 Funding. The FY2006 Interior appropriations (P. 109-54) provided \$72.2 million for the HPF. During House debate on the FY2006 interior appropriations, the Chairman of the House Resources Committee objected to the appropriation for the HPF (and other programs) on the grounds that it was not authorized for FY2006, and that there should be no appropriation without an authorization. His amendment on this issue was ruled out of order as constituting legislation on an appropriations bill.

FY2006 Emergency Supplemental Appropriations. Additional funding for FY2006 was provided by the FY2006 Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Hurricane Recovery, P.L. 109-234. The House-passed bill (H.R. 4939) would have provided \$3 million, and the Senate version would have provided \$83 million (S.Rept. 109-235) to the HPF for repair and rehabilitation of historic structures damaged by hurricanes Katrina and Rita. The final law provided \$43 million for the HPF for hurricane recovery. This included funding to establish a specialized grant-in-aid program for repair and rehabilitation of historic structures (particularly those on the National Register of Historic Places) that were damaged by hurricanes Katrina and Rita. Grants are to be directed to endangered historic properties that sustained the most hurricane damage. No non-federal matching is required, and not more than 5% of the funds may be used for administrative expenses. According to the National Trust for Historic Preservation, thousands of historic homes have been lost and tens of thousands of historic properties have been damaged by hurricanes Katrina and Rita.

⁹ National Register programs, although not a separate line item in annual appropriations, are included as part of the National Park Service Recreation and Preservation/cultural programs category.

¹⁰ For more information, see [<http://www.cr.nps.gov/nr/research/nris.htm>].

FY2007 Funding. The FY2007 budget contained \$71.9 million for the HPF. It proposed shifting funding for National Heritage Areas to the HPF as part of a new America's Heritage and Preservation Partnership program. Funding for Heritage Areas would have been cut from \$13.3 million in FY2006 to \$7.4 million for FY2007. Save America's Treasures would have been cut in half (\$14.8 million), but Preserve America grants would have doubled to \$10.0 million.

Both the full House and the Senate Appropriations Committee disagreed with the Administration's plan, and would retain the Heritage Partnership program within the National Recreation and Preservation programs line item, restoring funding for the National Heritage areas.

For FY2007, the Senate Appropriations Committee approved \$70.7 million for the HPF, \$44.5 million below the FY2006 appropriation (\$115.2 million) and \$1.2 million below the Administration's FY2007 budget of \$71.9 million. The FY2007 House-passed Interior appropriations bill would have provided a total of \$58.6 million for the HPF. Both the House-passed and Senate Appropriations Committee-reported bill would have included \$35.7 million for grants-in-aid to state historic preservation offices, \$3.9 million for Tribal grants, and \$1.0 million for preserving and restoring historic buildings and structures on campuses of Historically Black Colleges and Universities (HBCUs).

The FY2007 House-passed Interior appropriations bill would have provided \$15 million for Save America's Treasures and \$3 million for Preserve America. In the House-passed bill, \$7.5 million of the \$15 million for Save America's Treasures was for designated projects as listed in H.Rept. 109-465. The FY2007 Senate Appropriations Committee-reported bill would have provided \$30 million for Save America's Treasures, and of that amount, the bill specified \$10 million may be used for Preserve America grants and \$10 million could have been for designated projects as listed in S.Rept. 109-275, with the remaining \$10 million for regular competitive grants. No separate Interior appropriation bill became law for FY2007, and several continuing resolutions were enacted. The third continuing resolution continued funding for the HPF through February 15, 2007, at the lower of FY2006, the House-passed FY2007 level, or the Senate-passed FY2007 level. The lowest level was the House-passed FY2007 level. (See **Table 1.**)

Table 1. Historic Preservation Programs — Appropriations, FY2002-FY2007

Program	FY2002 Approps.	FY2003 Approps.	FY2004 Approps.	FY2005 Approps.	FY2006 Approps.	FY2007 Request	FY2007 House Passed	FY2007 Senate Approps. Comm.
Historic Preservation Fund (total)^a	\$74,500,000	\$68,552,000	\$73,583,000	\$71,739,000	\$115,172,000	\$71,858,000	\$58,658,000	\$70,658,000
Grants-in-Aid to States and Territories ^b	39,000,000	33,779,000	34,569,000	35,500,000	35,717,000	35,717,000	35,717,000	35,717,000
Tribal Grants	3,000,000	2,981,000	2,963,000	3,205,000	3,941,000	3,941,000	3,941,000	3,941,000
Historically Black Colleges Restoration	—	—	2,963,000	3,451,000	2,956,000	—	1,000,000	1,000,000
Subtotal, Grants-in-Aid	42,000,000	36,760,000	40,495,000	42,156,000	42,614,000	39,658,000	40,658,000	40,658,000
Save America's Treasures Millennium Program	30,000,000	29,805,000	32,594,000	29,583,000	29,558,000	14,800,000	15,000,000	30,000,000
Heritage Partnership Programs [previously included National Heritage Areas] ^f	[13,206,000]	[14,280,000]	[14,275,000]	[14,579,000]	[13,301,000]	7,400,000 ^d	—	—
Preserve America Grants-in-Aid	—	—	—	—	^c	10,000,000	3,000,000	^e
Endowment grant for National Historic Trust	2,500,000	1,987,000	494,000	—	—	—	—	—
HPF Emergency appropriations	—	—	—	—	43,000,000	—	—	—
Advisory Council on Historic Preservation	3,400,000	3,643,000	3,951,000	4,536,000	4,789,000	5,118,000	5,118,000	5,118,000

Source: U.S. Congress, House and Senate Committees on Appropriations.

- a. Appropriations for Historic Preservation programs are part of the Department of Interior and Related Agencies Appropriations. The Historic Preservation Fund previously included grants-in-aid to states, tribal grants, grants to HBCUs, the National Trust for Historic Preservation, and Save America's Treasures. It no longer generally includes annual appropriations for the National Trust, except for funding the endowment fund, and the authorization for restoration grants to HBCUs has ended, although funding has been reinstated by Congress.
- b. The term "Grants-in-Aid to States and Territories" is used in conjunction with the HPF budget, and refers to the same program as "Grants-in-Aid to State Historic Preservation Offices."
- c. P.L.109-54 provided that an amount not to exceed \$5.0 million may be allocated from Save America's Treasures for Preserve America pilot grants.
- d. Funding for Heritage Areas was previously included in the National Recreation and Preservation as a line item. The Administration's FY2007 proposal would reduce the program to \$7.4 million. The House-passed bill would provide \$13.9 million for Heritage Partnerships/Heritage areas, and the Senate Appropriations Committee-reported bill would provide \$14.1 million under National Recreation and Preservation.
- e. H.R. 5386, as reported by the Senate Appropriations Committee, specifies that of the \$30.0 million for Save America's Treasures, \$10.0 million may be used for Preserve America grants.
- f. Except for the FY2007 request, these funds are included in totals listed elsewhere under National Recreation and Preservation.