

in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this subchapter include plans to—

(1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significance, about the need for protection of such resources, and the available means of protection;

(2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

(3) encourage the protection of Native American cultural items (within the meaning of section 3001(3) and (9) of title 25) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

(4) encourage owners who are undertaking archaeological excavations to—

(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

(B) donate or lend artifacts of research significance to an appropriate research institution;

(C) allow access to artifacts for research purposes; and

(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3002(a)(2)(B) or (C) of title 25, given¹ notice to and consult with such Indian tribe or Native Hawaiian organization.

(Pub. L. 89-665, title I, §112, as added Pub. L. 102-575, title XL, §4014, Oct. 30, 1992, 106 Stat. 4761; amended Pub. L. 106-208, §5(a)(9), May 26, 2000, 114 Stat. 319.)

CODIFICATION

October 30, 1992, referred to in subsec. (a)(1)(B), was in the original “the date of enactment of this Act” which was translated as meaning the date of enactment of Pub. L. 102-575 which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

2000—Subsec. (b)(3). Pub. L. 106-208 inserted closing parenthesis after “title 25”.

§ 470h-5. Interstate and international traffic in antiquities

(a) Study

In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

¹ So in original. Probably should be “give”.

(b) Consultation

In conducting the study described in subsection (a) of this section the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other kinds of antiquities and with State Historic Preservation Officers, archaeological, architectural, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

(c) Report

Not later than 18 months after October 30, 1992, the Secretary shall submit to Congress a report detailing the Secretary’s findings and recommendations from the study described in subsection (a) of this section.

(d) Authorization

There are authorized to be appropriated not more than \$500,000 for the study described in subsection (a) of this section, such sums to remain available until expended.

(Pub. L. 89-665, title I, §113, as added Pub. L. 102-575, title XL, §4015, Oct. 30, 1992, 106 Stat. 4762.)

PART B—ADVISORY COUNCIL ON HISTORIC PRESERVATION

§ 470i. Advisory Council on Historic Preservation

(a) Establishment; membership; Chairman

There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation which shall be composed of the following members:

(1) a Chairman appointed by the President selected from the general public;

(2) the Secretary of the Interior;

(3) the Architect of the Capitol;

(4) the Secretary of Agriculture and the heads of seven other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, designated by the President;

(5) one Governor appointed by the President;

(6) one mayor appointed by the President;

(7) the President of the National Conference of State Historic Preservation Officers;

(8) the Chairman of the National Trust for Historic Preservation;

(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines;

(10) three at-large members from the general public, appointed by the President; and

(11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he or she is a member, appointed by the President.

(b) Designation of substitutes

Each member of the Council specified in paragraphs (2) through (8) other than (6) of subsection (a) of this section may designate another

officer of his department, agency, or organization to serve on the Council in his stead, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated.

(c) Term of office

Each member of the Council appointed under paragraph (1), and under paragraphs (9) through (11) of subsection (a) of this section shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

(d) Vacancies; term of office of members already appointed

A vacancy in the Council shall not affect its powers, but shall be filled, not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this subchapter as in effect on the day before December 12, 1980, shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after December 12, 1980.

(e) Designation of Vice Chairman

The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

(f) Quorum

12 members of the Council shall constitute a quorum.

(Pub. L. 89-665, title II, §201, Oct. 15, 1966, 80 Stat. 917; Pub. L. 91-243, §1(b)-(e), May 9, 1970, 84 Stat. 204; Pub. L. 93-54, §1(c), July 1, 1973, 87 Stat. 139; Pub. L. 94-422, title II, §201(5), Sept. 28, 1976, 90 Stat. 1320; Pub. L. 96-515, title III, §301(a)-(f), Dec. 12, 1980, 94 Stat. 2998, 2999; Pub. L. 102-575, title XL, §§4016, 4019(b), Oct. 30, 1992, 106 Stat. 4763, 4765; Pub. L. 104-333, div. I, title V, §509(c)(1), (2), Nov. 12, 1996, 110 Stat. 4157; Pub. L. 109-453, §1(d), Dec. 22, 2006, 120 Stat. 3367.)

AMENDMENTS

2006—Subsec. (a)(4). Pub. L. 109-453, §1(d)(1), substituted “seven” for “four”.

Subsec. (b). Pub. L. 109-453, §1(d)(2), struck out “(5) and” before “(6)”.

Subsec. (f). Pub. L. 109-453, §1(d)(3), substituted “12” for “Nine”.

1996—Subsec. (a)(4). Pub. L. 104-333, §509(c)(1), substituted “designated by the President” for “appointed by the President”.

Subsec. (c). Pub. L. 104-333, §509(c)(2), which directed substitution of “through (11)” for “and 10”, was executed by making the substitution for “and (10)” to reflect the probable intent of Congress.

1992—Subsec. (a). Pub. L. 102-575, §4019(b), which directed amendment of subsec. (a) by striking “(hereafter referred to as the ‘Council’)”, was executed by striking “(hereinafter referred to as the ‘Council’)” after “Historic Preservation” in introductory provisions to reflect the probable intent of Congress.

Subsec. (a)(11). Pub. L. 102-575, §4016, added par. (11).

1980—Subsec. (a). Pub. L. 96-515, §301(a), revised the composition of the Council by reducing the membership from twenty-nine to eighteen members, provided flexibility for Federal agencies who will be represented, ensured that appropriate expertise will be available, and provided representation for State and local governments.

Subsec. (b). Pub. L. 96-515, §301(b), substituted “(2) through (8) (other than (5) and (6))” and “(1) through (17)” and inserted “, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated” following “in his stead”.

Subsec. (c). Pub. L. 96-515, §301(c), substituted provision that the Chairman appointed by the President from the general public, each of the four experts appointed by the President, and each of the three at-large members appointed by the President from the general public serve a term of four years from the expiration of his predecessor's term, except that the members first appointed serve terms of one to four years in such a manner as to insure that the terms of not more than two of them expire in any one year, the one Governor and the one mayor appointed by the President serve for the term of their elected office but not in excess of four years, an appointed member not serve for more than two terms, and an appointed member whose term expired serve until his successor has been appointed for provision that each of the twelve members appointed by the President from outside the Federal Government serve for a term of five years from expiration of his predecessor's term, except that the members first appointed serve for terms of one to five years in such a manner as to insure that the terms of not less than one nor more than two of them expire in any one year.

Subsec. (d). Pub. L. 96-515, §301(d), inserted provision that a vacancy be filled not later than sixty days after it commences, members of the Council appointed by the President before Dec. 12, 1980 remain in office until all members of the Council, as specified by this section, have been appointed, and members first appointed be appointed not later than 180 days after Dec. 12, 1980.

Subsec. (e). Pub. L. 96-515, §301(e), substituted provision authorizing the President to designate a Vice Chairman from among specified members of the Council for provision authorizing the President to designate a Chairman and Vice Chairman.

Subsec. (f). Pub. L. 96-515, §301(f), substituted “Nine” for “Fifteen”.

1976—Subsec. (a)(9) to (18). Pub. L. 94-422 added pars. (9) to (14) and (17), and redesignated former pars. (9), (10), and (11) as (15), (16), and (18), respectively, and in par. (18), as so redesignated, substituted “twelve” for “ten”.

Subsec. (b). Pub. L. 94-422 substituted “(17)” for “(10)”.

Subsec. (c). Pub. L. 94-422 substituted “(18)” for “(11)”.

Subsec. (d). Pub. L. 94-422 reenacted subsec. (d) without change.

Subsec. (e). Pub. L. 94-422 enlarged Presidential authority to include designation of Vice Chairman, who shall act in place of Chairman during the absence or disability of Chairman or when the office is vacant.

Subsec. (f). Pub. L. 94-422 substituted “Fifteen” for “Eleven”.

Subsec. (g). Pub. L. 94-422 struck out subsec. (g) which provided that the Council shall continue in existence until Dec. 31, 1985.

1973—Subsec. (g). Pub. L. 93-54 added subsec. (g).

1970—Subsec. (a). Pub. L. 91-243, §1(b), enlarged the Council from seventeen to twenty members, added pars. (7) to (9), and redesignated former pars. (7) and (8) as (10) and (11), respectively.

Subsec. (b). Pub. L. 91-243, §1(c), substituted “(10)” for “(6)”.

Subsec. (c). Pub. L. 91-243, §1(d), substituted “(11)” for “(8)”.

Subsec. (f). Pub. L. 91-243, §1(e), substituted “Eleven” for “Eight”.

§ 470j. Functions of Council; annual report to President and Congress; recommendations

(a) Duties

The Council shall—

(1) advise the President and the Congress on matters relating to historic preservation; recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;

(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this subchapter; and

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

(b) Annual report

The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this subchapter.

(Pub. L. 89-665, title II, §202, Oct. 15, 1966, 80 Stat. 918; Pub. L. 96-515, title III, §301(g), Dec. 12, 1980, 94 Stat. 2999.)

AMENDMENTS

1980—Subsec. (a)(6), (7). Pub. L. 96-515, §301(g)(1), added pars. (6) and (7).

Subsec. (b). Pub. L. 96-515, §301(g)(2), inserted provision requiring in the Council's report an assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submittal to Congress, annually, of a comprehensive report of activities and results of studies, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 154 of House Document No. 103-7.

RELATIONSHIP OF FEDERAL TAX LAWS TO HISTORIC PRESERVATION; REPORT TO PRESIDENT AND CONGRESS

Section 503 of Pub. L. 96-515 directed the Advisory Council on Historic Preservation to submit a report, within one year of Dec. 12, 1980, to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation.

§ 470k. Cooperation between Council and instrumentalities of executive branch of Federal Government

The Council is authorized to secure directly from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government information, suggestions, estimates, and statistics for the purpose of this part; and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

(Pub. L. 89-665, title II, §203, Oct. 15, 1966, 80 Stat. 918.)

§ 470l. Compensation of members of Council

The members of the Council specified in paragraphs (2), (3), and (4) of section 470i(a) of this title shall serve without additional compensation. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

(Pub. L. 89-665, title II, §204, Oct. 15, 1966, 80 Stat. 918; Pub. L. 91-243, §1(f), May 9, 1970, 84 Stat. 204; Pub. L. 94-422, title II, §201(6), Sept. 28, 1976, 90 Stat. 1321; Pub. L. 96-515, title III, §301(h), Dec. 12, 1980, 94 Stat. 2999.)

AMENDMENTS

1980—Pub. L. 96-515 substituted “paragraphs (2), (3), and (4)” for “paragraphs (1) and (17)” and “other members of the Council” for “members of the Council under paragraph (18) of section 470i(a) of this title”.