

## **BILL PROPOSING SECTION 106 AMENDMENTS INTRODUCED**

### **Eligibility Now Off the Table**

July 21, 2006 - On Thursday, July 20, Representative Stevan Pearce (R-NM), Chair of the Subcommittee on National Parks within the House of Representatives Resources Committee, introduced HR 5861 reauthorizing and amending the National Historic Preservation Act. The bill reauthorizes the deposits into the Historic Preservation Fund until 2015, expands the Advisory Council on Historic Preservation membership, reauthorizes the ACHP through 2015, and clarifies that certified local governments shall not use any eligibility determination related to National Register status to initiate local regulatory requirements unless the property owner or owners are provided full due process protection through public hearings.

The proposed legislation includes a provision – adding to Section 106, not replacing current law-- stating that a federal agency shall not require an applicant to take into account effects of the project outside the Area of Potential Effect (APE). State and Tribal Preservation Offices would be required to concur within 30 days of receipt of an adequately documented finding of either “no historic properties affected” or “no adverse effect.”

This legislation follows over a year of considerations within the National Parks Subcommittee. A “discussion draft” of amendments to the Act, specifically to Section 106, circulated in the Subcommittee last spring, and caused serious concern within the preservation community.

The National Parks Subcommittee’s 2005 discussion draft proposed to reduce the scope of Section 106 to resources that were already on the National Register of Historic Places – and eliminate consideration of resources eligible for the National Register, as is currently the case. The current scope of consideration and the area of potential effect around a proposed project, appeared (to those crafting and supporting the discussion draft) to be a huge burden on applicants.

The controversy was spotlighted at Lobby Day this year during Representative Pearce’s luncheon presentation on the topic. During his 45-minute talk, he drew connections between Section 106 and environmental policies like the Endangered Species Act. He noted that he didn’t believe there were 218 votes in the House of Representatives to see the draft changes pass into law. The most debated portions of the “discussion draft” have been eliminated in the current legislation.

For the bill text, visit:

[http://www.preservationaction.org/06lobbying/PEARCE\\_050\\_xml.pdf](http://www.preservationaction.org/06lobbying/PEARCE_050_xml.pdf)