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BEFORE THE SUBCOMMITTEE ON PARKS AND RECREATION
BILLS RELATING TO THE PRESERVATION OF
HISTORICAL AND ARCHEOLOGICAL DATA
July 30, 1973

Mr. Chairman and Members of the Subcommittee:

I was pleased to be asked to participate today in these hearings on H.R. 296 and the related bills providing for the preservation of historical and archeological data. The Department of Transportation and Federal Highway Administration endorse the general intent of these bills and we are proud that our Federal-Aid Highway Program included one of the first historical and archeological preservation programs. Although preservation legislation was initiated as early as 1906, I believe that most attempts at preservation lacked any funding inasmuch as the 1906 Act made no reference to or provision for use of Federal funds to preserve objects of historic or prehistoric significance. The Federal-Aid Highway Act of 1956 changed this lack of funding with respect to highway projects by providing that the costs of archeological and paleontological salvage, approved as necessary by a highway department of any State, were eligible for Federal aid in compliance with the 1906 Act for the preservation of American antiquities.

Federal-aid highway funds participate in necessary preservation and salvage operations in the same proportion as on the highway project itself. Since the 1956 legislation,

Federal highway funds devoted to archeological and paleontological salvage work have amounted to \$2,414,979.

Under our program, when a projected highway will pass through an area which may contain historical objects, the appropriate Federal or State authority, ^{to} ~~be~~ advised of the proposed location of the highway so as to enable such authority to determine the likelihood of the highway construction destroying historical objects. Even when objects are not discovered until construction has begun, construction will be halted, appropriate authorities notified, and steps taken to excavate and preserve the objects. If preservation is not practicable, data concerning the objects can be recorded. Archeological surveys are considered part of the costs for the projects and are eligible for Federal-aid reimbursement. Similarly, the cost of excavation or recordation of data is eligible for Federal-aid participation.

Our salvage program is not by any means restricted to any geographical region. States in every part of the country have availed themselves of its provisions. It is not restricted to prehistoric and Indian sites; it has included salvage and recording of historic objects and buildings of more recent times as well. For the Subcommittee's information, I submit herewith a listing of archeological and paleontological salvage work on Federal-aid highway projects which have been authorized from 1956 through 1972. Also, I wish to submit the Federal Highway

Administration's Policy and Procedures Memorandum (PPM 20-7) on such salvage projects. In addition, we have procedures which assure that in the preparation of environmental impact statements, historic preservation is considered.

Our preservation program has been gathering headway for several years with increases in activities in the Federal-aid highway field. As of 1972, 37 States have participated in this work. Our salvage work also includes reconnaissance survey, meaning any work for the location of sites of historic objects on or along proposed routes during or after the route selection stage of a highway project; preliminary site examination, meaning work for the inspection, preliminary testing, and evaluation of known or suspected sites of historic objects to determine the necessity of salvage work; and actual salvage work which includes excavation, removal and preservation and/or the collection of data relating thereto, and may include the preparation and issuance of a report to the participating agencies covering the salvage work.

Having outlined our experience in this preservation area, now I would like to comment briefly on the bills which are being considered by the Subcommittee.

As we understand the bills, an agency would either use project funds for its own efforts in the recovery, protection, and preservation of data, or it could notify the Secretary of the Interior and transfer to him, not to exceed one per centum of project funds, so that he may conduct such activities. We

note this authority is permissive and would not require that Federal-aid highway funds or the funds of any other program administered by this Department be transferred to the Secretary of the Interior for this purpose.

H.R. 296, Section 3(b), has a provision on page 5 which considers survey, recovery, analysis, and publication costs as non-reimbursable project costs. The word "non-reimbursable" is not clear in this provision. Under the Federal Highway Administration program, a non-reimbursable project cost implies nonparticipation with Federal funds. We do not believe this is intended to be the meaning of this provision.

Therefore, the Department recommends adding the following as it appears in H.R. 1880, Section 3(b), to all three bills: "An appropriate share, as determined by the responsible Federal agency, of the costs of the survey, recovery, analysis, and publication shall be borne by the grantee in the case of projects, activities, or programs funded under Federal grant-in-aid programs." This is fundamental to the financial arrangement of the Federal-aid highway program, and would help to clarify any misunderstanding on reimbursable or non-reimbursable terminology used in H.R. 296. Under such a provision, we assume Federal participation could be set at 100 percent if deemed appropriate.

The Department also recommends that those portions of sections of the bills that apparently permit unlimited Federal participation in analysis and publication of data be specifically limited. Analysis and publication of data can entail several times the costs of recovery and protection. Clarification of this provision or some limitation seems desirable.

H.R. 296 and H.R. 1880 should also be modified to agree with H.R. 2121, Section 3(a), which would require advance notification to the Department of the Interior only where the agency does not intend to recover, protect, or preserve significant scientific, prehistorical, or archeological data. This provision together with submission of archeological reports and environmental impact statements to the Department of the Interior should be sufficient interagency coordination in cases where an agency chooses to conduct its own preservation activities.

H.R. 296 and H.R. 1880 require the Secretary of the Interior to initiate action on archeological activities within 60 days of notification. H.R. 2121 has no similar requirement. The Department supports the 60-day time limit since it will help minimize any construction delays during salvage operations.

Since the Federal Highway Administration now maintains a program of archeological and paleontological salvage as authorized by 23 U.S.C. 305, we would prefer and recommend that a new section be added to each of the subject bills to read as follows:

"This Act shall not apply to archeological and paleontological salvage pursuant to 23 U.S.C. 305."

As a final comment, I would presume that it is the intention of Section 3(b) of H.R. 296 that the Secretary of the Interior would make the final decision with respect to whether or not the historical or archeological data is significant and worthy of recovery and preservation. We do foresee that State or other local agencies could unjustly delay Federal or Federally assisted projects when there is controversy between the Federal agency and the State or local agency over the merits of certain data. We believe that the language in Section 3(b) of H.R. 296, lines 11-13, which states that the Secretary shall cause data to be recovered "which, in his opinion, are not being but should be recovered and preserved in the public interest" means that the Secretary of the Interior shall have discretion to make such final determination of the merits of any data. Perhaps, this could be clarified in the bill or the report on the bill.

The Department of Transportation intends to continue its active archeological preservation activities in the highway field and we would support such activities in our other Federal and Federally-aided programs.

Subject to the comments I have made, the Department of Transportation strongly endorses the enactment of the subject bills.

Thank you for this opportunity to appear and I shall be glad to answer any questions.

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Archeological and Paleontological Salvage Work
on Federal-Aid Highway Projects
Authorized from 1956 through 1972

<u>State</u>	<u>No. of Projects</u>	<u>Total Funds</u>	<u>Federal Funds</u>
Alabama	3	\$86,283	\$77,655
Arizona	16	218,532	202,982
Arkansas	2	5,158	4,643
California	15	268,300	238,780
Colorado	2	8,944	8,116
Delaware	1	26,660	13,330
Florida	18	98,383	88,541
Georgia	8	152,055	149,341
Hawaii	1	3,040	1,337
Idaho	16	126,137	100,222
Illinois	43	307,485	269,791
Indiana	1	13,450	12,105
Iowa	3	73,792	36,885
Kansas	14	12,128	6,929
Kentucky	11	169,020	148,430
Louisiana	9	50,309	45,277
Maryland	2	52,921	29,277
Minnesota	3	50,736	37,454
Missouri	3	43,927	39,533
Montana	10	6,500	5,674
Nebraska	6	25,322	15,393
Nevada	1	400	374
New Hampshire	2	36,411	18,206
New Jersey	2	7,472	4,325
New Mexico	35	301,297	229,188
North Dakota	1	5,190	2,716
Ohio	4	118,608	106,747
Oklahoma	4	26,622	23,717
Oregon	1	1,200	1,000
Pennsylvania	3	211,500	190,350
South Dakota	1	3,000	2,731
Tennessee	3	54,252	48,827
Utah	2	33,181	31,336
Virginia	1	3,100	850
Washington	12	288,629	201,356
West Virginia	1	1,500	1,350
Wisconsin	5	23,566	20,212
TOTAL	265	\$2,915,010	\$2,414,979