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APPROVED

SEP 28 1976

89/28/76

THE WHITE HOUSE

ACTION

WASHINGTON

September 27, 1976

Last Day: September 28

*Signed in Ceremony -
Rose Garden 11:30 AM
Statement + Remarks
9/28/76*

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *Jim Cannon*

SUBJECT:

S. 327 - Land and Water Conservation
Fund Amendments

*archives
9/28/76*

Attached for your consideration is S. 327, sponsored by
Senators Jackson and Johnston.

The enrolled bill would provide for:

- increased funding authorization for, and administrative changes in, the Land and Water Conservation Fund (Title I);
- an expanded Federal role in the area of historic preservation by establishment of an Historic Preservation Fund and an independent Advisory Council on Historic Preservation (Title II); and
- easing of certain restrictions on the use of Federal oil shale revenues received by State governments (Title III).

A detailed description of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg), Bill Seidman and I recommend approval of the enrolled bill and the proposed signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign S. 327 at Tab B.

That you approve the signing statement at Tab C.

Approve

MCJ

Disapprove _____



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 22 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 327 - Land and Water
Conservation Fund Amendments
Sponsors - Sen. Jackson (D) Washington
and Sen. Johnston (D) Louisiana

Last Day for Action

September 28, 1976 - Tuesday

Purpose

Increases the authorized funding level of the Land and Water Conservation Fund; establishes a Historic Preservation Fund and substantially increases the authorizations for fiscal years 1978-1981 for this program; and makes independent the Advisory Council on Historic Preservation, including provisions for bypassing regular budget and legislative coordination procedures.

Agency Recommendations

Office of Management and Budget	Approval (Signing statement attached)
Department of the Interior	Approval (Signing statement attached)
Department of Agriculture	Approval
Smithsonian Institution	Approval
Civil Service Commission	Approval
Council on Environmental Quality	Approval
Advisory Council on Historic Preservation	Approval
Department of Justice	No objection (Informally)
Department of the Treasury	No objection
General Services Administration	No objection (Informally)
Department of Housing and Urban Development	No objection (Informally)
Department of Commerce	No objection
Department of Transportation	No objection

Department of State	No objection
Department of Defense	No objection
Department of Health, Education and Welfare	No objection (Informally)
Federal Council on Arts and Humanities	Defers to Interior (Informally)

Description of the bill

This enrolled bill contains various substantive and technical amendments to three existing public laws. Specifically, it would provide for (1) increased funding authorization for, and administrative changes in, the Land and Water Conservation Fund (Title I); (2) an expanded Federal role in the area of historic preservation by establishment of a Historic Preservation Fund and an independent Advisory Council on Historic Preservation (Title II), and (3) the easing of certain restrictions on the use of Federal oil shale revenues received by State governments (Title III).

Title I

The Land and Water Conservation Fund Act of 1964 established a fund to provide matching grants to State and local governments for the planning, acquisition, and development of outdoor recreation lands and to provide a source of funding for the acquisition of Federal recreation lands. The Land and Water Conservation Fund is currently authorized at \$300 million annually through fiscal year 1989, with income derived primarily from Outer Continental Shelf leasing receipts. Normally, 60% of the monies appropriated to the fund each year are to be used for 50/50 matching grants to the States. The remaining monies are available for Federal land acquisition primarily by the National Park Service and the Forest Service.

S. 327 would amend existing law by:

- increasing the annual authorized level of the

fund to \$600 million for fiscal year 1978, \$750 million for fiscal year 1979 and \$900 million for each of fiscal years 1980 to 1989;

- providing specific statutory language requiring future appropriations for the Fund to be divided 40% for Federal purposes and 60% for State purposes;
- providing additional flexibility to the Secretary of the Interior in allocating grants to States on the basis of demonstrated need;
- authorizing up to 10% of individual State grant allocations to be used for sheltered facilities for swimming and ice skating; and
- expanding the eligibility of National Wildlife Refuge and Forest Service lands for Land and Water Conservation funds.

Title I would also require the Secretary of the Interior to undertake a comprehensive study of the needs, problems, and opportunities pertaining to urban outdoor recreation in highly populated regions. The report is to include specific site analysis and an analysis of Federal capabilities to provide urban-oriented outdoor recreation programs. The Secretary would be required to report his findings and recommendations to Congress within one year.

Title II

The National Historic Preservation Act of 1966 authorizes a program of matching grants to the States for the preservation of historically significant properties. This program is currently authorized at \$24.4 million per year through fiscal year 1976, to be appropriated from miscellaneous receipts. Funds are made available on the basis of 50/50 matching grants to States and localities. The Act also established a 20-member Advisory Council on Historic Preservation

consisting of seven cabinet officers and others to advise the President and Congress on matters relating to historic preservation, and to recommend measures to coordinate the activities of Federal, State and local agencies, and private institutions in historic preservation programs.

The enrolled bill would establish an Historic Preservation Fund under the jurisdiction of the Secretary of the Interior to continue this program on a permanent basis. The bill would authorize appropriations for the fund of \$24.4 million for fiscal year 1977, \$100 million for each of fiscal years 1978 and 1979, and \$150 million for each of fiscal years 1980 and 1981. Appropriations to the fund are to be earmarked from Outer Continental Shelf lease revenues.

In addition, the enrolled bill would remove the Advisory Council on Historic Preservation from the Department of the Interior, establishing it as an independent agency, increasing its membership to twenty-nine (including 10 cabinet officers), providing for staff including 5 positions at grade 16 or 17, and exempting it from the provisions of the Federal Advisory Committee Act. It would further require simultaneous transmission of the Council's budget requests and legislative recommendations, testimony, or comments to the President (or OMB) and specified committees of the Congress. S. 327 would authorize appropriations for the Advisory Council of \$1,500,000, \$1,750,000 and \$2,000,000 for fiscal years 1977, 1978, and 1979, respectively.

Finally, under Title II, \$175,000 would be authorized annually for fiscal years 1977 to 1979 for U.S. participation in the International Centre for the Study of the Preservation and Restoration of Cultural Property.

Title III

The enrolled bill would provide specific legislative authority broadening the uses to which Federal

oil shale revenues paid to any State may be put including planning, construction and maintenance of public facilities, and provision of public services. Currently, use of these revenues is restricted to public road and educational purposes.

Discussion

In reports and testimony on this legislation, the Administration strongly opposed S. 327 and related bills. The agencies expressed the concern that such large increases in authorization levels would add to inflationary pressures and imperil economic recovery. Interior also argued that there was no need to increase the authorization level of the Land and Water Conservation Fund because the Administration could use unappropriated prior year funds for parkland acquisition when fiscal conditions improved.

The budget and legislative "bypass" provisions for the Advisory Council on Historic Preservation, and the requirement for an urban recreation study by Interior, were added in committee mark-up following hearings on the bills, and in light of the Administration's strong opposition to the bills at the time, no further comments were offered concerning these committee amendments. However, these features of the enrolled bill are objectionable.

Although similar budget and legislative bypass provisions have been enacted in recent years with respect to several independent regulatory agencies -- notably the Commodity Futures Trading Commission, the Consumer Product Safety Commission, and the Federal Election Commission -- the Executive Branch has consistently opposed such measures. The budget bypass requirement would provide an opportunity for advocates to pressure for increased funds while the President is developing his proposals in the context of the budget as a whole. Similarly, the requirement for concurrent submission to the Congress and the

President of any proposed legislation, testimony, or comments on legislation would make it difficult for the President to develop and present to the Congress a coherent, coordinated legislative program. Moreover, in this case, these provisions would be particularly objectionable considering that the Council includes 10 cabinet members and that all 12 members from outside the Federal Government would be appointed by the President.

Furthermore, the requirement for a report to Congress, including the Secretary of the Interior's recommendations on urban outdoor recreation could provide a basis for numerous legislative proposals for urban park areas to be administered by the Federal Government.

In their reports on S. 327, both the Senate and House Interior Committees cited the growing backlog of recreational and historic preservation projects at both the Federal and State levels. Countering the Administration's concern over the inflationary nature of the bill, the House Interior Committee argued that because of the strong inflation in land values, an accelerated Federal land acquisition program would be more economical in the long run. Further, with respect to the Committee's amendments establishing an independent Advisory Council, the Senate report expressed particular concern over the Council's present ability to exert a strong and independent influence on Executive agencies' policies and actions.

Recommendations

In its attached enrolled bill letter, Interior notes the Administration's previous opposition to this legislation, but the Department further observes that existing funding levels have led to a current backlog in national recreation lands of some \$3.1 billion even though no major areas have been authorized recently. Moreover, Interior argues that there has been sufficient improvement

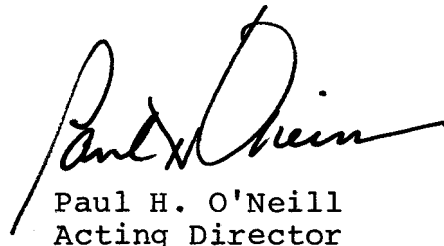
in the economy to warrant reconsideration of the bill. Finally, in recommending approval, Interior concludes that:

"The Land and Water Conservation Fund program is a very popular program and has been one of the most successful Federal recreation programs ever developed ..."

" ... This bill constitutes an important initiative on the part the Federal Government in its attempt to meet the ever increasing demands for outdoor recreation all across the country. The enactment of S. 327 will aid the necessary preservation of this Nation's important natural resources."

On balance, despite our concern about the future budgetary implications of this bill, we concur in Interior's recommendation for approval. Your decision to propose the Bicentennial Land Heritage Act was made with the understanding that this legislation would be enacted by the Congress and receive your approval.

However, we continue to believe that the Executive bypass provisions on the budget and legislation present a serious erosion of Presidential and Executive responsibilities and prerogatives. Accordingly, in the attached signing statement which generally endorses the legislation, we have noted your strong objections to these provisions and indicated your intention to seek remedial legislation.


Paul H. O'Neill
Acting Director

Enclosure



Advisory Council on
Historic Preservation
1522 K Street N.W.
Washington, D.C. 20005

September 14, 1976

The President
The White House
Washington, D. C.

Dear Mr. President:

I am writing on behalf of the Advisory Council on Historic Preservation to recommend that you sign into law S. 327, "A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

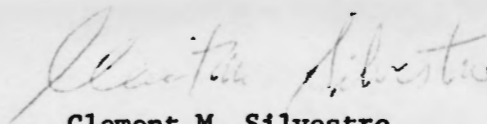
As you know, on September 10, the House passed the bill by a vote of 281 to 3, and on September 13, the Senate passed the measure by voice vote. The degree of bipartisan support that Title II of this legislation received accurately reflects, we believe, the concern of the American people for the preservation of their cultural heritage. In this our Bicentennial year it is appropriate that the Federal government rededicate itself to the principles established by the National Historic Preservation Act of 1966. The 1966 Act declared that the national historic preservation program would be a partnership among the Federal government, the States and the private sector. Unfortunately, the Federal government has not been an equal partner. Favorable action on this bill will be a major step in satisfying the Federal government's partnership responsibilities. The establishment of the National Historic Preservation Fund, increasing the authorization for the grants-in-aid program to the States from \$24.4 million to \$150 million over five years, the authorization to increase the Federal share for surveys and statewide planning from 50 percent to 70 percent, and the establishment of the Advisory Council on Historic Preservation as an independent agency, all symbolize a renewed Federal commitment to the preservation of our national heritage.

We believe that now is the time for the Executive Branch to make this commitment. The interest of the States has been evidenced by their certification to the Secretary of the Interior of a matching capability of over \$200 million for 1977. The interest of the private sector is

evidenced by the increase in the membership of the National Trust for Historic Preservation to over 100,000 members in 1976. Enactment into law of this authorization bill would reestablish the Federal government's commitment to the national historic preservation program. At the same time, the government would retain its prerogatives to ensure that future appropriations from the National Historic Preservation Fund are consistent with national fiscal and economic policy.

The Advisory Council strongly recommends that you give favorable consideration to S.327.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Clement M. Silvestro".

Clement M. Silvestro
Chairman

Advisory Council on
Historic Preservation
1522 K Street N.W.
Washington, D.C. 20005

RECEIVED
SEP 15 10 59 AM '76
OFFICE OF
MANAGEMENT & BUDGET
September 14, 1976

Hon. James T. Lynn
Director
Office of Management and Budget
The Executive Office Building
17th and Pennsylvania Avenue, N.W.
Washington, D. C. 20503

Dear Mr. Lynn:

I am writing to advise you of the recommendations of the Advisory Council on Historic Preservation concerning S. 327, "A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish a National Historic Preservation Fund, and for other purposes" which passed the Senate on September 13, 1976, and was sent to the President for approval.

The Council strongly endorses S. 327 and recommends that the President approve this bill.

Pursuant to Section 202(a) of the National Historic Preservation Act of 1966 (16 U.S.C. 470), the Council is charged with the responsibility of advising the President and the Congress on matters relating to historic preservation. In discharging this responsibility the Council has closely monitored the development of S. 327, particularly Title II which amends the National Historic Preservation Act in several important aspects. The following are the Council's comments with respect to the major provisions of the bill.

Title I. Primarily, Title I amends the Land and Water Conservation Fund Act of 1965 to increase the authorization for the fund to \$300 million in fiscal year 1977, \$600 million in 1978 and \$750 million in 1979 and to \$900 million for fiscal years 1980 through 1989. This program is administered by the Department of the Interior and, therefore, we defer to the views of the Department on this Title. We would note, however, that moneys from the fund can and are used in some instances to acquire, utilize and protect historic and cultural properties that contribute to meeting the outdoor recreation needs of the Nation. For example, funds may be used to develop park areas that contain historic properties. In this respect we support the increased authorization for the fund because it may provide additional funding to benefit the national historic preservation program.

Title II. Title II amends the National Historic Preservation Act to reauthorize the matching grant-in-aid program through the establishment of an Historic Preservation Fund in the Treasury of the United States; authorizes an increase in the Federal matching share for planning purposes; increases the authorization for implementing the act through 1981; and establishes the Advisory Council on Historic Preservation as an independent agency of the United States Government. The Council strongly supports Title II and our comments on the major provisions of this Title are discussed below:

National Register Grant Program: Section 201(4) would reauthorize the National Register of Historic Places matching grant-in-aid program to the States by establishing an Historic Preservation Fund in the United States Treasury. Revenues developed under the Outer Continental Shelf Lands Act and the Act of June 4, 1920, would be deposited into the fund account in the amount of \$24.4 million for fiscal year 1977, \$100 million for fiscal years 1978 and 1979, and \$150 million for fiscal years 1980 and 1981. Moneys could only be expended from the fund pursuant to a specific appropriation.

Increased funding for the national historic preservation program is of the utmost importance. The National Historic Preservation Act of 1966 established the program as one in which the Federal Government was a partner with the States and the private sector. In the ten years since the 1966 Act, the Federal Government has not fulfilled its partnership responsibilities. The States have continually certified to the Secretary of the Interior a matching capability in excess of the Federal matching share. For fiscal year 1977 when the appropriation is \$17.5 million, the States certified a matching capability of over \$200 million. Further, the private sector's commitment has increased greatly in recent years as evidenced by the fact that the National Trust for Historic Preservation now has over 100,000 members.

The increased authorization and the establishment of the Historic Preservation Fund are major steps forward for the national program. While the Department of the Treasury apparently has a policy against the establishment of special funds in the Treasury, the creation of this fund appears to warrant an exception for two reasons. First, it is most appropriate to utilize funds derived from the consumption of nonrenewable resources (e.g., oil and gas) for the conservation of other nonrenewable resources, in this case historic properties. Second, the creation of the fund symbolizes the Federal

Government's commitment to preservation at a time when it is most needed to ensure the continuing participation of the States and the private sector in the partnership envisioned in 1966. It should also be noted with respect to the fund that the Executive Branch would continue to retain control over the program through the appropriation process so that expenditures from the fund would be consistent with national fiscal and economic policy.

Finally, Sections 201(1) and (2) would amend the National Historic Preservation Act to authorize the Secretary of the Interior, in his discretion, to waive the existing 50 percent matching requirement under the current grant-in-aid program for grants to be used for planning purposes. In this context "planning" includes the preparation of statewide historic preservation plans and surveys and project plans. The Secretary could approve grants of up to 70 percent of the costs of such activities provided that no more than half of the appropriated funds for the program in any one fiscal year are allocated under this provision.

Within the national historic preservation program, the Council has determined that the top priority for the use of funds should be given to statewide surveys and planning to identify significant historic properties. By increasing the Federal share for these activities the government would be taking a major step in achieving the objective of identifying our historic and cultural resources of national, State, and local significance. Identification of such properties and the establishment of statewide preservation plans would expedite and facilitate the Federal planning and environmental review processes which are now sometimes delayed by the lack of this information at the early stages of project planning.

Advisory Council on Historic Preservation: There are several provisions related to the creation of the Council as an independent agency of the United States Government.

1. Independent Status: Section 201(5) would establish the Council as an independent agency. This action is consistent with the expressed intent of Congress in the legislative history of the National Historic Preservation Act which originally established the Council. Further, for the Council to be able to provide independent advice to the President, the Congress and Federal agencies, it is necessary to remove

the Council from the control of the Department of the Interior and the National Park Service. Presently, there is a recognized conflict of interest inherent in the Department of the Interior and the National Park Service being subject to the Council's commenting jurisdiction under Section 106 of the 1966 Act while at the same time controlling the Council's budget and providing the Council with its staff through the Park Service.

While the Department and the Park Service have taken all possible steps to ensure the Council's independence, this amendment will clarify the Council's legal status and enable the Council to better fulfill its responsibilities to coordinate the national historic preservation program. This new status is also consistent with the increased priority given the national historic preservation program as evidenced by congressional action on this bill and the President's action in proposing the Bicentennial Land Heritage Act.

2. Membership: The membership of the Council would be expanded to include two new members appointed by the President from outside the Federal Government; the President of the National Conference of State Historic Preservation Officers; the Secretaries of the Department of State, the Department of Health, Education and Welfare, and the Department of Defense; the Chairman of the Council on Environmental Quality; the Chairman of the Federal Council on the Arts and Humanities; and the Architect of the Capitol.

The Council's experience over the past decade confirms that Federal agency members contribute more to the national program than non-members. The State Historic Preservation Officers, the Departments of State, Health, Education and Welfare, and Defense, the Council on Environmental Quality and the Endowments for the Arts and Humanities have all served as invited participants on the Council and this provision would simply give them full membership status.

3. General Counsel: Section 201(7) provides that the Council shall appoint its own Executive Director and staff including a General Counsel. This provision is consistent with the Council's independent status and reflects the current status of the Council's legal services. The Council has provided its own legal services since February 1974 when the Office of the Solicitor of the Department of the Interior notified the Council that it would no longer provide such services.

While the Department of Justice has voiced some concern over that part of the provision authorizing the Council's legal staff to represent the Council in courts of law, the same provision specifically authorizes the Council to "assist the Department of Justice in handling litigation concerning the Council in courts of law." Since 1974, the Council's legal staff has worked closely with the Department of Justice concerning numerous litigation matters affecting the Council and we anticipate continuing this practice.

4. Legislative Comments: Section 201(9) adds a new section 210 to the National Historic Preservation Act which provides that the Council shall submit its recommendations on legislative matters simultaneously to the Congress and the President. This provision is consistent with Section 202(a)(1) of the 1966 Act which provides that the Council shall advise the President and the Congress on matters relating to historic preservation. It is also consistent with the current practice agreed upon by the Council and the Office of Management and Budget. Pursuant to this section, the Council would initially submit its recommendations to the Office of Management and Budget for their comments which would then be reflected in any communication with the Congress.

5. Budget: Section 201(9) adds a new Section 212 to the National Historic Preservation Act which provides that the Council shall submit its budget as a related agency of the Department of the Interior. Heretofore, the Council's budget has been set by the National Park Service and included as a subline item in the Park Service budget.

This provision authorizes the Council's budget at \$1.5 million for fiscal year 1977, \$1.75 million for fiscal year 1978, and at \$2 million for fiscal year 1979. In implementing this provision, the Council would work directly with the Office of Management and Budget in the development of the Council's budget.

6. Eligible Properties: Section 201(3) would amend section 106 of the National Historic Preservation Act to require Federal agencies to provide the Council with a reasonable opportunity to comment on Federal, federally assisted and licensed undertakings affecting properties determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places in the same manner as the

Council comments on projects affecting properties listed in the National Register. Pursuant to Executive Order 11593 (16 U.S.C. § 470) and the Council's implementing procedures (36 C.F.R. 800), Federal agencies already have this responsibility and consideration of properties eligible for inclusion in the National Register is an accepted part of the review process under the National Environmental Policy Act.

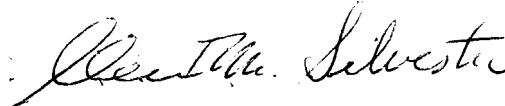
The purpose of this amendment is to make the language of the protective provision of the 1966 Act conform to the existing process developed subsequently under the National Environmental Policy Act and Executive Order 11593.

This amendment will clarify the legal and administrative aspects of the Federal environmental review process for the protection of historic and cultural properties of national, State, and local significance. In conjunction with increasing the Federal share for statewide survey and planning activities this amendment should expedite the Federal planning and environmental review processes.

Title III: This Title amends the Mineral Leasing Act and the Council defers to the views of the Department of the Interior.

This legislation has received support from the National Conference of State Historic Preservation Officers, the National Trust for Historic Preservation, the American Institute of Architects and other preservation organizations throughout the country. The Advisory Council on Historic Preservation is pleased to join in this support and strongly recommends that the President sign this legislation into law. In this regard, a copy of my letter to the President asking him to sign this bill is attached for your information.

Sincerely yours,



Clement M. Silvestro
Chairman

Enclosure



DEPARTMENT OF STATE

Washington, D.C. 20520

SEP 17 1976

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In Mr. James M. Frey's memorandum of September 15, 1976, he requested the views of the Department of State on Enrolled Bill S. 327, to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund and for other purposes.

Appropriate officials within the Department of State have been consulted and have no objection to the enactment of this Bill.

Beyond the nominal expense associated with membership of the Secretary of State or his designee on an Advisory Council on Historic Preservation, the Department will incur no additional cost if this Bill is enacted.

Sincerely,

A handwritten signature in cursive script, reading "Kempton B. Jenkins".

Kempton B. Jenkins
Acting Assistant Secretary
for Congressional Relations



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

September 17, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

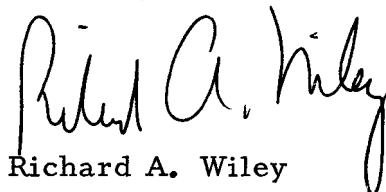
I refer to your request for the views of the Department of Defense with respect to the enrolled enactment on S. 327, 94th Congress, an Act, "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

This Act would raise the existing Land and Water Conservation Fund from the present \$300,000,000 per year authorization to \$900,000,000 by the fiscal year 1979 and for each fiscal year thereafter through 1989. Other amendments in the Act include adjustments in the system of providing grants to states and in the designation of funding sources to be covered into the Fund.

Title II of the Act amends the Historic Preservation Act of 1966. A fund for historic preservation purposes is established at a level of \$24,400,000 for fiscal year 1977 and increases to \$150,000,000 by fiscal year 1979. This fund would draw its revenue completely from Federal Outer Continental Shelf leasing receipts. An amendment to Section 201 establishes the Secretary of Defense as a permanent member of the Advisory Council on Historic Preservation.

The Department of Defense has no objection to the approval of S. 327 and, therefore, defers to the views of the more directly affected Agencies.

Sincerely,


Richard A. Wiley



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

September 17, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled enactment S. 327, "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

The Department of Agriculture recommends that the President approve the enactment.

Title I of S. 327 would increase the present \$300 million annual level of money authorized for the Land and Water Conservation Fund to \$600 million for fiscal year 1978, \$750 million for fiscal year 1979, and \$900 million for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989. Other provisions of Title I mainly affect the grants to States portion of the Land and Water Conservation Fund program, except that section 101(4) would make some technical changes in present law affecting the use of moneys allotted for acquiring lands within the National Forest System and the National Wildlife Refuge System.

Title II of S. 327 would amend the National Historic Preservation Act to establish a Historic Preservation Fund for carrying out the purposes of that Act. Monies would be covered into the fund from revenues due the United States under the Outer Continental Shelf Lands Act and the Act of June 4, 1920. Also, Title II would convert the Advisory Council on Historic Preservation into an independent agency of the Government.

Under section 7(a)(1) of the Land and Water Conservation Fund Act, monies from the fund are authorized to be allotted to the Forest Service of this Department to acquire lands within the National Forests for outdoor recreation purposes. At the time legislation to establish the fund was being considered, it was estimated that about 4 million acres of land and waters within the National Forests should be acquired. That estimate stemmed from the findings of the Outdoor Recreation Resource Review Commission which focused on future demands for outdoor recreation opportunities and upon a Forest Service conducted inventory of existing and potential recreation sites and areas within the National Forests. Since that time the individual National Forests have made more detailed studies which tend to confirm that the 4 million acre figure is still relevant. Earlier assumptions of increasing public demand for outdoor

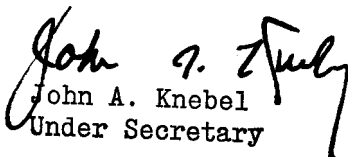
recreation sites and facilities on National Forest lands have proven to be on target. All indications are that the strong upward trend in recreation visits to National Forests will continue.

At the present time, the Forest Service has acquired approximately 750,000 acres of the 4,000,000 acre base estimate with monies from the fund. It estimates that the remaining 3,250,000 acres would cost \$1.3 billion. A trend has been developing which suggests that even greater dollar amounts will be needed to cover Forest Service acquisition commitments. Within the past 11 years, the Congress has passed, and the President has approved, a number of acts designating National Recreation Areas and other recreation-related special areas within units of the National Forest System. Some of those acts, like the recently enacted Alpine Lakes Area Management Act of 1976, have established priorities for acquisition that were not previously anticipated.

Quite obviously, the \$300 million annual level is no longer adequate for funding the state and Federal programs contemplated by the Land and Water Conservation Fund Act and for funding the additional land acquisition commitments authorized by subsequent acts. Acquisition commitments should be carried out in a timely manner because of accelerating land values and other reasons. Initiating acquisition projects and programs and leaving them to linger uncompleted causes inefficiencies and uncertainties affecting the public, governmental agencies, and private landowners. This bill's approach of incremental increases in the fund should cushion its impact on Federal budgetary considerations. For the above reasons we believe the President should sign S. 327.

Changes made by section 101(4) of S. 327 would ease certain constraints on the use of monies from the fund for acquisition of lands within units of the National Forest System. The most significant change would be the exemption of areas specifically authorized by acts of Congress from the requirement that not more than 15 per centum of the acreage added to the National Forest System pursuant to the Act shall be west of the 100th meridian. The Forest Service is already approaching that limitation because of the number of recently legislated recreation areas in the West. The Department is in favor of the changes.

Sincerely,


John A. Knebel
Under Secretary

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

SEP 17 1976

MEMORANDUM FOR JAMES M. FREY
OFFICE OF MANAGEMENT AND BUDGET

ATTN: Ms. Ramsey


SUBJECT: Enrolled Bill, S. 327, "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

The Council has reviewed the enrolled bill S. 327 to amend the Land and Water Conservation Fund Act, to establish a National Historic Preservation Fund, to create an independent agency of the Advisory Council on Historic Preservation, to include the Chairman of the Council on Environmental Quality and other executive officials as members of the Advisory Council, and for other purposes.

We strongly recommend that the President sign this legislation into law.

The Council also notes that this legislation establishes a new fund for historic preservation and substantially increases the funds available for federal programs and state grants related to outdoor recreation. While these new authorities are desirable and environmentally beneficial, they create new responsibilities to assure that federal agencies and the states are adequately planning programs of historic preservation and outdoor recreation that make good use of available funds. This will require considerable improvement over existing planning efforts in these areas.

Thank you for the opportunity to comment.


Gary Widman
General Counsel



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

SEP 17 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for the views of this Department with respect to S. 327, an enrolled bill

"To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

This Department has not previously reviewed or commented on this bill, which contains under Title I provisions that would augment sources of revenue for the Land and Water Conservation Fund by converting to it revenues and collections from surplus property sales and the motorboat fuels tax. Authorizations are provided for appropriations sufficient to make the income of the fund not less than \$300,000,000 for fiscal year 1977, \$600,000,000 for fiscal year 1979, and \$900,000,000 for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989. There is also provision for utilization, if necessary to meet these levels, of funds from miscellaneous receipts under the Outer Continental Shelf Lands Act.

Title II of the bill provides for covering into the Historic Preservation Fund specified levels of moneys from revenues due to the United States under the Outer Continental Shelf Lands Act. Title II also establishes an Advisory Council on Historic Preservation, composed of twenty-nine members, one of whom shall be the Secretary of Transportation.

We are informed that the Office of Management and Budget has concurred in the testimony of other Departments, opposing enactment of the legislation. This Department defers to the views of the Department of the Interior and other agencies having a direct interest in the substantive aspects of the bill. However, if the bill is signed by the President, this Department would not have any objection to serving as a member of the Advisory Council.

Sincerely,


William T. Coleman, Jr.

SEP 17 1976



GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning S. 327, an enrolled enactment

"To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

Title I of S. 327 proposes a staged increase in the present yearly \$300 million authorization for the Land and Water Conservation Fund. This Fund, established by the Land and Water Conservation Fund Act of 1965, provides financing for the acquisition of land to be included in national parks, wild and scenic river areas, wilderness areas and wildlife refuges and for matching grants to State and local governments for the planning, acquisition, and development of outdoor recreation lands. S. 327 would amend this current authorization by providing for this Fund: \$600 million for FY 1978; \$750 million for FY 1979; and \$900 million annually for FY's 1980-1989.

Title II of S. 327 would provide a 5-year extension of the Historic Preservation Act of 1966, which provides for a program of matching grants to the States for the preservation of significant historic properties. Currently, the authorization for this program is at the level of \$24.4 million per annum. The most significant amendment to this Act proposed by S. 327 would be the establishment of a Historic Preservation Fund within the Treasury of the United States. S. 327 would authorize for this Fund: \$24.4 million for FY 1977; \$100 million annually for FY's 1978 and 1979; and \$150 million annually for FY's 1980 and 1981.

Title III of S. 327 would amend Section 35 of the Mineral Leasing Act of 1920, as amended (30 U. S. C. 191), by specifying that all moneys paid to any State as its share of Federal oil shale revenues, may be used

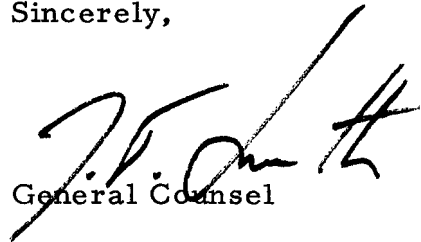


by such State and its subdivisions for the planning, construction and maintenance of public facilities and for the provision of public services as the legislature of such State may direct, giving priority to those subdivisions of the State socially or economically impacted by the development of the resource.

The Department of Commerce interposes no objection to the enactment of this legislation.

Enactment of this legislation would not involve any increase in the budgetary requirements of this Department.

Sincerely,

A handwritten signature in black ink, appearing to read "J. V. Smith". The signature is written in a cursive style with a large, sweeping flourish at the end.

General Counsel



SMITHSONIAN INSTITUTION

Washington, D. C. 20560
U.S.A.

September 17, 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Frey:

Thank you for referring to the Smithsonian for comment the enrolled bill S. 327 amending the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes, and H. Con. Res. 745 making corrections in its enrollment.

Of particular interest to the Smithsonian is Title II of the bill in which is established the Historic Preservation Fund, to be funded by revenues produced under the Outer Continental Shelf Lands Act and/or the Act of June 4, 1920, subject to appropriation by Congress. The Smithsonian believes that the existence of the fund, and ultimately the funding itself, will greatly enhance and accelerate the ability of the Nation, through the states, to acquire, preserve, and restore historic properties as records of our culture.

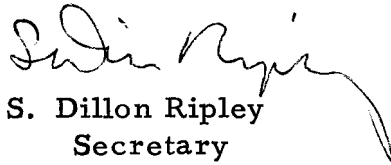
The establishment of the Advisory Council on Historic Preservation as an independent agency of the United States Government, and the provision of an operating structure for it, will, we believe, enable it to carry out its purposes more effectively and offer more substantial leadership in the field of historic preservation.

The Smithsonian Institution has been closely associated with the activities of the International Center for the Study of the Preservation and Restoration of Cultural Property, which

it endorses. The extension of authority for participation in the Center will enable the United States to share in additional learning applicable to the expanded efforts envisioned in this title as a whole.

The Smithsonian Institution respectfully recommends endorsement by the President of S. 327.

Sincerely yours,



S. Dillon Ripley
Secretary



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 17 1976

Dear Mr. Lynn:

This responds to your request for the views of this Department on the enrolled bill S. 327 "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

We recommend that the President approve the enrolled bill.

S. 327 would increase the current annual authorization level of the Land and Water Conservation Fund (LWCF) from \$300,000,000 to \$600,000,000 in FY 1978, \$750,000,000 in FY 1979 and \$900,000,000 in FY 1980 thru 1989. Title II of S. 327 would establish a National Historic Preservation Fund and authorize appropriations in the amount of \$24,400,000 in FY 1977, \$100,000,000 in FY 1978 and FY 1979, and \$150,000,000 a year for FY 1980 and FY 1981. S. 327 would also 1) delete the provision of existing law requiring repayment of a \$62,000,000 advance to the fund in 1968; 2) increase the maximum annual allocation to any State from 7 percent to 10 percent of the funds available on the State side of the program; 3) require that the appropriations distribution of fund monies between the Federal and State side of the program be apportioned so as not to be less than 40 percent annually for the Federal side; 4) retain the existing match ratio for grants to the States at 50/50 for both LWCF and National Historic Preservation except that funds shall be made available for State wide historic preservation planning on a 70/30 basis; 5) authorizing the use of LWCF funds for wildlife refuge acquisition except for areas authorized under the Migratory Bird Conservation Act of 1929; and 6) the Advisory Council on Historic Preservation is recognized as an independent agency. The bill provides that within one year from the date of enactment the Secretary of the Interior shall prepare and submit a comprehensive review and report on "the needs, problems, and opportunities associated with urban recreation in highly populated regions." S. 327 would also make a number of other amendments to the LWCF Act of a more technical nature.

The Land and Water Conservation Fund, administered by the Bureau of Outdoor Recreation of this Department, was established in 1965 to increase the Nation's outdoor recreation activities. The Fund consists



primarily of mineral receipts from the Outer Continental Shelf. In a given fiscal year 40 percent of the fund is ordinarily allocated for Federal land acquisition. The Federal agencies that participate in the use of these funds are the National Park Service, United States Forest Service, Bureau of Land Management and the United States Fish and Wildlife Service. The other 60 percent of the fund is normally apportioned to State and local communities for acquisition and development of outdoor recreation areas. The current National Historic Preservation program is administered by the National Park Service and provides, among other things, 50/50 matching money to the States for historic preservation projects.

Over the past two years the Department of the Interior, as the lead agency, has opposed legislation to increase the authorized funding level of the LWCF on the basis that the proposed increases "would jeopardize the Administration's efforts to hold down Federal spending." We believe, however, that recently economic conditions have improved sufficiently to warrant reconsideration of that position and that, on balance, S. 327 as enrolled is a responsible approach to meeting the increasing demand for outdoor recreation opportunities.

The Land and Water Conservation Fund program is a very popular program and has been one of the most successful Federal recreation programs ever developed. However, each year the applications for grants from the State side exceed our ability to match available State funds. This situation has also prevailed with respect to the historic preservation grant program in recent years.

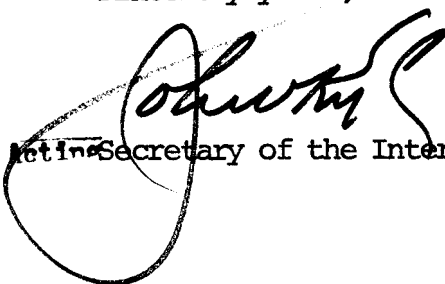
The backlog of national recreation lands to be acquired has increased from \$2.9 billion to \$3.1 billion despite the fact that no new significant Federal area has been authorized in the past year. Since this increase is attributable almost exclusively to the inflation in land prices, the Federal side of the fund has not even kept pace with the annual increase and the value of lands authorized by Congress to be acquired.

We believe that S. 327 is one of the most important pieces of environmental legislation passed by the Congress in recent years. This bill constitutes an important initiative on the part the Federal government in its attempt to meet the ever increasing demands for outdoor recreation all across the country. The enactment of S. 327 will aid the necessary preservation of this Nation's important natural resources.



Accordingly, we strongly recommend that the President approve this enrolled bill.

Sincerely yours,



John G. Garvey
Acting Secretary of the Interior

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503



STATEMENT BY THE PRESIDENT


Today, with great pleasure, I am signing into law S. 327, a bill which will substantially increase the authorization levels for the Land and Water Conservation Fund over the next several years.

I believe it can be fairly said that few Federal programs have given more wholesome recreation to Americans than the activities financed from the Land and Water Conservation Fund. In the decade of the Fund's existence, some \$2 billion has been channeled into the purchase and development of outdoor recreation lands -- places where Americans can participate in competitive sports, learn about nature, or simply find relief from crowds and bustle.

About \$800 million over the last ten years has been used to finance the purchase of Federal recreation lands -- over 1.5 million acres of land for National Parks, Wildlife Refuges, Wilderness, and other recreational areas. \$1.2 billion has been channeled to States and local communities as matching grants supporting the purchase of 1.4 million acres of land and the development of 10,000 recreational projects.

With the increased authorization for the Land and Water Conservation Fund, we estimate that over 6 million more acres of land will be purchased and set aside for recreational purposes through fiscal year 1989. Over the 25-year life of the Fund, land in excess of the area of the States of Connecticut, Rhode Island, and Massachusetts will have been bought for Land and Water Fund recreational purposes. This truly will be a heritage treasured by future generations.

In addition, S. 327 will establish the National Historic Preservation Fund to provide matching Federal assistance to State governments and private individuals for the acquisition and preservation of important historic sites.



What better way can there be, in this Bicentennial year, to commemorate our Nation's rich history than to pledge to preserve outstanding examples of it for future Americans? In celebrating our Bicentennial this year, I and millions of others have been inspired to reflect on our history and the progress we have made. The National Historic Preservation Fund will assure that our historic sites and structures will continue to be available to provide this inspiration.

This preservation of historic sites and structures will be achieved through a creative partnership between various levels of government and the private sector. The Federal Government will provide technical and financial assistance, the States will plan the programs, and the bulk of the actual preservation work will be done at the local level, by private individuals. This is appropriate. The preservation movement is a citizen's movement, an example of productive cooperation among the Federal, State, and local governments, and the private sector. Government can nurture this movement, but we must remember that it gains its greatest strength from the individual pride in the nation's past.

Unfortunately, S. 327 also provides for certain changes in the procedures of the Advisory Council on Historic Preservation which would compromise Executive Branch functions. I find these provisions unacceptable, as well as unnecessary to the effective operation of the Advisory Council.

The first provision would require the concurrent submission of Advisory Council budget requests to Congress and to the President. The second would require concurrent submission of the Advisory Council's legislative proposals. Each requirement would make it difficult for me to develop and present to the Congress coherent and coordinated budget and legislative programs.

We will submit to the Congress legislation which would correct these provisions, and I will strongly urge its passage during the first session of the next Congress.

In summary, I am pleased today to sign S. 327. With my Bicentennial Land Heritage Program and S. 327, we will have a program of which we can be proud. These two measures will provide increased recreational opportunities for present and future Americans, and will preserve for the future a great treasure of natural areas and historic resources. S. 327 provides the authorization for greatly accelerated land acquisition and historic preservation efforts assuring the continued momentum of our national preservation program. The Bicentennial Land Heritage Program will assure that these resources are developed and maintained to the highest standards.

As America looks toward her third century, we draw strength from our past. Our heritage of natural areas and the remaining records of our cultural history provide a reassuring sense of the direction from which we have come, and a respite from the tensions of continuing progress. It is essential that we preserve our natural areas and historic resources in the face of progress. I pledge to do all I can to further this goal.



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

SEP 20 1976

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

This report responds to your request for the views of this Department on the enrolled enactment of S. 327, "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

This Department's primary interest in the enrolled enactment is in the amendment to section 108 of the Act of October 15, 1966 (80 Stat. 915), as amended, in Title II. This amendment would establish the Historic Preservation Fund in the Treasury of the United States. There would be covered into the Fund \$24,400,000 for fiscal year 1977, with a graduated increase to \$150,000,000 for fiscal year 1981, from revenues due to the United States under the Outer Continental Shelf Lands Act and the Act of June 4, 1920 (41 Stat. 813), as amended. The Department has generally opposed proposals to earmark Federal receipts for unrelated expenditure purposes. However, it would seem appropriate in this instance to utilize funds derived from the consumption of nonrenewable resources for the conservation of other nonrenewable resources, i.e., historic properties. Secondly, the Fund symbolizes the Federal Government's commitment to preservation at a critical time in our Nation's history, when increasing cooperation with the States and the private sector is most important, and would be helped materially through the establishment of the Fund.

Therefore, insofar as the provision of S. 327 discussed above is concerned, the Department would have no objection to approval of the enrolled enactment by the President. We defer to the recommendations of the appropriate agencies with respect to other provisions of the legislation.

Sincerely yours,



General Counsel

Richard R. Albrecht



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

September 20, 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Washington, D.C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in response to your request for the Commission's views on enrolled S. 327, an Act "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes." The bill also contains amendments affecting the Advisory Council on Historic Preservation, which would become an independent agency.

Our comments are limited to the personnel provisions affecting the Council.

New section 205(a) would establish the position of Executive Director of the Council (currently the Director of the National Park Service or his designee) to be appointed in the competitive service by the Chairman with the concurrence of the Council. The bill provides that the Executive Director be paid at level V of the Executive Schedule, and we believe this is appropriate. However, there is a technical error. The position would be numbered as paragraph (135) of 5 USC 5316. This would be a duplication, as paragraph (135) already designates the position of General Counsel, Energy Research and Development Administration.

Under the present section 205 of the current law the Council now has the power to appoint and fix the compensation of "such additional personnel as may be necessary" to carry out its duties, without regard to the provisions of the civil service appointment, classification, and pay laws. (The reference in the enrolled bill to the Classification Act of 1949 is obsolete--the provisions of the Act are codified in chapter 51 of title 5.) The bill would add to this authorization

an additional authority to appoint and fix the compensation of officers and employees in the competitive service at rates not to exceed the highest rate for grade 15 of the General Schedule. Apparently at least some of the employees of the Council would be brought under competitive appointment laws and the General Schedule classification and pay system. We believe this would be a desirable change, but we are not certain how it would be determined which employees would or would not be subject to the usual personnel laws. Evidently, there will be a mix of competitive and excepted positions in the Council and no specific criteria for determining which positions would be under each system.

We believe this occasion for revision of the basic statute would have provided a good opportunity to require that future employment on the Council staff be subject to the competitive appointment and classification requirements of title 5, since the Council will be established as a permanent independent agency if the bill is approved by the President.

New section 205(c) also provides for the Executive Director to fix the compensation of up to five employees in the competitive service at rates not to exceed the highest rate of grade 17 of the General Schedule. Our position has always been to oppose the granting of special quotas to agencies outside the general quota administered by the Civil Service Commission.

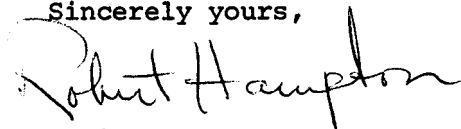
New section 205(e) authorizes the Executive Director to hire experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. This is an appropriate change from the existing provision that limits rates to \$50 per diem for such individuals. Removal of the \$50 a day pay ceiling would permit the Council to pay experts and consultants up to the general maximum daily rate of grade GS-15 authorized by 5 U.S.C. 3109. We agree with the need to raise the rate, but would have preferred to see specific authorization to pay up to the grade GS-18 rate, which is the usual maximum authorized in recent statutes for individual agencies.

Finally, new section 207 provides for any employee in the competitive service transferred to the Council to retain all the rights, benefits, and privileges held prior to transfer. We are not sure what is meant by this section, and believe it would have been desirable to include specific clarifying language.

Despite our reservations concerning language in several sections of the bill, the continuation of an exception of Council positions from the competitive service, and the creation of additional super-grade positions, we are not recommending a veto. Therefore, we recommend that from the standpoint of the personnel provisions, the President sign enrolled S. 327.

By direction of the Commission:

Sincerely yours,

A handwritten signature in cursive script that reads "Robert Hampton". The signature is written in dark ink and is positioned to the right of the typed name.

Chairman

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

9/28/76

Armany

SEP 22 1976

To: J. Johnston
9-22-76
10:00 a.m.



MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 327 - Land and Water
Conservation Fund Amendments
Sponsors - Sen. Jackson (D) Washington
and Sen. Johnston (D) Louisiana

Last Day for Action

September 28, 1976 - Tuesday

Purpose

Increases the authorized funding level of the Land and Water Conservation Fund; establishes a Historic Preservation Fund and substantially increases the authorizations for fiscal years 1978-1981 for this program; and makes independent the Advisory Council on Historic Preservation, including provisions for bypassing regular budget and legislative coordination procedures.

Agency Recommendations

Office of Management and Budget	Approval (Signing statement attached)
Department of the Interior	Approval (Signing statement attached)
Department of Agriculture	Approval
Smithsonian Institution	Approval
Civil Service Commission	Approval
Council on Environmental Quality	Approval
Advisory Council on Historic Preservation	Approval
Department of Justice	No objection (Informally)
Department of the Treasury	No objection
General Services Administration	No objection (Informally)
Department of Housing and Urban Development	No objection (Informally)
Department of Commerce	No objection
Department of Transportation	No objection



Department of State	No objection
Department of Defense	No objection
Department of Health, Education and Welfare	No objection (Informally)
Federal Council on Arts and Humanities	Defers to Interior (Informally)

Description of the bill

This enrolled bill contains various substantive and technical amendments to three existing public laws. Specifically, it would provide for (1) increased funding authorization for, and administrative changes in, the Land and Water Conservation Fund (Title I); (2) an expanded Federal role in the area of historic preservation by establishment of a Historic Preservation Fund and an independent Advisory Council on Historic Preservation (Title II), and (3) the easing of certain restrictions on the use of Federal oil shale revenues received by State governments (Title III).

Title I

The Land and Water Conservation Fund Act of 1964 established a fund to provide matching grants to State and local governments for the planning, acquisition, and development of outdoor recreation lands and to provide a source of funding for the acquisition of Federal recreation lands. The Land and Water Conservation Fund is currently authorized at \$300 million annually through fiscal year 1989, with income derived primarily from Outer Continental Shelf leasing receipts. Normally, 60% of the monies appropriated to the fund each year are to be used for 50/50 matching grants to the States. The remaining monies are available for Federal land acquisition primarily by the National Park Service and the Forest Service.

S. 327 would amend existing law by:

- increasing the annual authorized level of the

fund to \$600 million for fiscal year 1978, \$750 million for fiscal year 1979 and \$900 million for each of fiscal years 1980 to 1989;

- providing specific statutory language requiring future appropriations for the Fund to be divided 40% for Federal purposes and 60% for State purposes;
- providing additional flexibility to the Secretary of the Interior in allocating grants to States on the basis of demonstrated need;
- authorizing up to 10% of individual State grant allocations to be used for sheltered facilities for swimming and ice skating; and
- expanding the eligibility of National Wildlife Refuge and Forest Service lands for Land and Water Conservation funds.

Title I would also require the Secretary of the Interior to undertake a comprehensive study of the needs, problems, and opportunities pertaining to urban outdoor recreation in highly populated regions. The report is to include specific site analysis and an analysis of Federal capabilities to provide urban-oriented outdoor recreation programs. The Secretary would be required to report his findings and recommendations to Congress within one year.

Title II

The National Historic Preservation Act of 1966 authorizes a program of matching grants to the States for the preservation of historically significant properties. This program is currently authorized at \$24.4 million per year through fiscal year 1976, to be appropriated from miscellaneous receipts. Funds are made available on the basis of 50/50 matching grants to States and localities. The Act also established a 20-member Advisory Council on Historic Preservation

consisting of seven cabinet officers and others to advise the President and Congress on matters relating to historic preservation, and to recommend measures to coordinate the activities of Federal, State and local agencies, and private institutions in historic preservation programs.

The enrolled bill would establish an Historic Preservation Fund under the jurisdiction of the Secretary of the Interior to continue this program on a permanent basis. The bill would authorize appropriations for the fund of \$24.4 million for fiscal year 1977, \$100 million for each of fiscal years 1978 and 1979, and \$150 million for each of fiscal years 1980 and 1981. Appropriations to the fund are to be earmarked from Outer Continental Shelf lease revenues.

In addition, the enrolled bill would remove the Advisory Council on Historic Preservation from the Department of the Interior, establishing it as an independent agency, increasing its membership to twenty-nine (including 10 cabinet officers), providing for staff including 5 positions at grade 16 or 17, and exempting it from the provisions of the Federal Advisory Committee Act. It would further require simultaneous transmission of the Council's budget requests and legislative recommendations, testimony, or comments to the President (or OMB) and specified committees of the Congress. S. 327 would authorize appropriations for the Advisory Council of \$1,500,000, \$1,750,000 and \$2,000,000 for fiscal years 1977, 1978, and 1979, respectively.

Finally, under Title II, \$175,000 would be authorized annually for fiscal years 1977 to 1979 for U.S. participation in the International Centre for the Study of the Preservation and Restoration of Cultural Property.

Title III

The enrolled bill would provide specific legislative authority broadening the uses to which Federal

oil shale revenues paid to any State may be put including planning, construction and maintenance of public facilities, and provision of public services. Currently, use of these revenues is restricted to public road and educational purposes.

Discussion

In reports and testimony on this legislation, the Administration strongly opposed S. 327 and related bills. The agencies expressed the concern that such large increases in authorization levels would add to inflationary pressures and imperil economic recovery. Interior also argued that there was no need to increase the authorization level of the Land and Water Conservation Fund because the Administration could use unappropriated prior year funds for parkland acquisition when fiscal conditions improved.

The budget and legislative "bypass" provisions for the Advisory Council on Historic Preservation, and the requirement for an urban recreation study by Interior, were added in committee mark-up following hearings on the bills, and in light of the Administration's strong opposition to the bills at the time, no further comments were offered concerning these committee amendments. However, these features of the enrolled bill are objectionable.

Although similar budget and legislative bypass provisions have been enacted in recent years with respect to several independent regulatory agencies -- notably the Commodity Futures Trading Commission, the Consumer Product Safety Commission, and the Federal Election Commission -- the Executive Branch has consistently opposed such measures. The budget bypass requirement would provide an opportunity for advocates to pressure for increased funds while the President is developing his proposals in the context of the budget as a whole. Similarly, the requirement for concurrent submission to the Congress and the

President of any proposed legislation, testimony, or comments on legislation would make it difficult for the President to develop and present to the Congress a coherent, coordinated legislative program. Moreover, in this case, these provisions would be particularly objectionable considering that the Council includes 10 cabinet members and that all 12 members from outside the Federal Government would be appointed by the President.

Furthermore, the requirement for a report to Congress, including the Secretary of the Interior's recommendations on urban outdoor recreation could provide a basis for numerous legislative proposals for urban park areas to be administered by the Federal Government.

In their reports on S. 327, both the Senate and House Interior Committees cited the growing backlog of recreational and historic preservation projects at both the Federal and State levels. Countering the Administration's concern over the inflationary nature of the bill, the House Interior Committee argued that because of the strong inflation in land values, an accelerated Federal land acquisition program would be more economical in the long run. Further, with respect to the Committee's amendments establishing an independent Advisory Council, the Senate report expressed particular concern over the Council's present ability to exert a strong and independent influence on Executive agencies' policies and actions.

Recommendations

In its attached enrolled bill letter, Interior notes the Administration's previous opposition to this legislation, but the Department further observes that existing funding levels have led to a current backlog in national recreation lands of some \$3.1 billion even though no major areas have been authorized recently. Moreover, Interior argues that there has been sufficient improvement

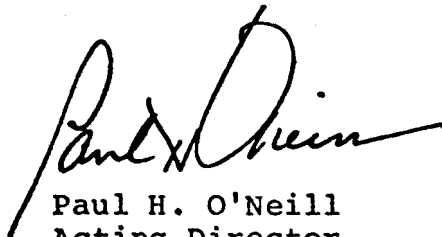
in the economy to warrant reconsideration of the bill. Finally, in recommending approval, Interior concludes that:

"The Land and Water Conservation Fund program is a very popular program and has been one of the most successful Federal recreation programs ever developed ..."

" ... This bill constitutes an important initiative on the part the Federal Government in its attempt to meet the ever increasing demands for outdoor recreation all across the country. The enactment of S. 327 will aid the necessary preservation of this Nation's important natural resources."

On balance, despite our concern about the future budgetary implications of this bill, we concur in Interior's recommendation for approval. Your decision to propose the Bicentennial Land Heritage Act was made with the understanding that this legislation would be enacted by the Congress and receive your approval.

However, we continue to believe that the Executive bypass provisions on the budget and legislation present a serious erosion of Presidential and Executive responsibilities and prerogatives. Accordingly, in the attached signing statement which generally endorses the legislation, we have noted your strong objections to these provisions and indicated your intention to seek remedial legislation.



Paul H. O'Neill
Acting Director

Enclosure

STATEMENT BY THE PRESIDENT

Today, with great pleasure, I am signing into law S. 327, a bill which will substantially increase the authorization levels for the Land and Water Conservation Fund over the next several years.

I believe it can be fairly said that few Federal programs have given more wholesome recreation to Americans than the activities financed from the Land and Water Conservation Fund. In the decade of the Fund's existence, some \$2 billion has been channeled into the purchase and development of outdoor recreation lands -- places where Americans can participate in competitive sports, learn about nature, or simply find relief from crowds and bustle.

About \$800 million over the last ten years has been used to finance the purchase of Federal recreation lands -- over 1.5 million acres of land for National Parks, Wildlife Refuges, Wilderness, and other recreational areas. \$1.2 billion has been channeled to States and local communities as matching grants supporting the purchase of 1.4 million acres of land and the development of 10,000 recreational projects.

With the increased authorization for the Land and Water Conservation Fund, we estimate that over 6 million more acres of land will be purchased and set aside for recreational purposes through

fiscal year 1989. Over the 25-year life of the Fund, land in excess of the area of the States of Connecticut, Rhode Island, and Massachusetts will have been bought for Land and Water Fund recreational purposes. This truly will be a heritage treasured by future generations.

In addition, S. 327 will establish the National Historic Preservation Fund to provide matching Federal assistance to State governments and private individuals for the acquisition and preservation of important historic sites.

What better way can there be, in this Bicentennial year, to commemorate our Nation's rich history than to pledge to preserve outstanding examples of it for future Americans? In celebrating our Bicentennial this year, I and millions of others have been inspired to think back over our history and to realize how far our Nation has come. The National Historic Preservation Fund will assure that our historic sites and structures will continue to be available to provide this inspiration. This preservation of historic sites and structures will be achieved through a creative partnership between various levels of government and the private sector. The Federal Government will provide technical and financial assistance, the States will plan the programs, and the bulk of the actual preservation work will be done at the local level, by private

individuals.

Unfortunately, S. 327 also provides for certain changes in the procedures of the Advisory Council on Historic Preservation which would compromise Executive Branch functions. I find these provisions unacceptable, as well as unnecessary to the effective operation of the Advisory Council.

The first provision would require the concurrent submission of Advisory Council budget requests to Congress and to the President. This would in effect undercut the provisions of the Budget and Accounting Act of 1921, which requires the President to submit to Congress a single, coordinated budget, and will make it more difficult for me to review all requests for Federal spending in advance of submission to Congress.

Second, as with the budget requests, S. 327 would require concurrent submission of the Advisory Council's legislative proposals. Such a requirement would make it difficult for me to develop and present to the Congress a coherent, coordinated legislative program.

We will submit to the Congress legislation which would correct these provisions, and I will strongly urge its passage during the first session of the next Congress.

In summary, I am very pleased today to sign S. 327. With my Bicentennial Land Heritage Program

4

and S. 327, we will have a program of which we can be proud. These two measures will provide increased recreational opportunities for present and future Americans, and will preserve for the future a great treasure of natural areas and historic resources. S. 327 provides the authorization for greatly accelerated land acquisition and historic preservation efforts, while the Bicentennial Land Heritage Program will assure that these resources are developed and maintained to the highest standards.

As America looks toward her third century, we draw strength from our past. Our heritage of natural areas and the remaining records of our cultural history provide a reassuring sense of the direction from which we have come, and a respite from the tensions of continuing progress. It is essential that we preserve our natural areas and historic resources in the face of progress. I pledge to do all I can to further this goal.

OFFICE OF MANAGEMENT AND BUDGET
ROUTE SLIP

TO Mr. Linder

- Take necessary action
- Approval or signature
- Comment
- Prepare reply
- Discuss with me
- For your information
- See remarks below

FROM Mary Molnar

DATE 9/22/76

REMARKS

The attached letters are to be added to the enrolled bill file re. S.327.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WASHINGTON, D.C. 20506



September 17, 1976

Mr. James M. Frey
Assistant Director for Legislative
Reference
Office of Management and Budget
Washington, D.C. 20503

Attn: Miss Martha Ramsey
Supervisor, Legislative Information
Center

Dear Mr. Frey:

This is in response to your request for views and recommendations of the Federal Council on the Arts and the Humanities on S. 327, a bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and to establish the National Historic Preservation Fund, and for other purposes.

The Federal Council on the Arts and the Humanities defers to the views of the Department of Interior and other agencies more directly concerned with the implementation of this legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald S. Berman".

Ronald S. Berman
Acting Chairman
Federal Council on the Arts
and the Humanities



THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

SEP 20 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Ms. Martha Ramsey

Dear Mr. Frey:

Subject: S. 327, 94th Congress
Enrolled Enactment

This is in response to your request for our views on the enrolled enactment of S. 327, a bill "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

Title I of the enactment would provide staged increases in the authorized level of the Interior Department's Land and Water Conservation Fund to an ultimate \$900 million for fiscal years 1980 through 1989, and make certain modifications in the method of apportioning among the States the States' share of the Fund for outdoor recreation programs. It also includes provisions requiring States to undertake an annual evaluation of their outdoor recreation programs, and directing the Secretary of the Interior to submit to the Congress within one year a comprehensive review and report on needs, resources, and available options with respect to urban recreation.

Title II of the enrolled bill would amend the National Historic Preservation Act of 1966 to establish in the Treasury a separate Historic Preservation Fund at an ultimate level of \$150 million to carry out the provisions

of the 1966 Act. The fund would be derived from revenues accruing through fiscal year 1981 under the Outer Continental Shelf Lands Act and/or the Mineral Leasing Act of 1920. Title II would also amend the 1966 Act to alter the existing matching formula for historic preservation grants so as to permit grants of up to 70 percent for preparation of statewide plans and surveys and project plans. It would also make the Advisory Council on Historic Preservation an independent agency in the Executive Branch, with a separate authorization of appropriations through fiscal year 1979. The Executive Director of the Council would be appointed by the Council's Chairman, rather than by the Director of the National Park Service as under existing law, and Council staff would be appointed in the competitive service by its Executive Director.

Title III of the enactment would amend the Mineral Leasing Act of 1920 to permit States to use their share of oil shale revenues for planning, construction and maintenance of public facilities and provision of public services. Existing law requires such funds to be used only in connection with public roads or public education institutions.

This Department is sympathetic to the objectives of preserving the nation's natural resources and providing needed outdoor recreation areas, but defers to the Department of the Interior, as to whether the provisions of Title I of the enactment represent a necessary and desirable approach for attaining these objectives.

With respect to the proposed change in the status of the Advisory Council we would, without addressing the merits of title II's specific provisions in this regard, be in accord with the general principle of establishing the Council as an independent agency. In addition, we support the concept of increasing the Federal matching share for historic preservation grants for statewide plans and surveys, recognizing the importance of completing the inventory of

historic sites. However, we would defer to the Department of the Interior with respect to the budgetary and programmatic implications of this provision, as well as to the desirability of the remaining provisions of the bill.

Sincerely,



Robert R. Elliott

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 22

Time: 1100am

FOR ACTION: George Humphreys *GH* cc (for information): Jack Marsh
 Sarah Massengale Jim Connor
 Max Friedersdorf *MF* Bill Seidman *BS* Ed Schmults
 Bobbie Kilberg *BK*
 Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: September 23

Time: noon

SUBJECT:

S. 327-Land and Water Conservation Fund
Amendments

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

omf

STATEMENT BY THE PRESIDENT

Today, with great pleasure, I am signing into law S. 327, a bill which will substantially increase the authorization levels for the Land and Water Conservation Fund over the next several years.

I believe it can be fairly said that few Federal programs have given more wholesome recreation to Americans than the activities financed from the Land and Water Conservation Fund. In the decade of the Fund's existence, some \$2 billion has been channeled into the purchase and development of outdoor recreation lands -- places where Americans can participate in competitive sports, learn about nature, or simply find relief from crowds and bustle.

About \$800 million over the last ten years has been used to finance the purchase of Federal recreation lands -- over 1.5 million acres of land for National Parks, Wildlife Refuges, Wilderness, and other recreational areas. \$1.2 billion has been channeled to States and local communities as matching grants supporting the purchase of 1.4 million acres of land and the development of 10,000 recreational projects.

With the increased authorization for the Land and Water Conservation Fund, we estimate that over 6 million more acres of land will be purchased and set aside for recreational purposes through

fiscal year 1989. Over the 25-year life of the Fund, land in excess of the area of the States of Connecticut, Rhode Island, and Massachusetts will have been bought for Land and Water Fund recreational purposes. This truly will be a heritage treasured by future generations.

In addition, S. 327 will establish the National Historic Preservation Fund to provide matching Federal assistance to State governments and private individuals for the acquisition and preservation of important historic sites.

What better way can there be, in this Bicentennial year, to commemorate our Nation's rich history than to pledge to preserve outstanding examples of it for future Americans? In celebrating our Bicentennial this year, I and millions of others have been inspired to think back over our history and to realize how far our Nation has come. The National Historic Preservation Fund will assure that our historic sites and structures will continue to be available to provide this inspiration. This preservation of historic sites and structures will be achieved through a creative partnership between various levels of government and the private sector. The Federal Government will provide technical and financial assistance, the States will plan the programs, and the bulk of the actual preservation work will be done at the local level, by private

individuals.

Unfortunately, S. 327 also provides for certain changes in the procedures of the Advisory Council on Historic Preservation which would compromise Executive Branch functions. I find these provisions unacceptable, as well as unnecessary to the effective operation of the Advisory Council.

The first provision would require the concurrent submission of Advisory Council budget requests to Congress and to the President. This would in effect undercut the provisions of the Budget and Accounting Act of 1921, which requires the President to submit to Congress a single, coordinated budget, and will make it more difficult for me to review all requests for Federal spending in advance of submission to Congress.

Second, as with the budget requests, S. 327 would require concurrent submission of the Advisory Council's legislative proposals. Such a requirement would make it difficult for me to develop and present to the Congress a coherent, coordinated legislative program.

We will submit to the Congress legislation which would correct these provisions, and I will strongly urge its passage during the first session of the next Congress.

In summary, I am very pleased today to sign S. 327. With my Bicentennial Land Heritage Program

and S. 327, we will have a program of which we can be proud. These two measures will provide increased recreational opportunities for present and future Americans, and will preserve for the future a great treasure of natural areas and historic resources. S. 327 provides the authorization for greatly accelerated land acquisition and historic preservation efforts, while the Bicentennial Land Heritage Program will assure that these resources are developed and maintained to the highest standards.

As America looks toward her third century, we draw strength from our past. Our heritage of natural areas and the remaining records of our cultural history provide a reassuring sense of the direction from which we have come, and a respite from the tensions of continuing progress. It is essential that we preserve our natural areas and historic resources in the face of progress. I pledge to do all I can to further this goal.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 22

Time: 1100am

FOR ACTION: George Humphreys
Sarah Massengale
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: September 23

Time: noon

SUBJECT:

S. 327-Land and Water Conservation Fund
Amendments

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

approve Kelly 9/22/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 22

Time: 1100am

FOR ACTION: George Humphreys
Sarah Massengale
Max Friedersdorf
Bobbie Kilberg
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cc (for information): Jack Marsh
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Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 23

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SUBJECT:

S. 327-Land and Water Conservation Fund
Amendments

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For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*Approval
JWS*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

Interest

Today I am signing into law S. 327, a bill which will substantially increase the authorization levels for the Land and Water Conservation Fund over the next several years.

I believe it can be fairly said that few Federal programs have given more happiness to Americans than the Land and Water Conservation Fund. In the decade of the Fund's existence, some \$2 billion dollars have been channeled into the purchase and development of outdoor recreation lands - places where Americans can participate in competitive sports, learn about and wander in nature, or simply find relief from crowds and bustle. Some 40% of the Fund - about \$800 million over the last ten years - has been used to finance the purchase of Federal recreation lands. For example, land for the national parks is bought with this Federal "side" of the Fund. The remainder of the Fund, approximately \$1200 million, has been channeled to States and local communities as matching grants. It is estimated that this side of the Fund has underwritten 1.4 million acres of land purchased and 10,000 recreational development projects.

But it is not numbers alone which herald the significance of the Land and Water Conservation Fund. Its most important aspects are its pervasiveness and its recognition of State and local initiative. A host of Fund projects has been developed in every State. Communities which formerly had considered the Federal Government something of an interloper in their affairs have changed their minds. They have come to appreciate that Washington can be an unobtrusive partner in worthy projects. In this way, the Fund has been a superb goodwill ambassador throughout the country.

The crucial point is that Fund projects are not superimposed on local communities by Washington. In every case they are the result of local creativity and thus are responsive to local needs. The Fund

presents an opportunity for States and communities to tailor recreation projects to the people's needs rather than squeeze local concerns into a pre-ordained Federal structure.

The Fund has often been called the most popular Federal program. If there has been any problem with the Fund, perhaps it is its over popularity. Each year applications for grants from the State side far exceed the Fund's ability to match. I have had some misgivings about increasing the size of the Fund because of the likely inflationary effect on the economy. This apprehension was the reason for the Administration's opposition to legislation to increase the Fund more than a year ago. However, after giving the matter a good deal of thought, I am persuaded that the economy is on a much sounder footing now than it was a year ago. Accordingly, I believe that we can afford the increased investment in recreation which this bill will make possible.

Department of Justice
Washington, D.C. 20530

September 23, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20530

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 327, "To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes."

The Department of Justice defers to views of the Department of the Interior and to the Advisory Council on Historic Preservation with respect to whether or not the bill should be approved.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General

THE WHITE HOUSE

WASHINGTON

September 23, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.F.*
SUBJECT: S.327 - Land and Water Conservation
Fund Amendments

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments