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For the Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, National Parks and Forests

- S. 1578, Independent Historic Preservation Agency
and
S. 1579, National Historic Preservation Policy Act

Statement by William Lewis, Ph.D.
Chairman, Governmental Affairs Committee

February 22, 1990

Mr. Chairman, the Society for American Archaeology (SAA) is pleased to have the opportunity to present this testimony. The continued interest, support and leadership of your subcommittee is a major stimulus for archaeological resource protection, research and interpretation. The Society would also like to thank Senator Fowler for his leadership in introducing this legislation and the staff from the Senator's office for all of their hard work.

The Society for American Archaeology is an international scholarly and professional association comprised of both professional and avocational archaeologists concerned about the discovery, interpretation and protection of the archaeological heritage of America. As such, the SAA has had a long partnership with the Bureau of Land Management, USDA Forest Service, National Park Service and other Federal agencies with similar missions in their efforts to preserve and promote the nation's cultural and natural resources.

OVERVIEW

Archaeological sites contain the undocumented remains of past human activities and are fragile sources of information about the prehistory and history of the nation. Looting of archaeological sites is a national problem that has reached crisis proportions. Specific remedies are needed to help address this crisis.

The past 15 years have seen major advances in the incorporation of archaeological and historic preservation concerns in public law. Archaeology, in particular, has seen unprecedented growth during this period. Archaeological review is now routinely incorporated into planning by Federal agencies. Archaeologists reside in virtually every branch of Federal land management and land use agencies.

Site protection and enforcement has assumed an increasingly higher priority as depredations against these non-renewable resources accelerate and become a major threat to the preservation of our collective national heritage. Even as larger numbers of sites become known, disturbance by looters increases at an alarming rate. Thus, despite the best efforts of legislators, Federal agencies, the professional archaeological community and other interested groups including Native Americans, it becomes clear that greater coordination, better incentives and more incisive definition of the problems faced by archaeology and historic preservation need to be implemented at the National level.

The Society for American Archaeology believes that S. 1578 and S. 1579 jointly are among the most significant steps taken in recent years to identify and remedy the several problems that face the future of archaeology in the United States. Indeed, S. 1578 and S. 1579 take the lead in this effort and several provisions of the legislative package can be used as models for other legislation addressing these issues.

Following summarizes some of the major provisions of the two bills which directly impact on archaeological resources, both prehistorical and historic. A more detailed analysis, with the Society's views and recommendations is attached.

S. 1578 - HISTORIC PRESERVATION ADMINISTRATION ACT

Independent Agency

The creation of the Independent Historic Preservation Agency proposed by S. 1578, with allied Preservation and Archaeology Advisory Committees recognizes the importance of archaeology and historic preservation by giving it independent agency status. Such centralization should have the effect of providing greater coordination to programmatic efforts in a variety of areas. Significantly, the Archaeology Advisory Board gives archaeology an independent voice in advising the agency on policy and professional standards, an ability which has been lacking in the past. Recognition that the national heritage with which archaeology concerns itself is not the property of diverse special interest groups is reflected in Advisory Board membership, which membership draws from professional archaeologists, avocational archaeologists and Native Americans.

National Center for Preservation Technology

Increasing concern with the long term management of the national heritage is addressed by the mandate given the National Center for Preservation Technology to develop and disseminate information on preservation and conservation technologies. The SAA is one of the founders of the National Coalition for Advanced Preservation Technology (CAPT). CAPT is a coalition whose goal is to establish the multi-disciplinary National Center for Preservation Technology called for in the 1986 Office of Technology Assessment report, Technologies for Prehistoric and Historic Preservation.

S. 1579 - NATIONAL HISTORIC PRESERVATION POLICY ACT

Benefits of Title I

The SAA strongly endorses a number of the components of Title I in S. 1579. Among the most significant contributions of Title I is its forthright attempt to bolster management, protection and enforcement efforts associated with the protection of archaeological sites and artifacts. This is accomplished through several vehicles. Federal agency responsibilities for identifying and protecting sites are clarified and codified and provisions are included for needed archaeological work when a property is threatened with unavoidable destruction. Both the National Register and National Landmark systems are expanded by S. 1579, thereby bringing more sites under effective protection and management. Threatened resources will be identified every three years and recommendations developed for their protection. Historic and archaeological resources of critical importance will be identified and protected through new legal mechanisms, including voluntary solutions, suspension of federal assistance or court injunction. Prohibitions on illicit archaeology and transactions involving resources on Federal and tribal land are strengthened. Additional protection is provided for submerged archaeological resources embedded in the seabed in the Exclusive Economic Zone. These are all long overdue measures which the SAA supports.

Under S. 1959, the recent rampant growth of the international trade in stolen antiquities, a problem of growing concern worldwide, would begin to be addressed by an International Conference on the Antiquities Trade. This approach is strongly endorsed by the SAA. Recognition of the role of archaeology on private lands also contributes strongly to the legislation. This multi-pronged approach to site protection, management and the illegal antiquities trade is a significant step toward solving long-term archaeological and preservation problems.

SAA has a number of specific recommendations concerning this title which are included in the detailed analysis attached to this testimony.

Treatment of Human Remains

Among the major contributions of S. 1579 is the creation of a consensus position on the treatment of human remains and associated grave goods. Specifically, S. 1579 clearly balances the rights of descendants, potential descendants and long term scientific research interests on a case by case basis. Clear conditions for disinterment are established and a range of disposition alternatives are specified. Moreover, a commission is called for to adjudicate cases where no living descendants can be identified. Unlike other legislation pending in Congress on this matter, S. 1579 recognizes that there are important gains that can be made by recognizing both the contributions of long term scientific study and the interests and concerns of Native American peoples. The perspective on this issue established by S. 1579 can serve as a model for other bills addressing reburial and repatriation.

Title II State Programs and Title III Tribal Programs

Title II of S. 1579 restates and strengthens the state historic preservation system and Title III establishes parallel tribal historic preservation programs. The SAA supports strongly both of these efforts to expand and strengthen the national preservation program. In particular, SAA welcomes and support the creation of substantially autonomous tribal programs for archaeology and historic preservation. We feel it will further integrate the concerns of indigenous peoples with preservation of the national heritage and the long term management of significant resources.

Title IV Local Programs and Title V Public Education

Two significant areas of concern for archaeology have been the lack of incentives for local units of government to involve themselves aggressively at a programmatic level in preserving the past and the lack of well-directed public education programming designed to attract the public to historic preservation efforts. Title IV of S. 1579 would help remedy local programmatic deficiencies by continuing and strengthening the system of local government certification through the SHPO's and encouraging programs for local level assistance. Title V would foster the development of a comprehensive preservation education and training program package directed at several audiences. Individuals who might otherwise not be involved will be brought into the preservation network with a significant background in how historic preservation works and why it is an important undertaking. Building this foundation of support is essential to the long term success of preservation efforts at large and, in particular, can do a great deal to increase the public's understanding and appreciation of archaeological resources.

SUMMARY

S. 1578 and S. 1579 are far reaching pieces of legislation that will have a positive impact on the future of archaeology and historic preservation. While certain components of the bills will no doubt be modified by future input and debate, the intent, content and overwhelming substance of the bills allows endorsement by the Society for American Archaeology. We feel that the benefits of this package will have a positive impact on the conduct of archaeology and historic preservation in the United States.

I thank you for the opportunity to testify on this important legislation.