

**REPORT OF THE
VIRGINIA DEPARTMENT OF HISTORIC RESOURCES
PURSUANT TO HOUSE JOINT RESOLUTION 198**

**Public/Private Partnerships
for Encouraging Historic
Preservation in the
Private Sector**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 45

**COMMONWEALTH OF VIRGINIA
RICHMOND
1993**



COMMONWEALTH of VIRGINIA

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To Governor L. Douglas Wilder and
Members of the General Assembly:

The Department of Historic Resources is pleased to submit the following report pursuant to House Joint Resolution 198 adopted by the General Assembly in 1992. The report examines Department policies and programs regarding archaeology and historic preservation as requested in the resolution with particular attention to a variety of preservation options and tools available to local governments and private property owners who are interested in incorporating stewardship of historic resources into their economic and development activities.

Sincerely,

A handwritten signature in cursive script that reads "Hugh C. Miller".

Hugh C. Miller, Director

"Whereas, Virginia has historic resources unrivaled by any other state...it is imperative that historic resources and sites be properly studied before development takes place and the private sector may properly bear some of the cost of this effort...."

House Joint Resolution 198
1992

"Virginia is history. Places such as Mount Vernon, Monticello, Jamestown and Colonial Williamsburg are instantly recognized throughout the world. Our restored Main Streets, pristine rural villages, archaeological sites, and 19th century industrial centers are equally important in defining Virginia to the nation and the world. But beyond their cultural value, these historic resources also underlie the economic health of the Commonwealth. The rehabilitation of older buildings, revitalization of the historic commercial cores of our cities and towns, and tourism programs that focus on our historic sites and countryside provide thousands of jobs for Virginians and bring hundreds of millions of dollars annually into the state's economy."

A Future for Virginia's Past
Report of the Governor's Commission
to Study Historic Preservation, 1988

TABLE OF CONTENTS

EXECUTIVE SUMMARY i

INTRODUCTION 1

FINDINGS AND RECOMMENDATIONS 4

DEPARTMENTAL POLICIES AND PROGRAMS 8

PRIVATE SECTOR PRESERVATION ACTIVITIES 12

HISTORIC PRESERVATION STRATEGIES
USED IN OTHER STATES 18

LOCAL GOVERNMENT PRESERVATION TOOLS 19

ASSESSMENT OF OPTIONS 23

APPENDIX I HOUSE JOINT RESOLUTION 198 31

APPENDIX II SUMMARY OF KEY PROGRAMS OF
THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES 32

APPENDIX III RELEVANT STATE AND FEDERAL LAWS 43

APPENDIX IV HISTORIC PRESERVATION
STRATEGIES USED IN OTHER STATES 48

APPENDIX V SUMMARY OF PUBLIC PARTICIPATION 57

REFERENCES 62

EXECUTIVE SUMMARY

In carrying out the study requested by the General Assembly in House Joint Resolution 198, the Virginia Department of Historic Resources examined its own programs, collected information from other states, and sought public participation through public meetings, written comment and an ad hoc advisory committee. In every aspect of the study, the Department sought a balanced approach that addressed attention to vulnerable archaeological sites within the context of broader preservation and economic concerns.

The Commonwealth has traditionally left the stewardship of historic properties to the private sector. Most historic properties are owned by the private sector; most historic preservation is done by and funded by the private sector; and most direct economic benefit is derived by the private sector. Many examples can be found of private support to protect or excavate archaeological sites, as well as rehabilitating and using historic buildings. The level of this effort, however, is not sufficient to document the great numbers of sites lost each year.

The public role has traditionally been one of providing guidance, recognition and incentives. The Department carries out this role by collecting and sharing information, providing objective evaluation and recognition of places that are historically significant, and administering grants and tax credit programs approved by Congress or the General Assembly. Consultation processes are required where public funds, lands or permits are involved. Most grant funds (both federal and state) that provide public support for private preservation activities have been reduced or eliminated in recent years. There is very little available at the state level to provide grants or direct services to study archaeological sites before they are destroyed.

Local governments make decisions affecting privately owned historic resources in their communities as a part of broader land use decisions. Local tax incentives or land use restrictions can be, but seldom are, applied to preservation or study of archaeological sites.

The findings of the study can be summarized as:

- ◆ Archaeological sites are especially vulnerable to loss.
- ◆ Integrating sound preservation and economic development is hampered when planners and developers don't have enough information to make sound decisions.
- ◆ In a system that leaves most historic resources in private ownership, preservation can occur only when the private sector adopts a stewardship ethic for historic resources in their care.

Many of the basic tools do exist. The recommendations stress using the tools we have as well as considering new ones that have been used successfully elsewhere.

INTRODUCTION

"RESOLVED by the House of Delegates, the Senate concurring, That the Department of Historic Resources be requested to study its policies regarding historic preservation and how the private sector best could complement the Department's efforts. The study shall include: consideration of other states' efforts to involve the private sector; requiring that construction be planned to avoid archaeological sites; and asking developers to fund the cost of mitigating a projects's effects on archaeological resources."

House Joint Resolution 198

During the 1992 session, the Virginia General Assembly asked the Virginia Department of Historic Resources to study ways to foster public/private partnerships to protect and record historic resources being impacted by private development activities.

The study arose from concerns raised by private citizens that one entire class of historic resource--prehistoric and historic archaeological sites--is not being given sufficient protection and attention. Such sites are far less visible than the historic structures and districts with which most people are familiar; their contribution to today's economy is less direct. They are nonetheless important, fragile, and completely irreplaceable links with over 11,000 years of people's lives in what is now Virginia. Avoiding damage to these sites or studying them through excavation and analysis requires identifying the sites and considering what to do with them very early in any planning process. The citizens who asked what could be done to help protect and document archaeological sites affected by human decisions and activities were joined by others who participated at public meetings, through written comments and suggestions, and as members of an ad hoc advisory committee.

Beyond establishing a broad concern for archaeological and other historic resources, citizens repeatedly pointed out that economic development and historic preservation are not mutually exclusive. On the contrary, historic preservation is good business. Historic or heritage tourism contributes a major portion of Virginia's travel industry revenues. The historic character of Virginia's special places draws tourists and industry to her cities, towns and rural countryside and provides good places to live and work for all her citizens.

"The competition from the rest of the United States, and of the world, is tough. Everybody wants the tourist dollar; they also want new investments and companies to give employment. Virginia's history, her natural resources, her educational institutions, and her business climate all combine to give us an advantage. We must push that advantage at every opportunity. Our history is part of our strongest ammunition."

Carrington Williams
McLean

"Virginia has one of the richest historic legacies in the nation, and...this irreplaceable legacy is being diminished every day through the development of archaeological sites."

Daniel Pezzoni
Roanoke

In the long run, development that ignores Virginia's greatest assets cannot succeed. Development that balances historic preservation with other financial and resource factors benefits not only the individual but also the entire community.

The resolution itself noted that many private citizens, including developers, accept a stewardship responsibility for resources in their care and that will be affected by their own actions and decisions. Both in Virginia and elsewhere across the country, responsible businessmen are using creative design to avoid archaeological sites and other historic features while proceeding with economically viable development. In many cases, this commitment extends to paying for excavation and interpretation when a significant site cannot be reasonably avoided. Examples from citizens, local governments and consultation with other states confirm this observation.

"Developers should be sold on the idea that ethically and economically, in the long run, it is in their best interest to be preservation stewards for this great Commonwealth. ...if we continue to plunder the state's cultural resources, we will cease to be great and there will be no common wealth."

J.T. Moldenhauer
Salem

Several basic facts have shaped this study:

- ◆ Prehistoric and historic archaeological sites--on land and under water--are notably vulnerable to loss.
- ◆ Most decisions and actions (to preserve and use or to destroy and lose historic buildings, sites and places) are made by the owners themselves (both public and private);
- ◆ Most government decisions affecting historic properties on private lands lie in the hands of local authorities.
- ◆ The next tier of decisions is made by those state and federal agencies that either provide funding for activities that may affect historic resources, or that regulate private actions that may affect historic and other public resources. In virtually all those cases, the state or federal regulation involved requires a fact finding and consultation process that expects the natural or historic resource to be taken into account in the final decision.
- ◆ The role of the Department of Historic Resources, mandated by the General Assembly, is to collect and share information and to guide and encourage sound decisions affecting historic resources. The Department does not have the authority to restrict use of private property. Nor does it have the mandate or funding to provide archaeological excavation, analysis and interpretation services to sites threatened by public or private development, any more than it has the mission or financial resources to restore every historic building or structure across the state.

Throughout the study, two common themes were voiced again and again by citizens, by preservationists, by the business community and by local government representatives:

- ◆ Preservation and economic development can, and must, go hand in hand.
- ◆ Now is not the time for more restrictions, but for more incentives and improved services.

The investigation of other state programs showed that many of them do implement a variety of legal restrictions (at the state and local levels), incentives, creative funding mechanisms and state sponsored preservation programs. Discussions with leaders from other states raised some of the same common concerns found here in Virginia. While more and more people have become involved in balancing historic preservation and development activities (voluntarily or through the improving use of federal and local review and zoning requirements), incentives and service programs have been reduced or eliminated. Other states in the South have voiced an almost unanimous observation that new or renewed incentive programs are essential.

Based on these facts and common themes, the study examined the interrelated roles of both the public and private sector:

- 1) programs and services of the Department of Historic Resources;
- 2) actions that private property owners, developers and a wide range of citizen organizations are already taking;
- 3) programs, restrictions, incentives and innovative funding mechanisms other states use successfully to enhance preservation activities;
- 4) optional tools available to local governments; and
- 5) a brief assessment of some options for future consideration in Virginia.

Each of the following sections notes where preservation laws and programs emphasize the visible resources to the disadvantage of archaeological sites. The report and recommendations also stress tools that all preservation partners can use to encourage site avoidance, protection or excavation. The study explored a wide range of options, including restrictions and incentives, and noted some of the positive and negative implications attached to each. The goal was to identify a range of possible options that will serve both public and private interests and will combine resource protection with economic well-being.

FINDINGS AND RECOMMENDATIONS

Citizen statements and suggestions and the deliberations of an advisory committee representing preservation, local government and development interests form the basis of the following findings and recommendations. Any recommendations to the Department are consistent with the program responsibilities and services already covered in its legal mandates. The text of the report discusses in greater breadth and detail these and other options raised by the public, the committee and comparison with other states.

Finding: Prehistoric and historic archaeological sites are especially vulnerable to loss. Appropriate protection of these sites requires greater knowledge and appreciation of them, strategies to protect them, and standards for documenting them.

Recommendations:

- The Department of Historic Resources should inform the public and all levels of government and provide standards and technical guidance that emphasize archaeological sites, issues and ways that public and private development can incorporate and be enhanced by archaeological site protection and interpretation.

Within existing funds:

- ◆ Annual Virginia Archaeology Week;
- ◆ Archaeological Site Stewardship Initiative at a basic level;
- ◆ Informational publications;
- ◆ Exhibit and interpretation help for local museums, libraries, schools, historical societies;
- ◆ Heritage Tourism Initiative;
- ◆ Technical guidance and training in survey and planning to local governments and regional planning commissions.

When additional funds become available:

- ◆ Increased services through Archaeological Site Stewardship Initiative;
- ◆ Permanent and traveling exhibits on Virginia's hidden heritage;
- ◆ Educational resource packages (video, workbooks, artifact "kits") for use in schools, museums, and libraries across the state;
- ◆ Archaeological "Rescue Team" to excavate, analyze and interpret high priority threatened sites;
- ◆ Increased number and quality of educational and guidance publications;

- ◆ Increased number and quality of emergency excavations, analyses and reports.
- Local governments should regularly take archaeological sites and districts along with other historic resources into account in making local land use decisions.
 - ◆ Include archaeological assessments and recommendations in local Comprehensive Plans.
 - ◆ Consider protection of archaeological sites in subdivision, Planned Unit Development and conditional or incentive zoning decisions.
 - ◆ Adopt historic district ordinances that directly address archaeological resources. This option could include adoption of archaeological district ordinances.
- The General Assembly could strengthen and expand the tools that local governments can use to encourage or negotiate land use decisions that incorporate historic resource protection into productive development.
 - ◆ Change language in local planning, subdivision, and zoning authority to encourage attention to archaeological sites in those decisions;

Finding: Integrating historic preservation into viable economic development suffers when accurate information about the location and importance of archaeological sites and other historic places is not readily available. At the present level of effort it will take 30-50 years to achieve even a minimum level of information to support such decisions.

Recommendations:

- The Commonwealth should take the lead and increase its commitment to gathering, recording and sharing information on all classes of historic resources for use in private and public decisions.
 - ◆ Expand existing computer databases into a statewide, computerized Geographic Information System (GIS) including historic inventory data with other economic and environmental information to all state and local agencies as needed;
 - ◆ Provide incentives, support and training to enhance local government and private group participation in survey activities.
 - ◆ Increase Departmental and local historic preservation efforts to accomplish statewide, regional and local survey objectives as funding allows.

- Local governments should make every effort to:
 - ◆ Conduct studies to identify and evaluate archaeological sites as well as other historic resources to the maximum extent feasible;
 - ◆ Seek out ways to include preservation staff in local planning offices both to provide professional expertise and to enhance local use of volunteer assistance.

Finding: Balancing historic preservation and responsible economic development effectively can occur only when the private sector--as owners, advocates and beneficiaries of Virginia's heritage--adopts a stewardship perspective toward the archaeological and other historic resources in its care.

- Private citizen groups should take an active part in protecting and documenting the full range of historic resources.
 - ◆ Establish foundations and private land trusts that target archaeological site purchase and protection.
 - ◆ Donate funding for archaeological excavation to supplement public funds and/or the efforts of private land owners.
 - ◆ Let their concern be known where public decisions will affect historic resources;
 - ◆ Organize and support a wide range of educational efforts including Virginia Archaeology Week events, exhibits, lectures, and school-room activities.
 - ◆ Conduct survey research in cooperation with the Department and appropriate local government.

- Private landowners should take pride in and voluntarily recognize a stewardship responsibility for the hidden historic resources in their care.
 - ◆ Document and protect sites on their property when feasible.
 - ◆ Examine alternatives when taking actions that might damage or destroy such sites.
 - ◆ Provide funds and opportunity, in cooperation with private and public organizations, to excavate and interpret significant sites when their own actions and decisions will destroy the site;
 - * Including archaeological and other preservation activities as investment in good business practices;
 - * Taking advantage of tax benefits of easements and charitable donations in estate or development planning.

- The Commonwealth should make every reasonable effort to encourage and enhance responsible private stewardship of historic resources.

- ◆ Allow the costs of archaeological site protection and interpretation as well as the rehabilitation of buildings to be the basis for a tax abatement within existing local property tax abatement authority;
- ◆ Consider income tax incentives for private preservation activities;
- ◆ Consider alternative revenue sources to support state, local and private preservation efforts as used successfully in other states.

When additional funds can be made available:

- ◆ Enhance local government and private sector efforts to acquire, restore and/or document buildings and archaeological sites;
- ◆ Expand the Regional Preservation Office network from one pilot office in Roanoke to provide regional/local survey, planning and educational services throughout the state.
- ◆ Strengthen support for threatened site research excavation, reports, and public interpretation.

- The Department should continue to give priority to individuals and organizations that adopt a stewardship ethic.

- ◆ Technical assistance to owners of historic properties that have been registered, and those on which the owner has donated a preservation easement, or signed a stewardship agreement;
- ◆ Priority funding and participation for survey, register, educational and protection activities and projects where cooperation among public and private organizations can accomplish jointly far more than the Department could acting alone.

- Local governments should make every reasonable effort to encourage and enhance private stewardship of historic properties within their communities:

- ◆ Adopt and use property tax options that encourage private preservation efforts;
- ◆ Apply and enforce zoning and other ordinances consistently to protect and encourage private investment in historic districts;
- ◆ Recognize publicly individual and organizational preservation activities that enhance a community's economic and social vitality.

1. DEPARTMENTAL POLICIES AND PROGRAMS

"...That the Department of Historic Resources be requested to study its policies regarding historic preservation."

House Joint Resolution 198

The Department of Historic Resources's policies regarding historic preservation can best be seen in its statement of mission from the Code of Virginia (§ 10.1-2200 et seq.). All powers and duties accorded to the Department serve "to encourage, stimulate, and support the identification, evaluation, protection, preservation, and rehabilitation of the Commonwealth's significant historic, architectural, archaeological and cultural resources...to establish and maintain a permanent record of those resources; and...to foster a greater appreciation of these resources among the citizens of the Commonwealth...."

The programs of the Virginia Department of Historic Resources reflect this policy of stewardship by the private sector and encouragement by the state. Department programs tend to fall in three general categories: services, consultation processes and incentives.

- ◆ The Department's primary programs serve to identify and evaluate historic resources, provide information to agencies and individuals who own, manage or affect those resources, and encourage the preservation, maintenance and productive use of a wide range of historic properties.
- * Conducting a statewide survey of historic properties;
- * Maintaining an archive of unevaluated and registered properties;
- * Evaluating and registering historic properties;
- * Providing technical assistance to local governments, individuals and interest groups regarding survey, registration, comprehensive planning and appropriate management of historic resources.

"We have got to dispel this myth that we've got all this stuff protected and that we've protected everything that needs protecting. We don't."

Robert Bluford
Richmond

"...give us a clear signal that something is there so we can factor it into our projection on the front side. As long as we know it's there, we can deal with it."

James Carter
Irvington

◆ None of the programs administered by the Department place any direct restrictions on the use or destruction of historic resources through private actions.

* Federal project review is a consultation process triggered by federal involvement--using federal funds or permits.

* Other projects are referred for review by the Virginia Department of Transportation, state agencies owning registered properties, and the Council on the Environment. The Department sees all state agency request for any demolition projects. The Department of Conservation and Recreation requests consultation on permits for research in caves as does the Virginia Marine Resources Commission for archaeological investigations in state owned submerged lands. In each of these situation the lead agency retains final decision making authority.

* The Department issues only two permits: for archaeological investigations conducted on state controlled lands, and archaeological investigations involving the removal of human burials regardless of who owns the land.

◆ The most successful "protection" programs administered all or in part by the Department are those which provide incentives attached to negotiated conditions. These programs include:

* Certification of rehabilitation projects for federal tax credits.

* Acceptance of voluntary donations of easements on historic properties.

"...what people don't understand about the 106 process is that it is not a veto. It's simply a look and see...preserving these sites is worth consulting and getting the public and private sectors together, the delay is worth the wait to preserve these places."

Addison Thompson
Richmond

"I resent my tax money being used to destroy my heritage."

Dan Vogt
Roanoke

- * Grant programs that assist local governments, individuals and non-profit organizations to buy, to protect, or to rehabilitate significant sites, buildings and places. No state funds are currently available for any of these direct grants.
- ◆ The Department places a strong emphasis on service to local governments.
 - * Cost-share agreements with localities to develop survey information.
 - * Comprehensive planning assistance.
 - * Grants and technical assistance through the federally authorized historic preservation Certified Local Government program. Federal grant funds through this program are very limited and earmarked primarily for survey and planning projects, not for purchase, construction or excavation.
- ◆ Only one program conducts or funds excavations to rescue data from endangered archaeological sites. This Threatened Sites Fund is often the only emergency resource available for sites being lost to erosion, vandalism or construction activities where there is no federal involvement. This fund has never been large enough to deal with more than a handful of sites per year and has been reduced in response budget cuts in recent years. It is most often used as "seed money" to encourage emergency excavations, or to conduct very limited data recovery on sites for which there are no other financial resources available.

"Montgomery County received funding in 1985 [and] in 1987.... As a result of this work, Montgomery County, the two towns and private landowners have all gained an understanding of our historic resources and are proceeding to address them in our comprehensive planning efforts. Other localities around the state would similarly benefit from the Department's services."

Betty S. Thomas
 County Administrator
 Montgomery County

♦ Educational and advocacy activities crosscut all program areas.

- * Publishing information on newly designated Virginia Landmarks, projects investing in Virginia's economy, archaeological "rescue" projects, and surveys jointly conducted with local governments or civic groups.
- * Workshops, lectures, exhibits on historic resource preservation, technical training in survey, how to take advantage of tax credits, and other preservation topics.

"...the involvement of the private sector should be begun in advance of potential confrontation. That participation must begin with an educational objective. The Department of Historic Resources can affect private sector participation by encouraging and building awareness, interest and a role for the private sector."

Martha Boxley
Roanoke

"Lack of information is the real problem. Misinformation, confusion lack of information as to what [preservation] programs mean is probably the most fundamental issue historic preservation in this country needs to address in the next decade."

Dennis Pogue
Mount Vernon

2. PRIVATE SECTOR PRESERVATION ACTIVITIES

"...and how the private sector best could complement the Department's efforts."

House Joint Resolution 198

The private sector makes by far the most decisions and sponsors the most activities affecting historic resources in Virginia. These actions fall into two broad categories:

- ◆ As property owners, private citizens frequently recognize and take direct positive action as stewards of Virginia's heritage and future;
- ◆ Private citizens shape the future of Virginia's archaeological and historic heritage through their role as advocates and partners in identifying, protecting and using these resources for public and private benefit.

Private Preservation Advocacy Organizations

Many organizations provide private sector leadership on the national, state, and local government levels. The national groups, whose memberships are made up of concerned citizens from around the nation, have made careful financial arrangements to enable them to purchase properties threatened with disturbance or destruction. The funding -- from dues, donations, and grants -- secures nationally-recognized archaeological sites and historic structures.

The Preservation Alliance of Virginia (PAV) and the Association for the Preservation of Virginia Antiquities (APVA) are the primary private advocates for historic preservation in Virginia on the statewide level. Private citizens, by joining and supporting such advocacy groups, can participate in organized preservation efforts throughout Virginia. Like their national counterparts, groups such as the PAV and APVA, have already identified and tapped sources of funding, in addition to providing the necessary administrative framework for effective preservation efforts. State-wide groups focusing on archeology include the Council of Virginia Archaeologists and the Archeological Society of Virginia.

Local historical societies and private preservation foundations act on the local and regional level to preserve a community's sense of history. It is activity at this level that determines whether the historic character of a community will be preserved. Projects like these are the very bread-and-butter of community-based preservation action for endangered buildings. They are still rare for archaeological sites.

- ◆ Citizens across Virginia became concerned over the potential loss of the Thunderbird site in Warren County, an internationally-known Paleoindian site threatened by development pressures. A coalition of the Thunderbird Research Corporation, the Archeological Society of Virginia and the Council of Virginia Archaeologists has raised funds to buy key parts of the site. So far, 80% of the

initial goal has been reached in a nationwide campaign. An essential ingredient in the success of this project was access to grant funds administered by the Department. The Threatened Property Grant program was only funded for two years but contributed to protection of dozens of historic properties.

- ◆ A successful residential development now surrounds the site of Governor Spotswood's "Enchanted Castle" in Orange County. The Department's Threatened Sites Fund was used to determine that significant evidence of this important place still remained. Historic Gordonsville Foundation then raised the money to purchase the site which was eventually donated for research purposes to Mary Washington College.
- ◆ The Madison County Historical Foundation has undertaken a multiyear archaeological survey and education project with the full endorsement of the county Board of Supervisors. Participants in this program, working with a professional archaeologist, have designed educational exhibits, run a teacher training program in local history and archaeology, recorded dozens of sites around the county, and developed their own site stewardship program to encourage and recognize the owners of those sites who are interested in protecting the resources they own.

Private citizens concerned with comparable losses of historic resources can organize land trust groups dedicated to the preservation of archaeological sites or historic structures. The organization of a land trust allows for several different long-term preservation options, such as holding the acreage until a preservation-minded buyer is interested in purchasing and preserving the site, or donating it to a public agency. In this case, monies from the land sale can be used as seed money for future purchase of endangered sites. The money can also be utilized to purchase development rights within developments or to purchase a protective historic preservation easement on the archaeological site, or provide low cost planning services. National land trusts such as the Nature Conservancy, the Archaeological Conservancy and the Association for the Preservation of Civil War Sites have demonstrated a remarkable record of success. Locally based land trusts can best address local preservation and economic objectives.

- ◆ The National Committee for the New River, Inc. initiated a land trust program in June 1992. The program covers a single watershed in a 3 state area including 11 counties in Virginia. Services include open space planning for localities, designing greenways, "land user friendly" planning for environmentally and historically sensitive, economically viable development.

Private preservation groups often lead the way in surveying and identifying the resources of a community. There are many examples of communities in Virginia where a local group has been responsible for conducting a survey of the buildings and sites, carrying out the appropriate research and advocating the formal state and national recognition for the most significant resources. When threats to local historic resources arise, groups of local residents or

organizations such as the local chapters of the Archeological Society of Virginia (ASV) are often the most effective in convincing local governing bodies to treat historic properties with greater sensitivity. It is often groups like the ASV that discover important archaeological sites and notify the Department of them. The Historic Richmond Foundation has been an effective advocate for preserving threatened landmarks in the City of Richmond. The Winchester-Frederick County Historical Society has been instrumental in securing support from the county government for an effective survey of architectural and archaeological resources in that community.

Local preservation organizations are often the most effective educators in the case of local resources.

- ◆ The Roanoke Valley Preservation Foundation has been a leader in promoting the significance of local historic resources to city and county government officials. The Foundation has also worked closely with the Department's Regional office in training teachers in the Roanoke Valley. Local ASV chapters and members of the Council of Virginia Archaeologists through their involvement with volunteers provide important instruction in good archaeological practices.
- ◆ Virginia Archaeology Week, coordinated by the Department, owes the greater part of its success to the grassroots enthusiasm that local schools, libraries, museums, historical societies, chapters of the ASV, and numerous individuals show in organizing an average 70 events every year in virtually every corner of the Commonwealth.

Private Historic Restoration/Interpretation Efforts and Economic Growth

The efforts of private citizens and foundations, such as the Thomas Jefferson Memorial Foundation, Corporation for Jefferson's Poplar Forest, Mount Vernon's Ladies Association, and Colonial Williamsburg Foundation, have led to the success of some of Virginia's most popular tourist destinations. Indeed, a 1987 study found that two thirds of the leading 15 Virginia tourist destinations were directly related to historic properties and sites that have been preserved. Active restoration and interpretation of historic attractions has produced substantial benefits, including increased economic activity in surrounding communities. In many cases, income generated from tourist visitation has underwritten high quality archaeological and architectural research projects.

The Virginia Main Street Program offers another effective option that engages active private sector participation. Co-sponsored by the National Main Street Center, the Virginia Department of Housing and Community Development and with design assistance from the Department of Historic Resources, the Main Street program encourages private investment in revitalizing the economies of small downtowns. Public funding is minimal, with government acting more as a catalyst than a participant. The Virginia Main Street approach encourages the recycling of small community Main Street commercial buildings, accompanied by a structured program of preserving and marketing that community's unique character. While the decision to seek Main

Street designation is a local government one, the ultimate success of the program depends on the full support and involvement of the local citizens.

On a smaller scale, private citizens can participate in linking historic preservation and economic growth through individual activity: rehabilitating a historic residence for a bed and breakfast; adapting unused schools and warehouses as new rental housing; developing a museum devoted to local history; or providing guided tours of local historic buildings and sites for visitors. Many small Virginia businesses benefit from association with an authentic historic site or structure.

Private citizens can derive economic benefits from the low purchase price of abandoned historic buildings. Individuals have purchased buildings in need of repair at public auction and rehabilitated the structures to accommodate new residential or commercial uses. For example, historic community school buildings are closed and often abandoned; these buildings, already strongly identified as local landmarks, offer unique possibilities involving little capital expenditure as community centers (in Buckingham County) or, with more investment but still less than erecting a new building, as affordable housing units (City of Richmond).

Participation in Existing State/Federal Incentive Programs

The private sector can actively participate in historic preservation efforts through several programs already available at the state and federal levels.

- ◆ The Forest Stewardship program, administered through the Virginia Department of Forestry, provides professional planning and management recommendations to interested private property owners. The owner who participates actively in the Forest Stewardship program protects all resources, including forest products, wildlife, and natural and historic resources at the same time that he/she uses the land for economically viable agricultural, forestry, or recreational activities. Federal matching funds are available to qualified participants. Because of the frequently large and relatively undisturbed areas involved, this program is a particularly effective means of providing land owners with sound advice on the preservation of archaeological resources on their property.
- ◆ The federal investment tax credit program makes the restoration or rehabilitation of historic structures more economically attractive for the private sector. This program also effectively "recycles" buildings, rather than demolishes them.
- ◆ Private property owners can donate easements of open space, as well as historic structures and archaeological sites, to the Commonwealth. Easement donations can qualify the owner for property tax reductions, income tax deductions, and estate tax decreases. Easement donation can ease the financial considerations of owning and maintaining a historic property while ensuring preservation in perpetuity. Donations of over 160 easements include agricultural properties, private homes, and commercial structures--all in active, productive use.

Economic Development and Voluntary Archaeology

Several private developers have successfully combined economic progress with personal regard for historic resources. Development projects that have incorporated historic preservation concerns have reaped such benefits as increased public awareness of the development, positive proffers from the local government, and generally good public relations. Archaeological proffers can be designed so as to promote balanced concerns among the developer, the neighboring community, and historic preservation.

Archaeological surveys at the initial planning stage of development can identify sites and help the developer to decide how best to deal with them. Options can include protecting the site in place through creative project design, just avoiding it or possibly donating the site or an easement on it to the locality or the Commonwealth. Any of these actions would reserve greenspace, protect archaeological sites, and provide for a possible charitable tax deduction. When avoidance or donation of a historic resource is not feasible, the developer can donate funding and time for research. Charitable donation of funding to a non-profit research group can sometimes be claimed for a tax deduction.

- ◆ Elm Street Development in Fairfax County included historic preservation considerations in a proffer to the county. The developer has hired a staff archaeologist to prepare an inventory of the resources on the property and complete a comprehensive long-term preservation plan. The development is being planned to bypass several nationally significant sites some of which will be donated to the county park system. The sites include the last intact Civil War earthworks around Centreville and prehistoric and historic soapstone quarries.

- ◆ Anheuser-Busch Corporation gave \$350,000 to the Virginia Research Center for Archaeology to survey and excavate numerous 17th- and 18th-century European and African-American sites in a proposed residential development at Kingsmill in James City County (1971-1976).

"Voluntary archaeology in private development generally occurs only where there is a local or state archaeology program in the area or an amateur group with enough political clout or knowledge to bring a potential problem to the surface....Proffers work for preservation of archaeological sites in very few jurisdictions because there is no public constituency in most of them."

Michael Johnson
Fairfax

- ◆ In 1988 the James River Institute for Archaeology investigated the colonial site of Arlington in Northampton County, home of the Custis family dating from the 17th and 18th centuries, with a small "seed money" grant from the Department and a \$25,000 grant provided by DiCano Organization which wished to develop the property for a residential community.
- ◆ Harborview Partners gave \$60,000 to the Virginia Company Foundation for its 1989 investigation of a 17th-century English fort located in a proposed residential and commercial development area in the City of Suffolk.
- ◆ In 1990 the Yorktown Water Street Revitalization Company donated \$55,000 to the Yorktown Archaeological Trust to conduct investigations of a 17th-century English fort, Revolutionary War and Civil War soldiers' huts, and 18th-century structural remains in a proposed residential development in the Town of Yorktown.

"Planning and protection for archaeological resources constitute a drop in the bucket compared to the other costs of development. Since the development industry is largely responsible for the loss of Virginia's archaeological sites, I believe the development industry has an obligation to help protect a legacy that belongs to all Virginians."

Daniel Pezzoni
Roanoke

In other cases, developers who are unable or unwilling to offer financial support for archaeology, can allow archaeological investigations to take place. However, for historic preservation to be successful in these cases, an independent, stable source of funding for the archaeological investigations is necessary.

- ◆ While unable to provide financial support, the developer for a residential community at Jordan's Point in Prince George County encouraged excavations of a Native American Weanock settlement and several adjacent 17th- and 18th-century English domestic sites funded by the Department of Historic Resources. The developer donated all recovered artifacts to the Commonwealth.

The above examples highlight cases where private actions threatened nationally significant archaeological sites, and where the organizations undertaking that development played a major role in protecting or investigating portions of the site. In no case did acknowledging a significant site stop a development project; nor did costs of the archaeology undermine the economic success of the development. These cases and a few others like them show what can be accomplished, but constitute a drop in the bucket when compared to the number of sites affected each year with no attention whatsoever.

3. PRESERVATION LAWS AND PROGRAMS IN OTHER STATES

"The study shall include: consideration of other state's efforts to involve the private sector; requiring that construction be planned to avoid archaeological sites; and asking developers to fund the cost of mitigating a projects's effects on archaeological resources."

House Joint Resolution 198

Research identified 21 states with major incentives, regulations, or programs that were substantially different from those already practiced in Virginia. Sixteen states provided additional information requested on these programs. Information from other nationwide studies was added to the information provided directly by the other state offices. This research did not include laws specifically addressing the archaeology and protection of cemeteries and unmarked human burials. Strategies that successfully enhance private preservation practices and the public/private partnership include:

- ◆ State funded archaeological survey, research and education institutions--Arkansas and South Carolina each have state archaeology programs with 35 to 50 permanent full time staff and annual operating budgets of over 1.2 million dollars.
- ◆ State and Local Tax Credit Laws--in some cases credits are granted for rehabilitations, in other for agreements simply to maintain or protect registered properties.
- ◆ State Loan and Grant Funds--Such funds have a proven track record for encouraging investment in historic preservation.
 - * Funds are raised for such programs in a variety of ways including: Real estate transaction tax, state lottery revenues, tax return contributions, tax-exempt bonds, mortgage registration fees, and private donations.
- ◆ State Review Processes--modeled after the federal "106" or Environmental Protection Act processes.
- ◆ Local Archaeological Protection Ordinances--Local government ordinances in other states are generally similar to those in Virginia, particularly in their focus on historic structures. A handful of local governments have enacted innovative ordinances that deal with archaeological sites.
- ◆ Innovative Preservation Options--Highlighted are Wisconsin's heritage tourism program, New Mexico's Archaeological Records Management System, and the archaeological site stewardship programs in Arizona and Texas.

4. LOCAL GOVERNMENT PRESERVATION TOOLS

"... requiring that construction be planned to avoid archaeological sites; and asking developers to fund the cost of mitigating a projects's effects on archaeological resources."

House Joint Resolution 198

Most government decisions affecting historic resources are made at the local level. Nothing in the state enabling legislation for local land use decisions requires that historic resources be considered in those decisions. Many localities are choosing to recognize and protect at least some types of historic resources, primarily through zoning, building permits and Comprehensive Plans. Localities vary greatly in how and to what extent they use the various tools available.

Some of the more common approaches found in Virginia include professional staff within local governments, ordinances, comprehensive plans, certified local governments, and other mechanisms such as proffers and low density development options.

Historic Resource Staff Within Local Governments

A handful of local governments employ professionally trained historic preservation staff to advise and assist in local government decisions. Petersburg, Arlington, Roanoke and the City of Richmond number among those few. Clarke County hires a consultant to provide advice on architectural history matters. Even fewer jurisdictions employ trained archaeological staff expertise. Arlington and Prince William counties have archaeologists on their Architectural Review Boards, but no archaeological staff.

Only two local governments employ a "full service" historic preservation staff with professional expertise in above and below ground historic resources. The programs of the City of Alexandria through the Office of Historic Alexandria and the County of Fairfax through the Office of Comprehensive Planning's Heritage Resources Branch are highly successful in meeting local preservation needs; both programs have received national attention. The Fairfax program received a 1992 Governor's Award for Environmental Excellence. A major factor in the success of both programs is their close interaction with local citizens in all aspects of their programs and daily contacts with the private sector on ongoing development projects. Both programs effectively demonstrate the advantages of having local expertise available.

Provisions within Local Zoning Authority

Historic District Zoning Ordinances

At least 55 local governments in Virginia have adopted historic district ordinances. Ten of these localities currently participate in the Certified Local Government program which requires an historic district ordinance to be eligible for federal grants. These ordinances are vital for historic preservation across the Commonwealth, but they address primarily architectural resources, ignoring archaeological sites and districts. This focus on architectural resources is

fostered by the Code of Virginia which states that such ordinances are to be administered by an *Architectural Review Board*. Review procedures implementing these ordinances usually apply only to historic resources within established districts and not to those outside the districts.

The City of Alexandria has the only local ordinance that sets up a comprehensive strategy to deal specifically with archaeological resources. After establishing the Alexandria Archaeological Commission in 1975 and building a nationally recognized, volunteer-based archaeological survey, research and education program, Alexandria adopted an Archaeological Protection Code as part of the City's zoning ordinance in 1989. This ordinance calls for the formal assessment of all development activities in the City. For those portions of the City determined to be archaeologically sensitive by the Office of Historic Alexandria, projects involving ground disturbance may be required to include an archaeological evaluation report and resource management plan. These documents become part of the City's overall review process of a project application. This ordinance has received national attention as an example of how local government can assess the effects of private development on archaeological resources.

"We are extremely proud of our long record of encouraging private sector historic preservation activities in Alexandria. As a city government, we strive to create a climate that encourages historic preservation, but does not stifle or impede necessary new development. We work with developers and other to make the most of our City's rich heritage, both above and below the ground."

Vola Lawson,
City Manager
Alexandria

The Old and Historic Fredericksburg District ordinance offers an example of a more modest but still useful approach. Although the Fredericksburg ordinance focuses almost exclusively on buildings and structures, it does state that "Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project."

Other Zoning Mechanisms

A variety of other mechanisms under existing planning and zoning law can be, but rarely are, applied to incorporating historic preservation into development decisions. When a developer requests a change, variance or exception to existing zoning requirements, the locality can require that the developer meet conditions that are in the public interest.

Variations in density allowed or required by local zoning ordinances and comprehensive plans can be used to preserve historic resources. They are especially applicable to archaeological sites or other resources that benefit from open area protection or buffer zones. Examples include:

- ◆ Density bonuses for cluster development, providing a significant opportunity for protection of open spaces and sensitive areas with scenic or historic easements in exchange for density increases in the developed areas.
- ◆ Agriculture, Forestry, and Rural Residential Areas, in which development is limited to agricultural, forestal, recreational, single-family residential, and natural resource related industrial uses at densities lower than in the Primary Service Area.
- ◆ Conservation Areas, being locales considered unsuitable for active development such as stream beds and banks, wetlands and marshes, floodplains, and wildlife habitat areas.

A form of incentive zoning that has already proven extremely successful occurs in localities that accept proffers of preservation and/or documentation of archaeological sites as desired conditions for increased density or other zoning variances or changes.

Proffers can be extremely successful as recently demonstrated by James City County which has the strongest archaeological proffer program in Virginia. Through an archaeological proffer, the private developers for a major planned residential development, including a golf course and marina, conducted a comprehensive survey of the property. Identified sites are now being assessed for significance. Those eligible for the National Register will be placed under easement and/or in greenspace except where in-situ preservation is not feasible, thereby necessitating archaeological excavation. The development, known as Governor's Land at Two Rivers, is proving to be highly successful while at the same time preserving archaeological resources that have been documented to be of national significance.

Comprehensive Plans

State law requires local governments to develop and use a Comprehensive Plan which must be reviewed at least once every five years. As with the zoning legislation, consideration of "historical areas" is allowed but not required. The number of localities that choose to include historic resources in those Plans is not known. Because Comprehensive Plans explicitly cover private lands, they can be extremely useful tools for local governments and developers alike in identifying areas of archaeological and historic sensitivity within a locality.

It is assumed that localities rarely include archaeological resources in their Plans since archaeological resources tend to be addressed far less often than are historic buildings. Known exceptions include the City of Petersburg which recently used Certified Local Government funding to prepare an historic resources component for an update of its Plan. Several counties in the Thomas Jefferson Planning District Commission are now doing the same thing, using cost sharing agreements with the Department.

Fairfax County has one of the most successful Comprehensive Plans from the perspective of historic preservation. The County's policy as expressed in the Plan establishes specific identification, evaluation, protection and interpretation objectives and priorities for historic resources. These objectives and priorities are implemented through the land use components of the Plan. The County assesses all areas in its jurisdiction for archaeological and historic potential and makes area-specific recommendations that conform to the County's priorities. Being area-specific, this approach allows applicable information to be considered routinely as land use decisions are made.

Certified Local Governments

Very few localities in Virginia participate in the federal Certified Local Government program in large part because of the financial incentives are quite limited. For those within the program, grant funds are available for surveys, archaeological assessments, historic resources preservation plans, and the creation of archeological and historic components for local Comprehensive Plans. These activities help localities to identify critical areas for historic resources in private and public ownership. The towns of Culpeper, Herndon, and Pulaski, cities of Fairfax, Lynchburg, Manassas, Petersburg, and Suffolk, and counties of Prince William and Clarke currently participate in the Certified Local Government program.

Limited Property Tax Exemption

Virginia's tax code includes a powerful incentive that is seldom used (§ 58.1-3220, 3221). Local governments are authorized to provide through ordinance for the partial exemption of property taxes for rehabilitation of commercial, industrial or residential buildings. The exemption allows a complete or graduated tax freeze for up to 10 years for substantially rehabilitated buildings over 25 years old. Within those parameters, the local ordinance can establish more precise and restrictive criteria and conditions of age, historic significance, standards for rehabilitation, amount and length of tax exemption and specific areas or zones (including historic districts) within which the exemption would apply.

"In Staunton where the incentive has been in place for over a decade, it is used a fair amount. I have used it myself on the house we are restoring!... Winchester, Richmond, and other cities find this incentive useful."

David J. Brown
Staunton

The exemption helps to counter any perceived "penalty" when rehabilitation projects result in increased taxes, but it covers building rehabilitation only. Since costs of archaeological excavation or protection do not increase the property's assessed value, this incentive cannot be readily adapted to encouraging those activities.

5. ASSESSMENT OF OPTIONS

The options summarized below derive from the study of existing Department programs, local preservation tools, the range of private activities, and the strategies observed in other states. The options selected for discussion as well as the assessments came directly from advisory committee deliberations or from the requests and recommendations of citizens at public meetings and through written comment. These fell into categories of:

- ◆ New and expanded programs or activities that could be pursued by the Department, local governments, and the private sector without major budgetary increases or legislative changes.
- ◆ Program improvements stressed in public comment and/or by repeated emphasis in other states that would require major additional funding.
- ◆ Legislative changes that would provide additional preservation tools to the state and to localities--including state or local review processes, requiring consideration of historic resources in local comprehensive plans, and expanding the language of historic district ordinance authority to address archaeological or open space issues more clearly.
- ◆ Financial incentives for private preservation activities--primarily tax incentives and grants.
- ◆ Strategies that would require legislative authority to supplement General Fund appropriations to fund improved and expanded programs.

New or Expanded Programs Under Current Legislation

Any substantive expansion of programs either in the Department or for local governments without increased funding will require reductions elsewhere in programs and services.

Departmental Options

- ◆ Give priority attention to local government survey and planning assistance.
 - * Supports policy of state/local partnership; enhances and supports decisions made at the local level; encourages consideration of historic resources on local level as part of local planning process; provides useful tools for making local land use decisions; Local Comprehensive Plans are not implemented consistently to make long and short range decisions so that their usefulness varies greatly across the state; funding available for CLG programs is not sufficient to encourage large-scale local government participation; survey data are far from complete and would require constant updating to remain accurate.

- ◆ Increase emphasis on donated easements as effective preservation mechanism, including priority given to technical assistance requests from easement donors.
 - * Participation voluntary; easement restrictions are negotiated to balance protection with reasonable land use; effective long-term preservation mechanism; administrative mechanisms in place that can be built upon; can be used to protect archaeological sites as well as buildings.
 - * Provides limited tax incentives; some otherwise willing stewards may still need cash instead of tax benefits.
- ◆ Establish a statewide Archaeological Site Stewardship program devoted to providing technical assistance to private sector.
 - * Participation voluntary and non-binding on the landowner; can provide anti-vandalism protection by linking this program to the Virginia Antiquities Act designation of state site or zone; provides educational and technical assistance services to the owner.
 - * Initial interest from private property owners indicates that the demand for services will rapidly outstrip the current staff level; "protection" not permanent and relies on continuing good will of land owner; no economic incentives currently available.
- ◆ Stress educational aspects of departmental programs.
 - * Addresses major concerns for lack of information about historic resources, and archaeological sites in particular; no programmatic disadvantages other than costs.

Local Options

- ◆ Adopt and implement ordinances granting partial tax freezes for rehabilitation of historic structures.
 - * Provides incentives that meet local priorities; requires active investment in local economy; contributes to community revitalization; tax abatement temporary.
 - * As currently written the tax "freeze" law does not provide any incentive to protect or interpret archaeological sites, or recognize the value of funds spent to retrieve archaeological data before new construction occurs.
- ◆ Adopt and use historic zoning ordinances that address archaeological resources as well as buildings and other historic features.

- * Identifies buildings, sites and places that the locality has evaluated and considers worth protecting; provides up-front information and procedures for developers and other private land owners to use in making plans and decisions.
- * Historic district ordinances apply only to historic resources within established districts; they provide no way of dealing with unidentified or unevaluated sites.
- ◆ Establish or update archaeological and historic components of local Comprehensive Plans.
 - * Would encourage consideration of historic resources in decisions shaped by Comprehensive Plan; In absence of sufficient state funding, would require increased funding on local level.
- ◆ Participate in the federal Certified Local Government program.
 - * Limited federal funding available to assist localities in surveys, registration, preservation planning, and educational programs related to historic resources; but often not enough to encourage participation; CLG program requires participating localities to meet federal criteria; gives localities access to existing federal incentives; improves local historic inventories.
- ◆ Make greater use of proffers, density bonus for cluster development, and other zoning tools to encourage surveys, excavation or preservation of significant archaeological and historic resources.
 - * While localities can require a development to offer some public benefit, this type of benefit is voluntary in nature; can provide effective assessment and preservation of significant historic resources; typically applicable only to conditional rezoning and special exception and special use permit requests; not currently available to all localities.

Private Sector Options

- ◆ Make voluntary and independent decisions and actions to buy, protect, rehabilitate, and/or manage historic buildings and archaeological sites in a manner consistent with the type of resource involved.
 - * Completely voluntary; encourages positive feelings of pride and commitment by owner/manager; Relies totally on individual private resources; for many properties this option is only available to individuals, corporations, or non-profit groups with substantial financial resources; Provides no assurances of long term protection or consistent quality of treatment; few financial incentives in the form of grants or other assistance available to encourage or enhance such protection.

- ◆ Conduct voluntary surveys/excavations with costs treated as charitable contributions for state/federal tax deductions.
 - * Commitment to stewardship as "good business practice"; some otherwise willing stewards need cash instead of tax benefits; funding for excavation costs must be donated to non-profit organization, not paid to for-profit archaeological consultants to qualify for deduction.

- ◆ Donate historic or open space easements to the Commonwealth or other appropriate agency.
 - * Affords long term protection; terms usually negotiated to meet individual property and owner conditions; any "value lost" through donation of easements can be claimed as a charitable contribution for tax purposes; some otherwise willing stewards, however, need cash instead of tax benefits.

Program Improvements Requiring Substantial Budgetary Increases

State Options

- ◆ Establish a statewide Geographic Information System (GIS) to include historic resource inventory data.
 - * Would provide timely access by state agencies and local governments to departmental inventory data; would link historic resource data to other environmental and economic factors to enhance decision-making; would simplify assessment of environmental data to predict locations likely to have archaeological sites in areas not yet surveyed. The advisory committee gave the option of a statewide GIS its strongest recommendation in the belief that it would be the best way to include historic resources and other factors in a wide range of decisions.

- ◆ Add departmental Regional Preservation Offices in other parts of the state besides the Roanoke area.
 - * Would increase service to local governments and private sector at regional level; this program is a proven success in the Roanoke Valley and surrounding region; would probably provide the single most significant means of stimulating statewide identification of historic properties. When federal budget cuts eliminated a similar system of statewide archaeological, the systematic identification of sites came to a virtual standstill. The Regional Preservation Office system has repeatedly received very strong support from citizens and local governments across the state.

- ◆ Provide funding for grant programs supporting private acquisition, protection, reuse, and rehabilitation of historic properties.
 - * Public comment, advisory committee members and other states repeatedly stressed the need for grants and tax incentives; Would encourage voluntary private sector historic preservation; would provide financial incentives and support for private individuals, corporations, and non-profit organizations who could not afford to do so without support; would require consistent administration and technical oversight.
- ◆ Expand funds for Virginia Historic Preservation Foundation; Use Foundation funds to purchase threatened archaeological sites as well as historic structures.
 - * Would result in long-term preservation of limited number of archaeological sites under private ownership; using a "revolving fund" principal is more complicated for archaeological sites than for most buildings.
- ◆ Provide state funds for Certified Local Government program parallel to existing federal program.
 - * Supports state/local partnership; would encourage local governments to take a more active role in identifying and assessing historic resources within their jurisdictions; could allow for delegation of some state decisions and/or reviews to the local level; existing local enabling legislation already authorizes the kinds of activities most likely to be included.

Local Options

- ◆ Expand use of historic resource staff in local governments.
 - * Provides regular survey and planning support to local government and the private sector; a relatively modest investment in staff costs can generate enormous volunteer efforts not otherwise available to the locality.

New Options Requiring Legislative Changes

State Program Changes

- ◆ Adopt state project review process modeled after National Historic Preservation Act requiring all state undertakings to be assessed on state level for impact on historic resources.
 - * Provides for review of and consultation on actions on state lands, using state funds or requiring state permits to assess impacts of proposed state undertakings

on historic resources; final decisions would be balanced with mission of the lead agency; This is an option used in several states; Citizen statements given both for and against such a process.

* Adds major administrative review to state activities; would be politically unpopular with affected parties (state agencies, local governments, and private property owners) receiving state funds or permits; would increase case load beyond current staff levels; would require additional expenses for state undertakings and to some extent for local governments and the private sector that receive state funds or permits.

New or Revised Local Enabling Legislation

- ◆ Modify Code of Virginia § 15.1-430 to include archaeology as part of historic district ordinance legislation and change name of Architectural Review Board to Historic Resources Review Board.

* Clarifies that archaeological resources are included in Virginia historic district ordinance legislation where attention is now almost exclusively on architectural resources; Implementation could require additional training for local review boards; most local governments do not have staff expertise in archaeology; would add one more element to local review processes where applicable.

- ◆ Modify Code of Virginia § 15.1-447 to include historic resources (including archaeological sites) in the list factors already targeted for study in preparing Comprehensive Plans.

* Provides basic information to address historic resources in local Comprehensive Plans; provides information and guidance for local decisions about known and suspected archaeological sites, buildings and other historic features; in the absence of additional state funding, would require increased funding on local level to prepare additions/updates to comprehensive plans.

- ◆ Provide a local review process that allows all development to be assessed on local level for impact on historic resources.

* Provides for review and consultation on all major decisions affecting historic resources on the local level; would add new review process; would require increased funding for staff additions within local government; would require additional expenses within the private sector.

Incentives for Private Preservation Activities

- ◆ Establish property tax incentives for historic areas under long-term (10-year) protection plan similar to agricultural and forest areas.
 - * Provides mechanism for long-term protection of historic resources on private property when landowner does not wish to donate formal easement; would not protect resources in perpetuity as with easement; would reduce tax revenues.
- ◆ Establish property tax incentives for historic resources listed on Virginia Landmarks Register with some reduction continuing as long as property retains its eligibility.
 - * Provides incentive for landowner to place historic resources on Virginia Landmarks Register; protection voluntary; provides incentive without requiring permanent easement; short term revenue loss may be offset by increased economic activity and community revitalization.
- ◆ Establish state income tax credits for conducting archaeological surveys/excavations and/or management plans as part of development activities.
 - * Provides incentives for archaeological excavation or protection similar to that already available for historic structures; when taken as part of compatible development this strategy would protect the resource and encourage economic growth to offset any short term revenue loss.

Options for Providing Increased Funding for Existing or Expanded Service/Incentives

Expanding services and incentives cannot be done without increasing costs. This fact was raised repeatedly by citizens during the public meetings and comments. Funding is needed if the Department is to expand services, if local governments are to take on new mandates, or if the private sector is to increase its investment in historic preservation. The following suggestions were made by citizens and reflect successful models found in other states.

- ◆ Establish a Foundation to solicit and accept private donations to support state historic preservation programs for education and technical assistance.
 - * Increases funds for Department efforts not covered by federal or state appropriations; would require basic staffing "seed money" to begin; effectiveness would depend on amounts donated.

- ◆ Use state tax-return contributions to increase Virginia Historic Preservation Foundation Fund and/or to create and maintain a Non-General Fund for Threatened Sites Research and Excavation.
 - * Increases funds to purchase historic properties in private ownership and/or to support archaeological excavation, analysis and public interpretation when private landowners are willing to "allow" archaeological research prior to construction activities; currently such funds are usually not available in sufficient amounts to address the problem; such a fund could also be used to purchase sites for long term protection, or for excavation and subsequent resale.
 - * Amount available relies on taxpayer decisions to contribute part of their tax return; adds administrative burden to Department of Taxation.

- ◆ Use state lottery receipts to increase Virginia Historic Preservation Foundation Fund and/or to create and maintain a Non-General Fund for Threatened Sites Research and Excavation.
 - * Increases funds to purchase historic properties under private ownership and/or to support archaeological excavation, analysis, reporting and public interpretation private landowners are willing to "allow" archaeological research prior to construction activities; such funds are usually not available in sufficient amounts to address the problem; could also be used to purchase sites for long term protection, or for excavation and subsequent resale; amount dependent on lottery sales; competes with other priority interests for lottery funding.

- ◆ Establish real estate transaction tax to establish and maintain a stable Grant and Trust Fund comparable to the one in Arkansas.
 - * Provides additional state revenue for resource protection and education; could be used for grants and incentives that would be recycled into the private sector; Would be resisted by affected community; adds administrative burden to Department of Taxation.

APPENDIX I VIRGINIA HOUSE JOINT RESOLUTION NO. 198

Offered January 21, 1992

Requesting the Department of Historic Resources to study the policies regarding, and options available for, the protection of historic sites by both the public and private sectors.

Patron--Bloxom

Referred to the Committee on Conservation and Natural Resources

WHEREAS, Virginia is the site of the first two English settlements in North America, Roanoke Island and Jamestown Island, the site of the British surrender to General Washington during the Revolutionary War, and the location of the major battles of the Civil War; and

WHEREAS, Virginia has historic resources unrivaled by any other state, including one excavation at Yorktown which has disclosed seventeenth century artifacts, artifacts from the period of the Revolutionary War, and Civil War artifacts; and

WHEREAS, developers are purchasing sites with historical value and frequently the historians and archaeologists have been rushed in their research efforts, thereby losing forever the opportunity to learn about the past; and

WHEREAS, some developers have provided limited funds to assist in historical research efforts; and

WHEREAS, it is imperative that historic resources and sites be properly studied before development takes place and the private sector may properly bear some of the cost of this effort; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, **That the Department of Historic Resources be requested to study its policies regarding historic preservation and how the private sector best could complement the Department's efforts. The study shall include: consideration of other state's efforts to involve the private sector; requiring that construction be planned to avoid archaeological sites; and asking developers to fund the cost of mitigating a projects's effects on archaeological resources.**

The Department shall report its findings and recommendations to the Governor and the 1993 Session of the General Assembly.

APPENDIX II SUMMARY OF KEY PROGRAMS AND ACTIVITIES OF THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES

The Department traces its beginnings to 1966 legislation that created the Virginia Historic Landmarks Commission. The Governor appoints the Department's Director and Board of Historic Resources. The professional staff includes archaeologists, architectural historians, architects, historians, and archivists. One regional office in Roanoke provides services to Southwest Virginia.

Working in partnership with local governments, private preservation organizations, and individuals, the Department carries out a variety of programs to survey, evaluate, and encourage the preservation of Virginia's historic resources. It also serves as the State Historic Preservation Office in the federal preservation system.

The Department's 1991 Virginia's Comprehensive Preservation Process: An Overview, identifies five goals for historic preservation in the Commonwealth:

- ◆ Virginia's local governments should establish sound preservation programs that make historic preservation an integral part of the overall effort to foster and promote the general welfare of the community.
- ◆ Protection of Virginia's irreplaceable historic resources should be the policy of the Commonwealth and of all its governmental agencies.
- ◆ Independent preservation organizations, interested professional groups, historic property owners, and private citizens should strengthen and expand their partnership with institutions in the public sector that are engaged in preservation activities.
- ◆ Federal agencies should provide an example of good stewardship and effective preservation management while providing guidance, assistance, and support to its public and private preservation partners in Virginia.
- ◆ The Commonwealth of Virginia, through its Department of Historic Resources, should expand and cultivate a preservation partnership with the private sector, independent organizations and citizens at all levels of government.

Survey and Inventory

Sound land management decisions, whether private or public, rely on a comprehensive historic resources survey program. The Department conducts an ongoing survey of Virginia's historic resources largely through:

- ◆ Cost-share agreements with localities and Planning District Commissions;

- ◆ Federally funded grants to Certified Local Governments;
- ◆ Federally mandated surveys;
- ◆ Public/private partnerships with individual landowners, and citizen interest groups such as local historical societies and the Archeological Society of Virginia.

Department files for over 80,000 historic buildings and/or districts (many of which contain multiple contributing structures) and over 25,000 archaeological sites across the Commonwealth provide a unique archive of information for local, state, and federal agency planning decisions, for scholarly research, and for the landowners, themselves. Individual landowners, archaeological and historical societies, professional scholars, and local, state, or federally funded survey projects have provided much of the information contained in these files. All files are part of the public record and are used for informational purposes only. The vast majority of the buildings and sites so recorded are on private lands.

While these numbers may appear large, they are only a small fraction of the surviving historic resources representing over 11,000 years of human settlement. Department statistics show that only 6% (1% for archaeological sites) of the Commonwealth has adequate survey data while roughly 24% (18% for archaeological sites) has less than minimal information on the location and condition of historic resources.

Registration

Evaluation of historic resource surveys leads to the designation of only the most significant properties for the Virginia Landmarks Register and the National Register of Historic Places. Registration is an act of encouragement; it serves as an educational tool, informing individuals and localities of important resources that they may wish to consider in private and community land use decisions. Registration also enables property owners to take advantage of tax credit programs and to apply for direct funding assistance.

Just under 1,600 separate entries on the two registers represent approximately 34,250 contributing properties, including 1,300 archaeological sites, across the Commonwealth. Thus only about 1.5% of the surveyed properties have been evaluated and registered.

How are property owners and the public involved in the Registration process?

- ◆ Most proposals for nomination come from the individual property owner and/or community groups in the case of prospective historic districts.
- ◆ All owners of individual properties proposed for listing on either the Virginia or National registers are notified in writing. Listing cannot occur if the owner of an individual property objects.
- ◆ Virginia law requires notification of all property owners within the historic districts under consideration. The National Register process allows notification through notice in appropriate newspapers of general circulation as reasonable notice for large districts. Listing cannot occur on either register if more than 50% of the property owners within a district object to the designation.
- ◆ Virginia law requires notification of all adjacent property owners.
- ◆ Virginia law requires public hearings for consideration of all historic districts.
- ◆ All meetings of the Virginia Board of Historic Resources and the State Review Board are advertised and open to the public.

When is a historic property formally evaluated and registered?

An overwhelming majority of all formal evaluations are conducted at the request of a property owner, local citizen group, or agency needing that information to make a governmental land-use decision. The evaluation process usually begins when:

- ◆ A property owner requests that his or her building or site be registered;
- ◆ A local organization asks that a single property or district in their community be formally recognized as historic;
- ◆ A local government requests an evaluation to assist them in making a local decision; or
- ◆ A Federal agency needs to determine whether or not an undertaking or permitted activity will affect a historic property; or
- ◆ The Department determines, through its comprehensive preservation planning process, that a property, district or property type should be given high priority for registration.

Effects of Registration:

- ◆ Recognizes historic value.
- ◆ Qualifies income-producing property for limited tax incentives.
- ◆ Confirms eligibility for acquisition and development grants when they are available.
- ◆ Establishes eligibility for consideration of a donated preservation easement (which provides other limited tax incentives).
- ◆ Advertises bona fide historic qualities of a community to enhance heritage tourism activity and relation business activity.
- ◆ Alerts private, local, state and federal decision-makers about significant historic properties.
- ◆ Encourages purchase and rehabilitation for adaptive reuse or continuation of current use; discourages purchase for purposes not compatible with historic character of the property.

Listing on either the Virginia Landmarks Register or the National Register of Historic Places puts no restrictions on a private property owner's use of the property. Registration does not change the owner's legal ability to use, alter, or even demolish the property. If the owner wishes to use federal funds or needs a federal permit for activities that might affect the historic quality of the property, then the use of those funds or permit is subject to the same review that any other federal undertaking must undergo. The triggering factor in such cases, however, is not registration, but the involvement of federal funds or permits (see discussion of Section 106 Review).

As with other "quality of life" considerations, recognizing an area's historic value can increase pride of place and enhance community revitalization even with no further financial incentives. This relationship has been well documented in the case of downtown Fredericksburg where recent studies have clearly linked historic designation to increased commercial activity, market value, and motivation to improve and care for the buildings in a once declining town center.

How is a site or building registered?

- ◆ Listing on either the Virginia Landmarks Register or on the National Register of Historic Places, formally recognizes only those sites, buildings, structures, districts, or objects that can be documented to meet established objective criteria.
- ◆ Properties and their documentation are examined first by a multidisciplinary team of professionals trained in key historic preservation fields, knowledgeable about different aspects of Virginia history, and experienced in the objective application of register criteria.
- ◆ Before a property is placed on either historical register, a State Review Board consisting of trained professionals and interested citizens scrutinizes the recommendations of the Department's staff evaluation team in a public forum. Recommendations by both the evaluation team and the State Review Board are forwarded to the National Park Service for final approval before listing on the National Register.
- ◆ Also acting in a public forum, the Board of Historic Resources, whose members are appointed by the Governor, reviews and approves or rejects a property for listing on the Virginia Landmarks Register.

Members of both boards serve in this capacity as private citizens and are unpaid volunteers.

Preservation Planning

Private landowners, local governments, and state and federal agencies need to be able to make reliable land use decisions even though statewide survey and register data may never be 100% complete. Comprehensive preservation planning provides a framework for making decisions with available knowledge, setting priorities for survey, registration, and protection strategies that will continue to improve all parties' ability to accommodate Virginia's historic properties in a balanced way. Archaeological sites are much harder to find than standing structures. They are also more undiscovered sites than buildings. In order to avoid last minute surprises and delays, the Department emphasizes preservation planning as a mechanism for protecting archaeological sites and alerting developers to areas where sites are likely to be found.

The Department offers on-site technical help to local governments, organizations, and private individuals who want to preserve archaeological sites and historic structures. In addition to providing statewide guidance in preservation planning for the Commonwealth's historic resources, the Department also assists in developing and implementing local, regional, and property-specific preservation plans. Likewise, the Department will help local governments and planning districts to update comprehensive plans as required under Virginia law. Such plans are an important tool for documenting on the local level the remarkable range and numbers of historic resources across Virginia, the vast majority of which are in private ownership.

Certified Local Governments

Created by 1980 amendments to the National Historic Preservation Act, the Certified Local Government program provides an opportunity for active involvement of local governments in the national historic preservation program. Certified Local Governments are eligible for special federal grants to carry out their local preservation programs. Examples of eligible activities under this funding include completing surveys, archaeological assessments, and National Register nominations for historic resources, developing comprehensive preservation plans, developing design guidelines for local review processes, and completing educational materials related to historic resources. Participation requires that a local government demonstrate administrative and legal commitment to preservation goals in the form of a historic preservation ordinance and a review board to administer the ordinance. Minimally, the ordinance must:

- ◆ Include criteria for establishing historic zoning districts with clearly delineated boundaries;
- ◆ Define actions within such districts subject to review by the review board to achieve the purpose of preserving buildings and resources of historic, architectural, archaeological, or cultural significance;
- ◆ Set forth standards and guidelines by which the review board shall judge such actions (e.g., proposed alterations, relocations, demolition, and new construction) brought before it;
- ◆ Provide that decisions of the review board are binding upon applicants, unless and until such decisions are overturned on appeal; and
- ◆ Specify methods of enforcing the ordinance, penalties for violations, and procedures for appeal of review decisions by applicants or other parties.

Education

Advocating the preservation of historic resources stands among the most important of the Department's responsibilities. The Department dedicates substantial resources and staff time to explaining why it is important to preserve historic buildings, districts and sites. Department staff is committed to pursuing all avenues to impart to a broad audience of public officials and citizens the enduring values of those properties. That long-standing commitment includes holding regularly scheduled public meetings and hearings to discuss critical issues affecting both individuals and local governments. The Department, oftentimes working with private preservation advocacy groups, targets interested individuals, professional consultants, and local, state and federal government officials with workshops and seminars. Topics might include how to identify and record historic resources or how to preserve particular types of sites and structures. Individual staff members regularly address historical groups and local civic organizations on how best to incorporate archaeology in local preservation efforts.

The Department responds to the demand for preservation education in schools and colleges with specialized and general interest activities. Video tapes, teacher workbooks, and publications designed for elementary and secondary school students are among the tools employed in that effort. Volunteers and college interns learn about cleaning and curating artifacts under the professional guidance of the Department's curatorial staff. Virginia Archaeology Week reaches thousands of people of all ages each year with exhibits, tours, lectures and hands-on excavation and laboratory experiences. The Department provides exhibits of its archaeological collections for schools, libraries and museums to help explain Virginia's history and prehistory. Working with local and statewide groups, the Department sponsors archaeological field schools that provide supervised instruction on the best methods for conducting archaeological excavations.

The Department produces periodical publications to insure regular communication with the Department's public and private clients. The Department's signature journal, Notes on Virginia, provides information of recent entries to the Virginia Landmarks Register accompanied by articles of general interest on preservation, archaeology, architecture and history. A bi-monthly newsletter, Footnotes is mailed to more than 7000 individuals and organizations with up-to-date news on preservation activities and news around the state. The agency also publishes a series of research and technical books addressing archaeological and architectural projects.

Easements

The Department solicits and accepts donations of preservation easements from private owners seeking permanent protection of their registered archaeological and historic properties. An owner can donate easements on archaeological sites as well as on buildings. The easement is a legal agreement between the Commonwealth and the property owner that grants the Commonwealth specific rights to the property, including restrictions against inappropriate change and development. Because the easement donation is permanent, the perpetual protection and preservation of the property is guaranteed through an ongoing partnership between the Department and the property owner. Each easement agreement is negotiated on an individual basis to address historic elements of the property as well as the goals and needs of the owner.

Easements afford an effective and economical method for the Commonwealth to ensure protection of historic resources and provide financial incentives that benefit the donor. When an easement is donated to the state, the local assessor is required to take that easement into account in assessing the property's value. If the property has been taxed on the basis of its development potential, then donating an easement should result in a reduction in property taxes. Donation of a preservation easement is considered a charitable contribution for income tax purposes and may substantially reduce estate taxes.

To qualify for easement donation, the property must be listed on the Virginia Landmarks Register or be a contributing building in a registered historic district. The easement program has resulted in permanent protection of over 163 archaeological and historic properties.

The Department often works with the Virginia Outdoors Foundation whose open space easement program preserves Virginia's natural, scenic, historic, and recreational areas (Code of Virginia §§10.1-1800 -1804). In some cases the Department and the Virginia Outdoors Foundation hold easements jointly on the same property. In cases where a property owner wishes to protect large areas extending beyond the boundaries of a registered Landmark, the Department holds the easement on the portion of the property listed on the Virginia register, while the Virginia Outdoors Foundation holds the easement on the outlying areas.

State Archaeological Sites and Zones

The Virginia Antiquities Act allows the Department to establish state archaeological sites or zones with the permission of the property owner. Such designation places no restrictions on the property owner (public or private) but makes the site subject to the anti-vandalism clauses of the Virginia Antiquities Act that apply generally only to state controlled lands. Thus, if an individual, other than the property owner, damages or removes artifacts from a designated state archaeological site or zone, then that action violates the Virginia Antiquities Act in addition to any laws of trespass and theft. Anyone wishing to conduct an archaeological field investigation on that property would need not only the landowner's permission, but also a permit from the Department. The state archaeological site or zone designation is used very little, and affords a possible avenue for increased voluntary protection by localities and private property owners.

State Permits Issued

Most of the Department's project review authority involves consultative participation in permits or review procedures in which final decision authority remains with the lead agency. The Department has direct authority to issue only two archaeological permits: for archaeological investigations on state-owned lands (Code of Virginia, § 10.1-2302), and for the archaeological excavation of human burials on both public and private lands (Code of Virginia, § 10.1-2305).

Review of State and Federal Projects

The Department reviews certain publicly sponsored, funded and permitted development projects and provides advice to the project sponsors under several different legal mandates.

State Projects Reviewed

Historic resources are among the environmental issues covered by requirements for state agencies to prepare environmental impact reports on major state projects (Code of Virginia, §§ 10.1-1188-1192). The Department comments on those state agency projects that are submitted to it by the Council on the Environment. The Council integrates those comments into the single response issued by the Council.

Pursuant to the General Provisions of the Appropriations Act, the Department also comments directly on any state agency proposals to alter or destroy a property listed on the Virginia

Landmarks Register. The Department's comments are submitted to the Department of General Services, and any disagreements are resolved by DGS.

Pursuant to DGS procedures the Department comments on all state agency proposals for demolition of any structure. Comments are submitted to DGS, which retains authority for project approval.

Pursuant to a bilateral agreement the Department reviews and comments on Virginia Department of Transportation projects that are not subject to federal review. VDOT retains approval authority for each project.

The Department reviews applications for permits for underwater archaeological investigations within Virginia waters. These permits are issued and administered by the Virginia Marine Resources Commission (Code of Virginia, § 10.1-2214).

The Department reviews applications for permits to conduct archaeological research in Virginia caves and rockshelters. These permits are issued and administered by the Department of Conservation and Recreation (Code of Virginia, §§ 10.1-1000-1008).

Federal Project Review (Section 106)

Through the National Historic Preservation Act of 1966, as amended, and related federal legislation, the Department reviews all federally funded, licensed, or sponsored projects in Virginia to assess the impact of these projects on significant historic resources. Frequently identified as "Section 106 Review," the timely review, discussion, and negotiation that are at the heart of this consultative process most often produce a mutually satisfactory solution that minimizes any harmful effects the federal project might have on historic resources. The review process is triggered by the involvement of federal (i.e., public) funds or permits, not by any prior registration or identification of an archaeological site or historic building. This review and consultation process does not apply to private actions unless there is some clear federal involvement either through the use of federal funds or a federal permit/license.

The federal review process is based on answering a series of project planning questions and then determining the best course of action to balance project design and historic significance. If the answer is "no" to any of the questions, then the review process is ended.

- ◆ Is there any federal involvement?
- ◆ Are there any historic properties (sites, buildings, battlefields, bridges, monuments, shipwrecks, etc.)?
- ◆ Is it significant? This is the stage at which any identified "old" properties are evaluated to determine whether or not they are historically significant. Where

properties have already been registered, it is possible to skip this step and the one preceding it.

- ◆ Will the proposed project have any effect on those aspects of the property that make it historic?
- ◆ Is the effect harmful to the historic aspects of the property?
- ◆ If the project is likely to affect adversely a historically significant property, how can the project be redesigned to eliminate or minimize that effect? This is the point at which the various parties decide how, or even whether, to preserve all or part of a historic resource.

Only at this final stage are specific strategies developed to avoid or mitigate damage to a building or site. These options can include choices such as changing the materials used in rehabilitating a building, moving a proposed new bridge by several yards (or several hundred yards) to avoid hitting a shipwreck, limiting the height of new buildings to complement an existing streetscape, or excavating an archaeological site to recover at least some of the historic data that will be lost when a highway is built across that spot. Each solution must be considered on a case-by-case basis, taking into account the ultimate purpose of the proposed project and the nature of the particular historic resource involved.

106 Review statistics for Federal Fiscal Year 1992:

- ◆ *Over 2,600 cases reviewed*
- ◆ *4,730 consultation letters written*
- ◆ *Average review time of 25 days*
- ◆ *2,145 reviews completed;*
projects moving forward
- ◆ *133 cases with adverse effects on*
the historic resource; resolutions
under negotiation
- ◆ *0 projects stopped*

Projects Qualifying for Federal Rehabilitation Tax Credits

Under the U.S. Tax Reform Act of 1986, the Department assists property owners seeking tax credits for rehabilitating and reusing privately owned historic properties for commercial purposes. By working closely with property owners, Department staff helps ensure that projects meet federal requirements. To qualify for these credits a property must be certified as eligible for listing on the National Register of Historic Places; the proposed project must meet the Secretary of the Interior's Standards for Rehabilitation of Historic Structures; and the completed

project must fulfill the commitments made in the proposal. The property must actually be listed on the National Register within 30 months of the time the tax credit is actually claimed.

The federal tax credit program has proven to be an effective incentive both for historic preservation and for economic investment across the country. Under this program, more than \$300 million has been proposed for the rehabilitation of Virginia landmark properties since 1976, and projects costing some \$150 million have been completed and certified. These figures reflect investment in Virginia's economy--jobs created in Virginia's construction industries. The projects themselves recycle old buildings, provide housing for rich and poor alike, and help revitalize commercial centers in town and cities across the state. This is the only program administered by the Department that focuses exclusively on standing structures, with no direct applicability to archaeological resources.

*Tax credit projects represent \$23,134,000
in private money invested in Virginia's future
in the past year alone.*

Threatened Sites Research

The Department's Threatened Sites Research Fund provides the only state supported program to excavate, analyze and publish reports on significant archaeological sites being destroyed by local government or private development activities. Hundreds of archaeological sites are lost yearly in Virginia without any kind of documentation. Over the past several years, the Department has committed limited funds for excavations at archaeological sites facing imminent and unavoidable destruction from natural or human causes. Usually these sites are located on private property or property being developed by local governments. Availability of funds limit such excavations to only a handful of sites each year. Sites selected for excavation under this program must meet the criteria for listing on the National Register of Historic Places as significant at the state or national levels, and conform to priorities addressing long range and annual department priorities. Often these funds are used as "seed money" and stimulate use of private and public funds from other sources.

Virginia Historic Preservation Foundation

The Virginia Historic Preservation Foundation is responsible for the administration of the Virginia Historic Preservation Fund. This revolving fund, made up of state appropriations and private gifts, is used for the purchase of threatened archaeological and historic properties. After protective covenants have been put in place to ensure the perpetual preservation of the resources, the properties are resold to sympathetic buyers. Proceeds of the sale return to the revolving fund. The Director of the Department serves as Executive Secretary to the Virginia Historic Preservation Foundation, whose members are appointed by the Governor.

APPENDIX III RELEVANT STATE AND FEDERAL LAWS

State Legislation

Virginia Department of Historic Resources Legislation

Code of Virginia, §§ 10.1-2200 - 10.1-2216. This chapter establishes the Department of Historic Resources, "in order to encourage, stimulate, and support the identification, evaluation, protection, preservation, and rehabilitation of the Commonwealth's significant historic, architectural, archaeological, and cultural resources; in order to establish and maintain a permanent record of those resources; and in order to foster a greater appreciation of those resources among the citizens of the Commonwealth." Specific responsibilities of the Department include:

- ◆ Conducting a broad survey and maintaining an inventory of buildings, structures, districts, objects, and sites of historic, architectural, archaeological, or cultural interest which constitute the tangible remains of the Commonwealth's cultural, political, economic, military, or social history;
- ◆ Publishing lists of properties designated as landmarks by the Board of Historic Resources, inspecting designated properties from time to time, and periodically publishing a complete register of designated properties setting forth appropriate information concerning those properties;
- ◆ With the consent of landowners, providing appropriately designed markers for designated buildings, structures, districts, objects, and sites;
- ◆ Acquiring and administering designated landmarks and sites, or easements or other interests therein;
- ◆ Aiding and encouraging counties, cities, and towns to establish historic zoning districts for designated landmarks and adopting regulations for the preservation of historical, architectural, or archaeological values;
- ◆ Providing technical advice and assistance to individuals, groups, and governments conducting historic preservation programs and regularly seeking advice from the same on the effectiveness of Department programs;

- ◆ Preparing and placing, in cooperation with the Department of Transportation, highway historical markers approved by the Board of Historic Resources on or along the highway or street closest to the location identified by the marker;
- ◆ Developing a procedure for the certification of historic districts and structures within the historic districts for federal income tax purposes;
- ◆ Aiding and encouraging counties, cities, and towns in the establishment of educational programs and materials for school use on the importance of Virginia's historic, architectural, archaeological, and cultural resources; and
- ◆ Conducting a program of archaeological research with the assistance of the State Archaeologist which includes excavation of significant sites, acquisition and maintenance of artifact collections for the purposes of study and display, and dissemination of data and information derived from the study of sites and collections.

Virginia Historic Preservation Foundation Legislation

Code of Virginia, §§ 10.1-2400 - 10.1-2404. This chapter establishes the Virginia Historic Preservation Foundation whose Board of Trustees is appointed by the Governor, with the Director of the Department of Historic Resources serving as its Executive Director. The purpose of the Foundation is to "establish, administer, manage, including the creation of reserves, and make expenditures from the Historic Preservation Revolving Fund...for the sole purpose of the preservation of properties on or eligible for the Virginia Landmarks Register through fee simple acquisition of the properties, retention of a perpetual preservation easement on acquired properties, and subsequent resale of properties thus protected to appropriate persons, firms, and corporations; or transfer to appropriate state agencies." The fund is to be used "only when, in the discretion of the Board of Trustees, acquisition and subsequent resale are the best feasible means of protecting such properties from an identifiable threat of destruction or of the loss of those qualities for which it is designated or eligible to be designated as a landmark by the Virginia Historic Resources Board." The Foundation is allowed to accept gifts and bequests of money, security, and other property for the fund.

Virginia Antiquities Act

Code of Virginia, §§ 10.1-2300 - 10.1-2306. The Virginia Antiquities Act prohibits damage to or removal of objects of antiquity from archaeological sites on all state controlled land including state held easements. This act does not restrict a state agency from construction or other land disturbing activities on its own land but does preclude all "relic hunting" or any archaeological field investigations without a permit from the Department of Historic Resources. With the

permission of the landowner, the Department can designate a privately owned site as a State Archaeological Site or Zone. This designation confers no restrictions on the land owners, but extends the anti-vandalism and archaeological permit requirements noted above. The act also requires that a permit must be obtained from the Department for any archaeological excavation of human remains, whether they be on private or public lands.

Virginia Cave Protection Act

Code of Virginia, §§ 10.1-1000 - 10.1-1008. This law requires a permit from the Department of Conservation and Recreation for research within caves and rockshelters regardless of who owns the property. The act requires concurrence of the Department of Historic Resources before issuing a permit when research affects archaeological resources. Most provisions and penalties established in the act.

Virginia Zoning Legislation, Preservation of Historical Sites and Areas in Counties and Municipalities

The Code of Virginia contains several sections in chapter 11 on zoning which address historic issues.

§ 15.1-430(b) provides a definition of "historic area" as "an area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation."

§ 15.1-489 establishes as one purpose of zoning ordinances the protection against destruction or encroachment upon historic areas. It also provides for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment.

§ 15.1-491.2 allows a zoning ordinance to include and provide for the voluntary proffering of reasonable conditions as part of a rezoning or amendment to a zoning map. Such conditions shall be in conformity with the comprehensive plan as defined in § 15.1-446.1. § 15.1-491.2:1 restricts the use of voluntary proffers to any county, city, or town which has had population growth of ten percent or more from the next-to-latest to latest decennial census year.

§ 15.1-499.2 allows any county having an urban county executive form of government to adopt an ordinance which establishes a civil penalty for the demolition, razing, or moving of a building or structure which is located in an historic district or which has been designated by the governing body as an historic structure or landmark without the prior approval from either the architectural review board or the governing body as provided by subdivision A 2 of § 15.1-503.2. No comparable section for archaeological sites exists.

§ 15.1-503.2 specifies that a locality may adopt an ordinance setting forth the historic landmarks within a county or municipality as established by the Virginia Department of Historic Resources,

any other buildings or structures having an important historic, architectural, or cultural interest, and any historic areas as defined by § 15.1-430(b). The locality may establish an architectural review board to administer an adopted ordinance, amending the existing zoning ordinance by delineating one or more historic districts encompassing the above-noted areas. The architectural review board assesses the propriety of new construction within historic districts and determines whether existing historic landmarks, buildings, or structures may be altered or demolished. These decisions may be appealed to the local governing body and subsequently to the local circuit court. The section also grants the local government the authority to exercise eminent domain to acquire historic landmarks or areas.

Virginia Comprehensive Planning Legislation

Code of Virginia, §§ 15.1-446.1 - 15.1-457. Local governments within Virginia are required to have a comprehensive plan, which is to be reviewed at least once every five years. Each plan is to show the locality's long-range recommendations for the general development of the territory covered in the plan. These recommendations are to be based on "careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants...with the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the territory which will, in accordance with present and probable future needs and resources best promote the health, safety, morals, order, convenience, prosperity, and general welfare of the inhabitants."

Among items specifically mentioned which may be included in such plans is "the designation of historical areas" (§ 15.1-446.1.). In historic district zoning legislation, archaeological resources are not explicitly cited, although they are considered under the "historic areas" definition (cf. § 15.1-430 above). There is no provision, however, that historic resources must be discussed in each comprehensive plan.

Virginia Tax Exemption Legislation for Standing Structures

Code of Virginia, §§ 58.1-3220 - 58.1-3221. Any county, town or city may establish an ordinance to provide for the partial exemption from taxation of real estate on which a structure no less than 25 years of age has been substantially rehabilitated for residential use. This exemption does not apply where rehabilitation is achieved through demolition and replacement of an existing structure that is a registered Virginia Landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district. A locality may establish a similar ordinance for structures no less than twenty-five years of age which have been substantially rehabilitated for commercial or industrial use, although no restrictions are noted for structures that are registered Virginia Landmarks or determined by the Department as contributing to the significance of a registered historic district. No comparable sections exist for partial tax exemptions on privately owned archaeological sites.

Federal Legislation

National Historic Preservation Act of 1966, as Amended

Public Law 95-515. The National Historic Preservation Act of 1966, as amended, calls on states to conduct a comprehensive state-wide survey of historic resources, nominate eligible properties to the National Register, prepare and implement a comprehensive state-wide historic preservation plan, and provide assistance, education, and training to ensure that historic resources are taken into consideration at all levels of planning and development. The Act also establishes the Historic Preservation Fund to support these activities and requires each state to set aside 10% of its annual federal apportionment for grants to Certified Local Governments.

Section 106 of the Act requires that federal agencies take into account any effect that their undertakings may have on historic properties listed or eligible for listing in the National Register of Historic Places. It also requires that the lead agency consult with the Advisory Council for Historic Preservation and the appropriate State Historic Preservation Officer in determining such effects. This consultation process applies to state or private actions only when those actions are funded or licensed by a federal agency. The Department of Historic Resources, as the State Historic Preservation Office for Virginia, reviews all such undertakings in the Commonwealth. Because the vast majority of private sector development does not encompass any form of federal involvement, most development plans do not go through the Section 106 review process.

U.S Tax Reform Act of 1986

Internal Revenue Code of 1986, § 48(g) (Certified Rehabilitations). The federal tax code offers a unique incentive for taxpayers who contribute to the preservation of the nation's old and historic buildings. By rehabilitating or investing in the rehabilitation of eligible buildings, taxpayers can take advantage of a substantial tax credit.

The credit, a dollar-for-dollar reduction of federal income tax liability, is calculated as a percentage of the eligible rehabilitation expenses. Certified historic rehabilitations will qualify investors for a 20% rehabilitation tax credit. Under this program, more than \$300 million has been proposed for the rehabilitation of Virginia landmark properties since 1976, and projects costing some \$150 million have been completed and certified. Rehabilitations of non-historic buildings built before 1936 can qualify investors for a 10% credit. Properties must be income-producing to qualify for either of the tax credits.

Only structures certified by the State Historic Preservation Office or the National Park Service are eligible for this credit. Certification requires that a structure be (1) listed individually in the National Register of Historic Places, or (2) located within a "registered historic district" either on the National Register or established by state or local statute and certified by the Secretary of the Interior as contributing to the historic character of that district. The Department of Historic Resources has records of all properties in Virginia that are listed on the National Register in addition to records of all registered historic districts.

APPENDIX IV HISTORIC PRESERVATION STRATEGIES USED IN OTHER STATES

This appendix summarizes additional laws and programs that other states use to require or encourage historic preservation activities. The National Historic Preservation Act of 1966, as amended, requires every state to identify a State Historic Preservation Officer, to maintain a professionally qualified staff, and to carry out programs in survey, registration, review of federal undertakings and federal tax credit projects, as well as administer the Certified Local Government program for that state. Each state also receives an allocation of federal matching funds to carry out approved activities. While the way these programs are administered varies from state to state the activities are essentially the same. Therefore, this study has focused on those states where state laws provide different requirements, programs, and incentives beyond the basic ones growing from federal laws.

Using the results of a 1991 survey of all 50 state programs compiled by the National Conference of State Historic Preservation Officers, 21 states were identified as having programs or laws at a state or local level that warranted further investigation. A total of 16 states responded to our request for detailed information. Information on local government programs in other states was drawn from a survey conducted by the Society for Historical Archaeology, Urban Archaeology Group. Recent studies conducted by the National Trust for Historic Preservation were consulted as well. The resulting information is presented below in summary form, and is separated into various programs and laws.

State Tax Credit Laws

Recognizing the success of the federal tax credit program and the importance of offering incentives for investment in historic properties, several states have passed legislation allowing state tax credits for various eligible historic properties, whether they are restored, rehabilitated, or simply maintained according to each state's standards. Whereas the federal program allows a credit on income tax for money spent to rehabilitate commercial properties, most states with such programs provide tax reductions, credits, freezes or exemptions on property tax. The criteria for participation in these programs vary slightly from state to state. Most states tie participation with registration or eligibility for either the state or national registers and some type of commitment to improve or maintain the historic features of the property in question.

Property Tax Reductions

Arizona House Bill 2402 allows for a reduction in property value assessment and taxes for both commercial and non-commercial registered properties where the owner agrees to maintain the property to meet Secretary of the Interior Standards for 10 and 15 years, respectively. The non-commercial contracts can be renewed at the end of that period.

Under Georgia law, when a registered property is rehabilitated to meet approved standards, its property tax assessment can be frozen for eight years, then gradually increased to the current market value.

Maryland provides for property tax credits for easements donated to the state. The reduction is based on the loss of value on the property which may result from subjecting it to the easement restrictions. Since the restrictions are attached to the deed, this strategy also provides indirect tax relief when the property is sold or inherited.

Tax Moratoriums

Oregon law allows owners of registered properties to apply for a special assessment as a historic property that freezes the tax assessment for 15 years from the time of application. The application is accompanied by a one time, non-refundable fee of one-tenth of one percent of the current assessed value of the property. This fee is deposited in a fund to purchase and maintain state parks.

South Dakota provides an eight-year moratorium on property tax increases for improvement on registered historic buildings. The improvements must be approved as meeting the Secretary of the Interior Standards. The owner must also sign a covenant with the state guaranteeing the continued maintenance of the building to protect its historic features during the term of the tax moratorium.

Local Tax Reductions Programs

California law provides for a reduction in property taxes when the owner of a registered property enters into a contract with the appropriate local government to restore, maintain and use the property in a manner compatible with its historic characteristics.

Maryland allows specified localities to administer either mandatory or optional property tax credits for rehabilitation of historic structures or for building new structures that are compatible with the surrounding historic district.

North Carolina law allows a 50% tax deferral on properties individually designated by local historic preservation commissions. This deferral results in an effective 50% tax reduction as long as the property is maintained to meet locally defined standards. If the property loses its eligibility for local designation, then any taxes deferred for the preceding three years are payable. North Carolina also provides for tax reductions where the donation of easements reduces the assessed value of a property.

Texas law allows (but does not require) local governments to grant tax reductions for historic properties.

State Income Tax Credits

New Mexico provides for income tax credits to encourage restoration, rehabilitation and reuse of historic structures similar to those provided under federal law.

Wisconsin law establishes a system of income tax credits similar to those allowed under federal law for rehabilitating income producing historic properties.

Tax Exemption/Reduction Programs That Target Archaeological Resources

Ohio law allows private property owners to dedicate portions of their property as an archaeological preserve and exempts property so dedicated from any taxation.

Wisconsin also provides a property tax exemption for archaeological properties on which the owner has agreed to a protective covenant.

State Loan/Grant Laws

Several states provide financial incentives for historic preservation activities in the form of grants and/or loans to buy or restore historic properties. Most grant programs require a percentage cash match by the applicant. Such grant and loan programs have proven to be highly effective ways to encourage private investment in historic preservation. Perhaps of greater interest are the various mechanisms used by states to fund these programs.

Arkansas levies a tax of \$1.10 per \$1000 on all real estate transactions to create and maintain a stable Grant and Trust Fund. This fund can be used for acquisition, management, and stewardship of state-owned properties and for a variety of grants. The fund is administered by the Arkansas Natural and Cultural Resources Council consisting of the heads of key state agencies, representatives of localities, private citizens, and members of the Arkansas Senate and House of Representatives.

California's Marks Historical Rehabilitation Act of 1986 authorizes cities and counties to issue tax-exempt revenue bonds for financing historic rehabilitation of buildings with local, state, or national significance. This law has not been used extensively because developers are given a ceiling of \$10 million dollars for their capital expenditures. Should several major historic projects be undertaken in a jurisdiction at once, and the collective costs and expenses total an amount high enough to justify staff time and fees to issue a bond, then the Marks Act may be a useful preservation tool. The California legislature also is currently considering creation of a California Heritage Fund, similar to Maryland's. This program would include a revenue reinvestment in order to provide a permanent self-sustaining fund.

Connecticut's Endangered Properties Fund, is supported partially through state money with other contributions from corporations, foundations, and individuals. The funds are available for

rehabilitation work on qualified historic properties; however, this fund is threatened with insolvency, and to keep it afloat more steady appropriations from the state would be necessary.

Arizona established the Arizona Heritage Fund with monies from the state lottery. Roughly 10 million dollars from that fund is allocated for a variety of historic preservation projects including grants for easements, stabilization, rehabilitation, interpretation, and education.

Incentives provided by the Arizona Heritage Fund demonstrate the important role historic preservation can play in revitalizing economies while helping to solve social problems as well. Projects using these funds have helped low income families and created housing for the homeless, as well as giving downtown economies a boost by stabilizing key commercial properties for adaptive reuse.

The Kansas Heritage Fund derives its funds from \$0.01 of each \$0.26 paid to the county treasurer (not to exceed \$100,000) from quarterly mortgage registration fees. Kansas requires that the property to be funded be listed in either the state or the National Register. For-profit groups must match dollar for dollar, while all others funded provide 20% of the cost of eligible project activities. The law also requires that 50% of the money awarded go to local and county government-owned historic properties. One stipulation is that the property continue in the same ownership for at least 5 years after the completion of a funded project.

Maryland provides both historic preservation loans and grants for pre-development and development activities associated with the acquisition, rehabilitation, or restoration of historic properties. For a project to qualify for these funds the historic property must be listed in or be eligible for listing in the Maryland Register. Nonprofit groups, local jurisdictions, business entities, and individuals can apply for these funds; however, businesses must demonstrate a lack of funding from private sources.

State Review Processes

A growing number of states have enacted, or are considering preservation laws providing for review of projects affected by state or local undertaking or land use decisions. In all cases, except California, the lands that are affected by the state review process are under local or state government ownership. The various state review processes have been modeled after the federal Section 106 process to obtain the same level of consideration of the impact of proposed projects on historic resources. Like the federal Section 106 review process, these laws are based on the premise that any decision that might affect a significant historic resource should take that effect into account and should examine all feasible alternatives before arriving at a decision to proceed.

As with the federal process, these reviews usually result in modifications to the project that minimize its impact on the resource while meeting the objectives of the project itself.

The California Environmental Quality Act (CEQA) provides by far the strongest environmental regulations of any state program. Statewide policy under CEQA encourages public participation and requires state and local government agencies to consider the environment when making land use and related public policy decisions. The strength of CEQA comes primarily at the local level, where local ordinances concerning historic resources will trigger a CEQA review of a proposed project. Implementation can vary greatly from locality to locality. After a decade of survey and review under CEQA, however, many localities now have nearly 100% inventory data and the various major developers can take that information into account at the earliest stages of project planning.

The Connecticut Environmental Protection Act (CEPA) deals with the "unreasonable" destruction of natural or historic resources. Under CEPA, if a local government determines that an application for a demolition permit constitutes an unreasonable destruction of a property that is listed on the National Register (or is a contributing property in a historic district), then the demolition permit can be delayed for 90 days or until the applicant can demonstrate that the request is not unreasonable destruction. Usually, these cases result in negotiated modifications that will allow the project to proceed using the historic structure rather than demolishing it. As with other project review laws, it does not prohibit demolition, but requires that other alternatives be thoroughly considered before taking an irrevocable action.

Georgia's Environmental Policy Act creates a review process, similar to that established by the National Environmental Policy Act. The Georgia act specifies the kinds of projects and undertakings which could adversely affect historic resources, including dredging, excavating, filling, construction of dams, or moving or altering a structure listed in or eligible for listing in the Georgia Register. Agricultural and farming practices are specifically noted as not included under the list of land disturbing activities. State agencies must determine, with substantial public participation, if there will be a significant adverse effect to the quality of the environment, and take that impact into account in planning for and carrying out state sponsored activities. Georgia's House Bill 643 calls for minimum standards and procedures to protect river corridors and mountain areas. Under this proposed law major construction activities would be reviewed and regulated, but not the construction of private single family homes.

South Dakota, Texas, and Kansas state review processes are similar to Georgia's, in that they cover projects and undertakings by state and local governments. A bill currently before the Ohio state legislature would establish a similar state review process, along with grant programs and authorization for localities to regulate historic preservation activities.

New Mexico's Prehistoric and Historic Sites Preservation Act addresses only archaeological sites. That law prohibits the use of state funds for projects that would adversely affect historic properties unless there is no prudent or feasible alternative.

Local Government Preservation Laws

Many historic preservation laws are most effective at the local level. The passage of legislation at the state level has allowed many local jurisdictions to determine the fate of their own historic resources. The intent at the state level is that local citizens and government provide for their own self-governance with regard to historic preservation. Most local government historic preservation ordinances outline the purposes of their historic preservation commissions: to provide for designation of historic properties or districts and for issuance of certificates of appropriateness for alterations, construction, and demolition of historic structures. This requires both the professional and private sectors' active input at public hearings and meetings, and at review committees.

Georgia's Planning Act, a state law that mandates that each local government prepare a comprehensive local plan to guide growth and development in that community, requires the consideration of historic preservation. "Historic Resources" are one of six required planning elements. This act takes into consideration the history, cultures, and traditions of Georgia and affirms the importance of planning for Georgia's economic future and quality of life. It maintains home rule and local autonomy over local matters while recognizing the need for regional cooperation and planning.

Both Texas and Maryland state laws allow localities to grant tax credit to various qualified historic properties. The Maryland ordinance deals with historic structures, with no mention of archaeological sites.

Wisconsin state law has allowed municipalities to create and govern architectural conservancy districts that contain historic properties.

Santa Fe, New Mexico has enacted an Archaeological Review Districts Ordinance. This ordinance is designed to encourage the recognition and evaluation of archaeological resources, as well as to establish a procedure for treatment of archaeological resources on private and public lands. The ordinance establishes three distinct archaeological review districts, with each district subject to different permitting requirements. The Santa Fe ordinance also clearly defines the maximum monetary amount required from the developer or project sponsor, as well as the maximum time allotted for archaeological work. The ordinance is administered by an archaeological review committee, composed of five members appointed by the mayor, with two members being qualified, professional archaeologists, and one member representing the construction, development, and real estate community.

Florida has two of the most interesting local government ordinances concerning historic preservation. Dade County has enacted an extensive ordinance that established a Historic Preservation Board to oversee the designation of various archaeological sites and zones within the county. Archaeological site designation means that development or destruction of a site can be delayed for at least six months, and in many cases all or a portion of the site can be

preserved. The archaeological zone designation does not forbid development, but does provide for monitoring of construction projects within the zone.

The Florida Historic Preservation Division found that private developers consistently had a better cooperative track record regarding archaeological work than many state and federal agencies in Florida.

Pensacola has also passed an historic preservation ordinance after a great deal of compromise on the part of historic preservationists and the private sector. The result of the compromises was the enactment of a "Local 106" plan, which includes 1) applying the process to only city-owned property, 2) retaining a consulting archaeologist for the city, and 3) dealing with archaeological deposits on private property on a "voluntary" basis. Since the developers were approached in this manner, there have been no refusals, and many compromises. The key reasons for the voluntary "compliance" included positive precedents set by other local businesses, concerns about bad press, and the good publicity archaeology can offer when associated with proposed development projects.

State Archaeological Survey and Research Programs

Several states provide for statewide archaeological survey and research institutions outside the State Historic Preservation Office. Arkansas and South Carolina stand out as recognized examples of what such programs can accomplish.

The Arkansas Archaeological Survey is funded with an annual \$1.2 million dollar budget appropriation and is supported with a staff of 35 full-time employees, including nine regional offices. The Survey provides archaeological expertise to agencies and local governments, leadership and professional training for the volunteer membership of the Arkansas Archaeological Society, and academic instruction at Arkansas university campuses. Survey archaeologists are assigned to state parks to study and interpret state owned sites. This comprehensive approach to archaeology has served to create a coordinated effort in archaeological research, education, and public service.

The South Carolina Institute of Archaeology and Anthropology (SCIAA) is a university-based program serving as both a state agency and a research institute. Forty-two employees are supported with an annual \$1.65 million dollar budget. SCIAA provides technical assistance for state agencies and private citizens on archaeological matters, both in terrestrial and submerged settings, and strong educational programs. It also manages the archaeological site inventory and archaeological collections, and sets statewide research goals.

Innovative Preservation Options

Heritage Tourism

Wisconsin's Act 237 established a state heritage tourism program, which appropriates funding for staff in the Department of Development, as well as from a contract with the National Trust for Historic Preservation. The National Trust contract enabled Wisconsin to become one of four pilot heritage tourism states, along with Tennessee, Texas, and Indiana. This program engenders economic development at local, regional, and state levels, utilizing historic resources.

Accessible Archaeological Site Inventory

New Mexico's Archaeological Records Management System (ARMS) is the primary index for reports, research notes, forms, maps, and other documentation of almost 100,000 archaeological sites and 40,000 inventory and excavation projects in New Mexico. ARMS has established cooperative data sharing agreements with key state and federal land-managing agencies. Information from ARMS allows government and private entities to consider archaeological resources in early stages of project planning. The data base also has Geographic Information System (GIS) capability, which will result in significant savings in the future for regulation agencies and developers.

Archaeological Site Stewardship

The Texas Archaeological Stewardship Network is a group of trained volunteers who identify, record, and help protect archaeological sites. Private landowners may participate even more actively by becoming stewards of archaeological sites identified on their own lands. Site Steward landowners may be eligible for tax benefits for their preservation of historic resources. These Site Steward landowners have been publicly honored by the Governor of Texas, and received the *Texas Award for Historic Preservation*. Thus, private citizens, whether they assist preservation by becoming site stewards on their own land or land belonging to cooperative others, have been recognized as making a significant contribution to the preservation of historic resources in a state where 90% of the land is privately owned.

Arizona's Site Stewardship program, modeled after the Texas program, was also created to monitor widespread historic resources, both on private and public lands. Volunteer Site Stewards participate in various training programs required and organized by the State Historic Preservation Office. The primary duty of the Site Steward is to monitor designated archaeological sites within their region; in addition, Site Stewards help in public education programs and to assist in archaeological surveys.

The Arizona Site Stewardship program is unique. Volunteers work in conjunction with private, state, and federal professional archaeologists, and land managers to monitor historic resources on private, state, and federally owned lands.

APPENDIX V SUMMARY OF PUBLIC PARTICIPATION

The Department invited public participation in conducting this study. An ad hoc advisory committee provided balance and scope for the study. The advisory committee represented the private development and real estate communities, local and regional government planners, and preservationists. Three scheduled public meetings, in Roanoke (July 21), in Richmond (July 23), and in Alexandria (November 18), provided further suggestions and insights into questions of how to enhance and encourage private stewardship of Virginia's historic resources. In addition, written public comments have provided a broad sample of the preservation concerns private citizens would like addressed. The Department has also drawn on public statements made before other boards or commissions, such as the Board of Historic Resources and the Commission on Population Growth and Development.

Individuals from a wide variety of groups spoke up: private preservation groups, statewide business concerns, private development groups and local governments. Although their backgrounds differed, all public participants expressed commitment to achieving positive, balanced solutions to the problems of preserving Virginia's historic and archaeological sites.

The following sections summarize the three public meetings and written comments received. These ideas have been grouped together into preservation issues, including identification and evaluation of historic resources in Virginia, a formal state project review process, state tax credit system, historic preservation ordinances at the local government level, various types of volunteer/private citizen involvement in historic preservation, and concerns for securing various types of additional funding for different historic preservation programs.

Identification of Historic Resources

One preservation strategy strongly suggested at the public meetings was early identification of archaeological sites prior to development. Several individuals indicated the need for this information to reach local governments so that it can be taken into account during local planning deliberations. There was a sense that if sites are identified, the preservation of them becomes less difficult. Some citizens felt that the development community should pay for the archaeological site identification and any mitigation necessary, while other participants were unsure who should fund the survey projects.

State Project Review Process

Several participants called for a state environmental review process as a means for ensuring that historic preservation is considered in planning projects. Those individuals notes cases where state funds had been used in projects that damaged or destroyed historic sites. Some citizens specified that only state-funded projects should be subject to review. This approach would ensure that state moneys were not being used for purposes contrary to the state's preservation policies. Other individuals suggested the review process should apply to any project, whether funded by state or local government. One participant proposed that consideration of historic resources should

be voluntary at the local level since cost is sometimes prohibitive when such formal review is required.

State Tax Credits

Accompanying the idea of more stringent requirements for consideration of historic resources was the suggestion of state tax credits. Several speakers proposed state tax credits for developers who conduct an archaeological/architectural survey prior to beginning their development. Another speaker suggested that tax credits be given for any loss in property value resulting from the preservation of archaeological sites or historic structures within a development area. However, several participants noted that the tax incentives should come only at the state level since local tax incentives might result in loss of the needed local revenue base.

Local Government Historic Preservation Laws

Adoption of historic preservation ordinances at the local level was offered as a means of protecting historic resources and assuring their consideration in planning and development. One speaker noted that historic preservation ordinances ensure that a community's aspirations for its own historic resources are met by retaining control and preservation of these resources at the local level. Another speaker suggested that local governments provide funding for archaeological site protection. On the other hand, another citizen commented that any mandated consideration of historical and archaeological resources will expand responsibilities and therefore increase costs for local governments.

Volunteers/Private Citizens & Historic Preservation

The involvement of volunteers and interested individuals in historic preservation efforts can take a myriad of forms, with several options discussed in the public meetings. One meeting participant suggested a system of cooperative efforts, or stewardship, between landowners and developers, who would work closely with professionals to preserve archaeological sites. Several others stressed the need for private citizens to become involved in their local government, especially when zoning changes and development may become a source of disagreement. Private citizens can become active in their local government's historic preservation commissions or archaeological/architectural review boards, if the localities choose to enact such ordinances.

Additional Staffing/Funding

Many participants pointed out that their recommendations for historic preservation options required either additional money to accomplish, or the presence of additional professional state staff, and sometimes both. Stable funding was recognized as critical for the acquisition of threatened archaeological sites in Virginia. Several individuals stressed the need for additional staffing at the state level to coordinate effectively large groups of volunteers. Many citizens called for more regional preservation offices like the one active in the Roanoke area. Additional

staff and money also were suggested as necessary to increase public education in historic preservation.

Economic Development/Benefits

Finally, several individuals noted that money spent on historic preservation would benefit the heritage tourism in Virginia. The economic benefits flowing from increased tourist visitation could help fund the continued upkeep of the same historic resources.

HJR 198 Preservation Options Study Advisory Panel

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