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SENATE

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REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY ACT OF 1995

JUNE 28, 1996.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 1226]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1226) to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, to establish an American Battlefield Protection Program, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY

SECTION 101. SHORT TITLE.

This title may be cited as the “Revolutionary War and War of 1812 Historic Preservation Study Act of 1995”.

SEC. 102. FINDINGS.

Congress finds that—

(1) Revolutionary War sites and War of 1812 sites provide a means for Americans to understand and interpret the periods in American history during which the Revolutionary War and War of 1812 were fought;

(2) the historical integrity of many Revolutionary War sites and War of 1812 sites is at risk because many of the sites are located in regions that are undergoing rapid urban or suburban development; and

(3) it is important, for the benefit of the United States, to obtain current information on the significance of, threats to the integrity of, and alternatives for

the preservation and interpretation of Revolutionary War sites and War of 1812 sites.

SEC. 103. DEFINITIONS.

In this title:

- (1) **DIRECTOR.**—The term “Director” means the Director of the National Park Service.
- (2) **REVOLUTIONARY WAR SITE.**—The term “Revolutionary War site” means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the Revolutionary War.
- (3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
- (4) **WAR OF 1812 SITE.**—The term “War of 1812 site” means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the War of 1812.

SEC. 104. STUDY.

(a) **PREPARATION.**—The Secretary, acting through the Director, shall work with State, local, nonprofit, and private entities to prepare a study of Revolutionary War sites and War of 1812 sites.

(b) **MATTERS TO BE ADDRESSED.**—The study under subsection (a) shall—

- (1) identify Revolutionary War sites and War of 1812 sites, including sites within units of the National Park System in existence on the date of enactment of this Act;
- (2) determine the relative significance of the sites;
- (3) assess short- and long-term threats to the integrity of the sites;
- (4) provide alternatives for the preservation and interpretation of the sites by Federal, State, and local governments, or other public or private entities, as may be appropriate; and
- (5) research and propose land preservation techniques.

(c) **CONSULTATION.**—During the preparation of the study under subsection (a), the Director shall consult with—

- (1) the Governor of each affected State;
- (2) each affected unit of local government;
- (3) State and local historic preservation organizations;
- (4) scholarly organizations; and
- (5) such other interested parties as the Secretary considers advisable.

(d) **TRANSMITTAL TO CONGRESS.**—Not later than 2 years after the date on which funds are made available to carry out the study under subsection (a), the Director shall transmit a report describing the results of the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the State.

(e) **REPORT.**—If the Director submits a report on the study to the Director of the Office of Management and Budget, the Secretary shall, pending approval by the Director of the Office of Management and Budget, transmit copies of the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(f) **PERMISSION FROM PRIVATE PROPERTY OWNERS.**—The Secretary may not include private property in a report transmitted to Congress under subsection (d) or (e) without consent from the owner of the property.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title \$750,000, to remain available until expended.

TITLE II—AMERICAN BATTLEFIELD PROTECTION PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the “American Battlefield Protection Act of 1995”.

SEC. 202. PURPOSE.

The purpose of this title is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

SEC. 203. PRESERVATION ASSISTANCE.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, developing, managing, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

(b) **FINANCIAL ASSISTANCE.**—To carry out subsection (a), the Secretary may use a cooperative agreement, grant, contract, or other generally accepted means of providing financial assistance.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

SEC. 205. REPEAL.

(a) **IN GENERAL.**—This title is repealed as of the date that is 10 years after the date of enactment of this title.

(b) **NO EFFECT ON GENERAL AUTHORITY.**—The Secretary may continue to conduct battlefield studies in accordance with other authorities available to the Secretary.

(c) **UNOBLIGATED FUNDS.**—Any funds made available under this title that remain unobligated shall be credited to the general fund of the Treasury.

2. Amend the title so as to read: “A bill to provide for the study of battlefields of the Revolutionary War and the War of 1812, to establish an American Battlefield Protection Program, and for other purposes.”.

PURPOSE OF THE MEASURE

The purpose of S. 1226 is to direct the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, and to establish an American Battlefield Protection Program.

BACKGROUND AND NEED

The study outlined in the bill would direct the Secretary of the Interior, acting through the National Park Service, to conduct a comprehensive history and review of United States sites associated with the Revolutionary War and the War of 1812. To date, the National Park Service has not undertaken such a study for either of these wars. Most of these sites are located in highly urbanized areas and the historical integrity of many of the sites is believed to be at risk. Such a study would provide important information including an inventory of sites, and analysis of significant sites, an analysis of the current integrity of the sites, and a list of mechanisms available to public and private entities for protecting and interpreting these sites.

Just as the results of the study would provide Congress with a framework from which to evaluate future proposals for national park designation, special resource studies, financial support, or other types of assistance or recognition, the battlefield protection program would provide an additional mechanism to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States.

LEGISLATIVE HISTORY

S. 1226 was introduced by Senator Jeffords on September 8, 1995. The Subcommittee for Parks, Historic Preservation and Recreation held a hearing on the bill on March 21, 1996. At the business meeting on June 19, 1996, the Committee on Energy and National Resources ordered S. 1226, as amended, favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on June 19, 1996, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1226 if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1226, the Committee adopted an amendment in the nature of a substitute. The amendment directs the Secretary of the Interior to assist State and local government agencies or a private entity to conduct the study (instead of requiring the National Park Service to conduct the study). The intent of the amendment is to encourage local involvement in the effort and to diminish the staff and fiscal requirements placed on the National Park Service.

SECTION-BY-SECTION ANALYSIS

Section 101 provides the short title for Title I, namely the "Revolutionary War and War of 1812 Historic Preservation Study Act of 1995".

Section 102 contains three Congressional findings: (1) Revolutionary War and War of 1812 sites provide a means for understanding and interpreting American history; (2) the historic integrity of many Revolutionary War and War of 1812 sites is at risk; and (3), it is important that current information of the significance and threats to these sites, as well as alternatives for their preservation, be obtained.

Section 103 defines certain terms used in the bill.

Section 104 directs the Secretary of the Interior, acting through the Director of the National Park Service, to work with State, local, nonprofit and private entities to prepare a study of Revolutionary War sites and War of 1812 sites.

Section 104(b) provides that the study shall: (1) identify these sites; (2) determine their significance; (3) assess short- and long-term threats; (4) provide alternatives for their preservation and interpretation; and (5) research and propose land preservation techniques.

Section 104(c) directs the Director of the National Park Service to work in consultation with: (1) the Governor of each affected State; (2) each affected unit of local government; (3) State and local preservation organizations; (4) scholarly organizations; and (5) other interested parties.

Section 104(d) states that the results of the study are to be transmitted to Congress within two years of the date of enactment.

Section 104(e) directs the Director of the National Park Service to submit reports on the study to the Director of the Office of Management and Budget, while the Secretary of the Interior concurrently sends copies to the appropriate Congressional committee.

Section 104(f) states that the Secretary of the Interior may not include private property in the report to Congress without first obtaining the permission of the property owner.

Section 105 authorizes an appropriation of \$750,000 to carry out the study.

Section 201 provides that Title II may be cited as the "American Battlefield Protection Act of 1995".

Section 202 states that the purpose of the title is to assist citizens, public and private institutions, and governments on all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil.

Section 203(a) authorizes the Secretary of the Interior to encourage, support, assist, recognize and work in partnership with a wide variety of public and private agencies and organizations in order to identify, research, evaluate, develop, manage, interpret and protect historic battlefields and associated sites on the National, State and local level. The Secretary is directed to use the established national historic preservation program in carrying out this authorization.

Section 203(b) authorizes the Secretary of the Interior to use a cooperative agreement, grant, contract or other accepted means to provide financial assistance.

Section 204 authorizes appropriated funds to carry out the program, and contains a sunset clause legislating the repeal of the Act ten years after the date of enactment. The section directs any unobligated funds to be credited to the general fund of the Treasury.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 26, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1226, a bill to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, to establish an American Battlefield Protection Program, and for other purposes. S. 1226 was ordered reported by the Senate Committee on Energy and Natural Resources on June 19, 1996. Assuming appropriation of the authorized amounts, we estimate that implementing this bill would cost the federal government \$750,000 over the next two years. Enactment of S. 1226 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

Title I of S. 1226 would direct the National Park Service (NPS) to conduct a study of sites associated with the Revolutionary War and the War of 1812. The study would identify such sites, deter-

mine their relative significance, and develop alternatives for their preservation and interpretation. The bill would authorize the appropriation of \$750,000 for the study, which must be completed within two years of funding.

Title II of the bill would authorize the NPS to assist governmental agencies, educational institutions, nonprofit organizations, and others in interpreting and protecting historic battlefields and related sites. The bill would authorize the agency to use any generally accepted means of providing financial assistance for such purposes, including cooperative agreements, grants, or contracts. Finally, section 204 would authorize the appropriation of whatever sums are necessary for these purposes.

Based on information provided by the NPS, and assuming appropriation of the amounts authorized, we estimate that the federal government would spend \$750,000 over the next two years to carry out Title I. The NPS already receives and spends appropriations for financial assistance provided through the American Battlefields Protection Program and other historic preservation projects. We estimate that such spending would not increase as a result of this legislation, but the money might be used for types of assistance (for example, cooperative agreements) that the agency cannot currently use for such purposes.

S. 1226 contains no intergovernmental or private-sector mandates as defined in Public Law 104-4 and would impose no costs on state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah S. Reis.

Sincerely,

JUNE E. O'NEILL, *Director*.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1226. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1226, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 20, 1996, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1226. These reports had not been received at the time the report on S. 1226 was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of the Interior at the Subcommittee meeting follows:

STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR, CULTURAL RESOURCE STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR; S. 1226, TO PREPARE A STUDY OF BATTLEFIELDS OF THE REVOLUTIONARY WAR AND WAR OF 1812 AND TO ESTABLISH THE AMERICAN BATTLEFIELD PROTECTION PROGRAM

Mr. Chairman, I appreciate the opportunity to appear today to present the position of the Department of the Interior.

S. 1226 directs the Secretary of the Interior to undertake a study of battlefields of the Revolutionary War and War of 1812 and provides an authorization for the National Park Service's American Battlefield Protection Program. We support both provisions of this bill but with minor amendments.

Title I of S. 1226, the Revolutionary War and War of 1812 Historic Preservation Study Act of 1995, directs the Secretary of the Interior, acting through the National Park Service, to prepare a study of sites associated with the Revolutionary War and the War of 1812. The study shall provide an inventory of the sites associated with these two wars, determine the relative significance of the sites identified, determine both long and short-term threats to the sites, and provide alternatives for the preservation and interpretation of these sites by Federal, State, and local governments, or other public or private entities, as may be appropriate. The bill authorizes \$750,000 to be appropriated to conduct the study.

The National Park Service supports this title if amended to eliminate a reporting requirement that precludes Secretarial review. This amendment is further discussed below.

The study outlined in the bill would provide a comprehensive inventory and review of the sites situated in the United States associated with the American Revolution and the War of 1812. To date the National Park Service has not undertaken such a study for either of these wars. Most of these sites are located in highly urbanized areas and, as the bill states, the historical integrity of many of the sites is at risk. Such a study would provide important information including an inventory of sites, an analysis of the significance and current integrity of sites, and a list of mechanisms available to public and private entities for protecting and interpreting these sites.

Through the study, the National Park Service would develop a greater understanding of the resources associated with the Revolutionary War and the War of 1812 and provide a framework for evaluating proposals from state, local, and private groups requesting assistance from the National Park Service in protecting historic and cultural resources of those periods. The study would also provide a framework for existing National Park Service units to un-

derstand their context in relationship to the larger landscape in which they are situated and to nearby resources of related significance.

The study would provide the Congress a framework within which to evaluate future proposals for national park designation, special resource studies, financial support, or other types of assistance or recognition that individuals or groups may request for sites associated with the Revolutionary War or the War of 1812. The study could be used to evaluate the validity and need for such proposals.

Although we are very much in support of the study, we are concerned that the study not be seen as a heavy-handed Federal study with the intent of creating a new group of national park units or of expanding existing national parks. This study should be a means of identifying the important sites associated with the Revolutionary War and the War 1812 and for state, local and private groups to work with the National Park Service in the identification of those resources and development of means to protect and interpret those resources. It is a study that should provide the basis for the development of partnerships for the protection of resources that are significant to our nation's history. We feel the study should have broad support, extensive public involvement, and be locally driven. It should not be viewed as a National Park Service study, but a study that has active state and local involvement and represents the interests of both the public and private sectors.

We strongly recommend that Sec. 104(d) and (e) be revised. It is inappropriate for the National Park Service to submit a report to the Congress without the approval of the Secretary or the opportunity for others within the executive branch to be consulted. Therefore, we recommend that the language on simultaneous submission in Sec. 104(e) be dropped. We also recommend that the reference to the director in Sec. 104(d) be changed to "Secretary".

Title II, S. 1226, the American Battlefield Protection Act of 1995, directs the Secretary to study, and provide technical and financial assistance for planning, identification, interpretation, stabilization, and acquisition of American battlefields to citizens, public and private institutions, and governments at all levels involved in the sites where historic battles were fought on American soil. The National Park Service supports the intent of Title II, to officially authorize the American Battlefield Protection Program. However, we have recommendations for some specific changes in the current language of the title.

Secretary of the Interior, Manuel Lujan, Jr., and Congress created the National Park Service's American Battlefield Protection Program in 1990. The program represents the Federal government's commitment to help communities identify, assess, protect, and interpret America's battlefields and related sites. The American Battlefield Protection Program carries out its mission by providing tech-

nical assistance and small amounts of seed money to public and private agencies, parks, and organizations for battlefield planning, interpretation, education, tourism, and preservation projects. Since 1990 the program has sponsored more than 110 projects with 56 non-Federal government partners in 16 states and the District of Columbia. Funding from the program has totaled almost \$2.5 million. The program specifically promotes local stewardship of historic battlefields and emphasizes identifying and assessing battle sites as early as possible so that information about the sites can be incorporated into community and regional land use and economic development plans. Although its primary focus is on the 50 Priority One battlefields identified in the Congressionally sponsored Civil War Sites Advisory Commission study, the battlefield program is intended to preserve battle sites from all wars on American soil.

We are concerned about several specific issues. First, Section 203, "Definitions," includes a definition of battlefields that is too restrictive. According to the definition, "battlefields" must be in or eligible for listing in the National Register of Historic Places or in state or local registers. Most battlefields have never been evaluated officially against terms of the National Register criteria or other state and local criteria. In fact, only 20 percent of the 384 principal Civil War battlefields by the Civil War Sites Advisory Commission are listed in or determined eligible for listing in the National Register. The American Battlefield Protection Program is currently helping several communities evaluate and nominate their battlefields. The program needs to continue doing this. Second, Sec. 204 "Preservation Assistance" authorizes the program through the Secretary to study and provide technical and financial assistance for planning, identification, interpretation, stabilization, and acquisition of American battlefields by means of cooperative agreements. We recommend that the range of financial assistance options that the program can use to help its partners be broadened to include contracts, grants, and other generally accepted means of financial assistance. In addition, at this time, we do not request the authority to acquire American battlefield lands.

More specifically, we suggest that you consider deleting the definition of "battlefield" as it is currently written and substitute the following paragraph, or similar paragraph, for Sec. 204. "Preservation Assistance." We recommend that the paragraph read:

Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, other federal agencies, state, local, and tribal governments, other public entities, educational institutions, and private non-

profit organizations in identifying, researching, evaluating, developing, managing, interpreting, and protecting historic battlefields and associated sites on a national, state, and local level. In addition to existing authorities established for the national historic preservation program, the American Battlefield Protection Program may enter into cooperative agreements or grants to carry out the purposes of this Act.

Although Congress participated in the creation of the program and funds it annually as part of the National Park Service's National Register Programs budget, Congress never specifically authorized the American Battlefield Protection Program Title II will do this.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 1226, as ordered reported.

