

REVOLUTIONARY WAR AND WAR OF 1812 BATTLEFIELD
PROTECTION ACT

JULY 29, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 160]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 160) to amend the American Battlefield Protection Act of 1996 to establish a battlefield acquisition grant program for the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Revolutionary War and War of 1812 Battlefield Protection Act”.

SEC. 2. BATTLEFIELD ACQUISITION GRANT PROGRAM FOR BATTLEFIELDS OF THE REVOLUTIONARY WAR AND WAR OF 1812.

(a) GRANT PROGRAM.—The American Battlefield Protection Act of 1996 (section 604 of division I of Public Law 104–333; 16 U.S.C. 469k) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

“(e) BATTLEFIELD ACQUISITION GRANT PROGRAM FOR BATTLEFIELDS OF THE REVOLUTIONARY WAR AND WAR OF 1812.—

“(1) DEFINITIONS.—In this subsection:

“(A) BATTLEFIELD REPORT.—The term ‘battlefield report’ means the document entitled ‘Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States’, prepared by the National Park Service, and dated September 2007.

“(B) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a State or local government.

“(C) ELIGIBLE SITE.—The term ‘eligible site’ means a site that—

“(i) is not within the exterior boundaries of a unit of the National Park System; and

“(ii) is identified in the battlefield report.

“(D) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior, acting through the American Battlefield Protection Program.

“(2) ESTABLISHMENT.—The Secretary shall establish a battlefield acquisition grant program for nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under which the Secretary may make grants to eligible entities to pay the Federal share of the cost of acquiring fee-simple or lesser interests from willing sellers in eligible sites for the preservation and protection of those eligible sites.

“(3) NONPROFIT PARTNERS.—An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.

“(4) NON-FEDERAL SHARE.—The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.

“(5) LIMITATIONS ON LAND USE.—An interest in an eligible site acquired under this subsection shall be subject to section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(f)(3)).

“(6) REPORTS.—

“(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report on the activities carried out under this subsection.

“(B) UPDATE ON BATTLEFIELD REPORT.—Not later than 3 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report that updates the battlefield report to reflect—

“(i) preservation activities carried out at the 677 battlefields and associated sites identified in the battlefield report during the period between publication of the battlefield report and the update;

“(ii) changes in the condition of the battlefields and associated sites during that period; and

“(iii) any other relevant developments relating to the battlefields and associated sites during that period.

“(7) AUTHORIZATIONS OF APPROPRIATIONS.—

“(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Land and Water Conservation Fund to provide grants under this subsection \$10,000,000 for each of fiscal years 2009 through 2013.

“(B) UPDATE OF BATTLEFIELD REPORT.—There are authorized to be appropriated to the Secretary to carry out paragraph (6)(B), \$500,000.”.

(b) CONFORMING AMENDMENTS.—

(1) REFERENCES TO OTHER BATTLEFIELD ACQUISITION PROGRAM.—Subsection (d) of the American Battlefield Protection Act of 1996, as added by section 3 of Civil War Battlefield Preservation Act of 2002 (Public Law 107–359; 116 Stat. 3016), is amended—

(A) in the subsection heading, by striking “BATTLEFIELD ACQUISITION GRANT PROGRAM” and inserting “BATTLEFIELD ACQUISITION GRANT PROGRAM FOR BATTLEFIELDS OF THE CIVIL WAR”; and

(B) in paragraph (2), by striking “grant program” and inserting “grant program for battlefields of the Civil War”; and

(2) TERMINATION OF AUTHORITY.—Subsection (f) of the American Battlefield Protection Act of 1996, as redesignated by subsection (a)(1), is amended—

(A) in the subsection heading, by striking “REPEAL” and inserting “EXPIRATION”; and

(B) in paragraph (1), by striking “is repealed” and inserting “expires”.

PURPOSE OF THE BILL

The purpose of H.R. 160 is to amend the American Battlefield Protection Act of 1996 to establish a land acquisition grant pro-

gram to acquire and protect nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812.

BACKGROUND AND NEED FOR LEGISLATION

The American Battlefield Protection Act of 1996 (Battlefield Act) was enacted to protect and preserve battlefields and sites associated with historic battles fought on American soil that influenced the course of American history. Urbanization, suburban sprawl, and unplanned commercial and residential development have increasingly encroached upon these battlefield sites, threatening their historical integrity and even resulting in the loss of some sites altogether. Meanwhile, lack of funding has left other battlefield sites in an alarming state of disrepair and decay.

The Battlefield Act established the American Battlefield Protection Program (ABPP)—which is administered by the National Park Service (NPS)—to address these issues. The ABPP assists citizens, public and private institutions, and governments at all levels in the preservation, management, and interpretation of these historic sites for present and future generations. However, eligibility for grants under the ABPP is currently limited to Civil War battlefields.

With enactment of Sec. 603 of Public Law 104–333, Congress authorized the “Revolutionary War and War of 1812 Historic Preservation Study Act of 1996” (16 U.S.C. 1a–5, Note). The purpose of the study was to identify principal sites from these two early American wars and, among other things, assess short- and long-term threats to the integrity of the sites. The final “Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States” (Study) was completed in September, 2007.

The Study identified and documented 677 principal places associated with the Revolutionary War and the War of 1812—most of which the Study concluded were at risk. The Study found that of the 243 battlefield sites, 143 are already lost or extremely fragmented. The remaining 100 battlefields retain only 37 percent of their original historic scene and many are only partially protected, while 18 of those sites have no legal protection at all.

Of the 434 associated historical sites identified in the Study, 192 have already been destroyed or survive only as archeological remains and most of the remaining sites are in need of immediate and ongoing preservation measures. The Study concluded that as many as 170 sites face imminent injury or destruction in the next decade.

The proposed program will allow state or local governments to obtain federal funds to leverage matching private funds to acquire sites identified in the Study—from willing sellers—in order to preserve these historical places.

COMMITTEE ACTION

H.R. 160 was introduced on January 4, 2007 by Rep. Rush Holt (D–NJ). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests, and Public Lands. At a hearing before the National Parks, Forests and Public Lands Subcommittee on July

10, 2008 the Administration testified in support of the bill and recommended only minor technical changes.

On July 16, 2008, the Subcommittee was discharged from further consideration of H.R. 160 and the Full Natural Resources Committee met to consider the bill. Representative Holt offered an amendment in the nature of a substitute to address the technical changes. The amendment was agreed to by unanimous consent. The bill was then ordered favorably reported, as amended, to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that the Act may be cited as the “Revolutionary War and War of 1812 Battlefield Protection Act.”

Section 2. Battlefield Acquisition Grant Program for Battlefields of the Revolutionary War and War of 1812

Section 2(a) provides that the American Battlefield Protection Act of 1996 (16 U.S.C. 469k) shall be amended to include the Revolutionary War and War of 1812 Grant Program, and includes new language to be inserted into the underlying Act.

The following paragraphs describe the Grant Program language to be inserted:

Paragraph (1) provides the definitions for the Grant Program.

Paragraph (2) provides for the establishment of a battlefield acquisition Grant Program for nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812. It authorizes the Secretary of the Interior to make matching federal grants to eligible entities so that they may acquire sites—from willing sellers—that were identified as being eligible for protection under the NPS Revolutionary War and War of 1812 Study.

Paragraph (3) provides that nonprofit partners are an eligible entity and may acquire an interest in an eligible site using a grant under this program in partnership with a nonprofit organization.

Paragraph (4) provides that the non-federal share of the total cost of acquiring an interest in an eligible site under this Grant Program must be at least 50 percent.

Paragraph (5) provides limitations on land use by directing that an interest in an eligible site acquired under this Grant Program will be subject to section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(f)(3)). This requires that no property acquired with a federal grant under this program shall be converted for use other than that which is outlined in this Program.

Paragraph (6)(A) states that, in general, no later than five years after the date of enactment of this Grant Program, the Secretary shall submit a report to Congress on the activities carried out under this program.

Paragraph (6)(B) requires that no later than three years after the date of the enactment of this Grant Program, the Secretary shall submit a report to Congress that updates the battlefield report to reflect the following: (i) preservation activities carried out at the 677 battlefields and associated sites identified in the battlefield report during the period between the publication of the battlefield re-

port and the update; (ii) changes in the conditions of the battlefields and associated sites during that period; and (iii) any other relevant developments relating to the battlefields and associated sites during that period.

Paragraph (7) authorizes appropriations for the Program. Subparagraph (A) provides that there are authorized to be appropriated, to the Secretary of the Interior, from the Land and Water Conservation Fund, \$10,000,000 for each of the fiscal years 2009 through to 2013, to fund grants under this program. Subparagraph (B) authorizes appropriations in the amount of \$500,000 for the Secretary to carry out the reporting requirements as defined in Paragraph (6)(B).

Section 2(b)(1) and 2(b)(2) of the bill provide conforming amendments to the underlying Battlefield Protection Act of 1996 and references to the other battlefield acquisition program.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the American Battlefield Protection Act of 1996 (16 U.S.C. 469k) to establish a land acquisition grant program to acquire and protect nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 160—Revolutionary War and War of 1812 Battlefield Protection Act

Summary: H.R. 160 would authorize the appropriation of \$10 million from the Land and Water Conservation Fund for each of fiscal years 2009 through 2013. Those amounts would be used to provide financial assistance to state or local governments to purchase land that has been identified by the National Park Service (NPS) as eligible for protection through the American Battlefield Protection Program but is not contained within the boundaries of a unit of the National Park System.

Assuming appropriation of the authorized amounts, CBO estimates that the NPS would spend \$42 million over the 2009–2013 period (and \$8 million after 2013) to provide grants to state or local governments for land purchases. Enacting H.R. 160 would not affect revenues or direct spending.

H.R. 160 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 160 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment). For this estimate, CBO assumes that H.R. 160 will be enacted near the start of fiscal year 2009 and that the amounts authorized by the bill will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for NPS grant programs.

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	10	10	10	10	10	50
Estimated Outlays	5	7	10	10	10	42

Intergovernmental and private-sector impact: H.R. 160 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would authorize grants for the preservation of battlefield sites and would benefit state and local governments. Any costs to those governments would be incurred voluntarily.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Melissa Merrill; Impact on the Private Sector: MarDestinee C. Perez.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 160 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AMERICAN BATTLEFIELD PROTECTION ACT OF 1996

(Section 604 of Division I of Public Law 104–333)

SEC. 604. AMERICAN BATTLEFIELD PROTECTION PROGRAM.

(a) **SHORT TITLE.**—This section may be cited as the “American Battlefield Protection Act of 1996”.

* * * * *

(d) **[BATTLEFIELD ACQUISITION GRANT PROGRAM]** *BATTLEFIELD ACQUISITION GRANT PROGRAM FOR BATTLEFIELDS OF THE CIVIL WAR.*—

(1) * * *

(2) **ESTABLISHMENT.**—The Secretary shall establish a battlefield acquisition **[grant program]** *grant program for battlefields of the Civil War* under which the Secretary may provide grants to eligible entities to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.

* * * * *

(e) *BATTLEFIELD ACQUISITION GRANT PROGRAM FOR BATTLEFIELDS OF THE REVOLUTIONARY WAR AND WAR OF 1812.*—

(1) **DEFINITIONS.**—*In this subsection:*

(A) **BATTLEFIELD REPORT.**—*The term “battlefield report” means the document entitled ‘Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States’, prepared by the National Park Service, and dated September 2007.*

(B) **ELIGIBLE ENTITY.**—*The term “eligible entity” means a State or local government.*

(C) **ELIGIBLE SITE.**—*The term “eligible site” means a site that—*

(i) is not within the exterior boundaries of a unit of the National Park System; and

(ii) is identified in the battlefield report.

(D) **SECRETARY.**—*The term “Secretary” means the Secretary of the Interior, acting through the American Battlefield Protection Program.*

(2) **ESTABLISHMENT.**—*The Secretary shall establish a battlefield acquisition grant program for nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under which the Secretary may make grants to eligible entities to pay the Federal share of the cost of acquiring fee-simple or lesser interests from willing sellers in eligible sites for the preservation and protection of those eligible sites.*

(3) *NONPROFIT PARTNERS.*—An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.

(4) *NON-FEDERAL SHARE.*—The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.

(5) *LIMITATIONS ON LAND USE.*—An interest in an eligible site acquired under this subsection shall be subject to section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(f)(3)).

(6) *REPORTS.*—

(A) *IN GENERAL.*—Not later than 5 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report on the activities carried out under this subsection.

(B) *UPDATE ON BATTLEFIELD REPORT.*—Not later than 3 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report that updates the battlefield report to reflect—

(i) preservation activities carried out at the 677 battlefields and associated sites identified in the battlefield report during the period between publication of the battlefield report and the update;

(ii) changes in the condition of the battlefields and associated sites during that period; and

(iii) any other relevant developments relating to the battlefields and associated sites during that period.

(7) *AUTHORIZATIONS OF APPROPRIATIONS.*—

(A) *IN GENERAL.*—There are authorized to be appropriated to the Secretary from the Land and Water Conservation Fund to provide grants under this subsection \$10,000,000 for each of fiscal years 2009 through 2013.

(B) *UPDATE OF BATTLEFIELD REPORT.*—There are authorized to be appropriated to the Secretary to carry out paragraph (6)(B), \$500,000.

[(e) *REPEAL*] (f) *EXPIRATION.*—

(1) *IN GENERAL.*—This section [is repealed] expires on September 30, 2008.

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ADDITIONAL VIEWS

TO AMEND THE AMERICAN BATTLEFIELD PROTECTION ACT TO ESTABLISH A GRANT PROGRAM FOR THE ACQUISITION OF REVOLUTIONARY WAR AND WAR OF 1812 BATTLEFIELD SITES

At our hearing on this bill we heard testimony from historian David Hackett Fischer whose writings on the Revolutionary War point out General Washington's support for property rights and the strong actions he took to ensure that his soldiers respect the property of civilians—even when the property belonged to a Tory sympathizer.

Washington personally gave strict orders that forbid looting even though plunder was the norm at the time and even though many of his men were hungry, dressed in rags and marched barefoot in the snow. It is remarkable that in so desperate a situation and with so noble a cause, he imposed on the Patriot side such a high standard of conduct.

Washington's honorable policy stood in stark contrast to the routine seizures of booty by the British and Hessian troops. It is no accident that over the course of the early years of the war, 1776 and 1777, in the battleground state of New Jersey a population that was once evenly divided in its loyalty, threw its support to the American cause. There are lessons we can learn from Washington's example.

In earlier battlefield protection efforts, the National Park Service used their eminent domain powers to seize land from unwilling sellers and the justified resentment this caused hurt subsequent efforts.

Our enthusiasm for battlefield protection notwithstanding, I hope that as we set out to preserve historic sites, we emulate George Washington, not George the Third.

ROB BISHOP.

