

AMERICAN BATTLEFIELD PROTECTION PROGRAM
ENHANCEMENT ACT OF 2023

NOVEMBER 3, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 3448]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3448) to amend chapter 3081 of title 54, United States Code, to enhance the protection and preservation of America's battlefields, having considered the same, reports favorably thereon with an amendment and recommends 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 "American Battlefield Protection Program Enhancement Act of 2023".

SEC. 2. AMERICAN BATTLEFIELD PROTECTION PROGRAM IMPROVEMENTS.

(a) **DEFINITIONS.**—Section 308101 of title 54, United States Code, is amended to read as follows:

“§ 308101. Definitions

“In this chapter:

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

“(2) **BATTLEFIELD REPORTS.**—The term ‘Battlefield Reports’ means, collectively—

“(A) the document entitled ‘Report on the Nation’s Civil War Battlefields’, prepared by the Civil War Sites Advisory Commission, and dated July 1993; and

“(B) 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) **PRESERVATION ASSISTANCE.**—Section 308102(a) of title 54, United States Code, is amended by striking “Federal” and all that follows through “organizations” and

inserting “Federal agencies, States, Tribes, local governments, other public entities, educational institutions, and nonprofit organizations”.

(c) BATTLEFIELD LAND ACQUISITION GRANTS IMPROVEMENTS.—Section 308103 of title 54, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) ELIGIBLE SITE DEFINED.—In this section, the term ‘eligible site’—

“(1) means a site that—

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

“(B) is identified in the Battlefield Reports as a battlefield; and

“(2) excludes sites identified in the Battlefield Reports as associated historic sites.”;

(2) in subsection (b), by striking “State and local governments” and inserting “States, Tribes, local governments, and nonprofit organizations”;

(3) in subsection (c), by striking “State or local government” and inserting “State, Tribe, or local government”; and

(4) in subsection (e), by striking “under this section” and inserting “under this section, including by States, Tribes, local governments, and nonprofit organizations.”.

(d) BATTLEFIELD RESTORATION GRANTS IMPROVEMENTS.—Section 308105 of title 54, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) ESTABLISHMENT.—The Secretary shall establish a battlefield restoration grant program (referred to in this section as the ‘program’) under which the Secretary may provide grants to States, Tribes, local governments, and nonprofit organizations for projects that restore day-of-battle conditions on—

“(1) land preserved and protected under the battlefield acquisition grant program established under section 308103(b); or

“(2) battlefield land that is—

“(A) owned by a State, Tribe, local government, or nonprofit organization; and

“(B) referred to in the Battlefield Reports.”; and

(2) by striking subsection (b) and inserting the following:

“(b) ELIGIBLE SITES.—The Secretary may make grants under this section for Revolutionary War, War of 1812, and Civil War battlefield sites—

“(1) eligible for assistance under the battlefield acquisition grant program established under section 308103(b); or

“(2) on battlefield land that is—

“(A) owned by a State, Tribe, local government, or nonprofit organization; and

“(B) referred to in the Battlefield Reports.”.

(e) UPDATES AND IMPROVEMENTS.—Chapter 3081 of title 54, United States Code, is amended by adding at the end the following:

“§ 308106. Updates and improvements to Battlefield Reports

“Not later than 2 years after the date of the enactment of this section, and every 10 years thereafter, the Secretary shall submit to Congress a report that updates the Battlefield Reports to reflect—

“(1) preservation activities carried out at the battlefields in the period since the publication of the most recent Battlefield Reports update;

“(2) changes in the condition, including core and study areas, of the battlefields during that period; and

“(3) any other relevant developments relating to the battlefields during that period.”.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 3081 of title 54, United States Code, is amended as follows:

(1) By amending the item relating to section 308101 to read as follows:

“308101. Definitions.”.

(2) By adding at the end the following:

“308106. Updates and improvements to Battlefield Reports.”.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 3448 is to amend chapter 3081 of title 54, United States Code, to enhance the protection and preservation of America’s battlefields.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3448 makes several improvements to the American Battlefield Protection Program (ABPP) to ensure the continued protection of our nation's battlefields and this crucial element of American history. To address the loss of sacred battlefield sites, Congress created the ABPP in 1996. The ABPP provides grants in four categories—battlefield land acquisition, battlefield interpretation, battlefield restoration, and preservation planning—to protect sites related to the Revolutionary War, War of 1812, and the Civil War. Since its inception, the ABPP has helped protect more than 100 battlefields in 42 states, as well as protect battlefield lands at 110 battlefield sites in 19 states.

H.R. 3448 improves the program for more participation, clarifies Congressional intent, and ensures continued oversight by Congress. First, the bill allows educational institutions and nonprofit organizations to receive battlefield preservation and battlefield land acquisition grants directly, rather than through a state or local government. The bill also adds Tribes as eligible entities for these grants. This change would allow Tribes and non-profits to acquire battlefield lands, which they would then manage to ensure its continued protection and recreation-value. Second, the bill clarifies Congress's intent when battlefield land acquisition grants were expanded to Revolutionary War and War of 1812 sites by specifying this expansion shall only apply to battlefields, not associated historic sites. Third, H.R. 3448 expands the scope of battlefield restoration grants by allowing funding to be used on sites from the Revolutionary War, War of 1812, and Civil War that have been identified as priority battlefields by the National Park Service (NPS) and are owned by a state, tribal, or local government or non-profit entity. Lastly, the bill directs decennial updates of battlefield reports conducted by NPS, which were last completed in 1993 and 2007.

This bipartisan bill is co-led by the co-chairs of the Congressional Battlefield Caucus, Representatives Stefanik (R-NY) and Connolly (D-VA) and is cosponsored by 50 total Members. An amendment from Representative Kiggans (R-VA) was added at markup that ensures Tribes and nonprofit organizations are also held to the same standard as states currently are under the grant program to account for any future uses or conversion situations that arise.

COMMITTEE ACTION

H.R. 3448 was introduced on May 17, 2023, by Rep. Elise M. Stefanik (R-NY). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On July 13, 2023, the Subcommittee on Federal Lands held a hearing on the bill. On September 20, 2023, the Committee on Natural Resources met to consider the bill. The Subcommittee on Federal Lands was discharged from further consideration of H.R. 3448 by unanimous consent. Chairman Bruce Westerman (R-AR) offered an amendment in the nature of a substitute designated Westerman_043 ANS. Rep. Jennifer A. Kiggans (R-VA) offered an amendment to the amendment in the nature of a substitute designated Kiggans_034. The amendment to the amendment in the nature of a substitute was adopted by unani-

mous consent. The amendment offered by Chairman Westerman, as amended, was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Federal Lands held on July 13, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill as the “American Battlefield Protection Program Enhancement Act of 2023.”

Section 2. American Battlefield Protection Program Improvements

Section 2 updates definitions for the American Battlefield Protection Program; adds Tribes, educational institutions, and non-profit organizations as eligible recipients of battlefield preservation grants; amends battlefield land acquisition grants to clarify grants shall be used on priority battlefields, not associated historic sites; add Tribes and non-profit organizations as eligible recipients of funding; and clarify Tribes, local governments and non-profit organizations are subject to the same anti-conversion clauses as states that receive funding under this Act.

Section 2 also amends battlefield restoration grants to expand grant eligibility to sites that are: (1) identified as priority locations in battlefield reports produced by NPS; and (2) are owned by a state, tribal, or local government or nonprofit organization. Additionally, this section directs the Secretary of the Interior to update the 1993 “Report on the Nation’s Civil War Battlefields” and 2007 “Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States” 2 years after the passage of the bill and every 10 years thereafter.

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.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 3448, American Battlefield Protection Program Enhancement Act of 2023			
As ordered reported by the House Committee on Natural Resources on September 20, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 3448 would expand and clarify who is eligible to receive grants under the American Battlefield Preservation Program, which is administered by the National Park Service (NPS). Under current law, a total of \$20 million is authorized to be appropriated through 2028 and \$3 million is permanently authorized for that program. That program is primarily for battlefield land acquisition grants to protect sites related to the Revolutionary War, the War of 1812, and the Civil War. Because the bill would not change the authorized amounts or significantly change the scope of the program, CBO has not estimated any additional costs stemming from those changes. We expect that the specified authorization is sufficient to cover the costs of implementing those sections of the bill. In 2022, the NPS allocated about \$20 million for those activities.

Within 2 years of enactment and every 10 years thereafter, the bill also would require the NPS to submit updated battlefield reports to the Congress. Using the cost of similar reports, CBO estimates that implementing H.R. 3448 would have an insignificant cost. Any spending would be subject to the availability of appropriated funds. The cost of that report is not covered under the existing authorization of appropriations.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. *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 chapter 3081 of title 54, United States Code, to enhance the protection and preservation of America's battlefields.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e),

9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 3448 contains no unfunded mandates as defined in the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

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 italics, and existing law in which no change is proposed is shown in roman):

TITLE 54, UNITED STATES CODE

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SUBTITLE III—NATIONAL PRESERVATION PROGRAMS

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CHAPTER 3081—AMERICAN BATTLEFIELD PROTECTION PROGRAM

Sec.
[308101. Definition.]

308101. *Definitions.*

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308106. *Updates and improvements to Battlefield Reports.*

[§ 308101. Definition

[In this chapter, the term “Secretary” means the Secretary, acting through the American Battlefield Protection Program.]

§ 308101. Definitions

In this chapter:

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

(2) *BATTLEFIELD REPORTS.*—*The term “Battlefield Reports” means, collectively—*

(A) the document entitled “Report on the Nation’s Civil War Battlefields”, prepared by the Civil War Sites Advisory Commission, and dated July 1993; and

(B) 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.

§ 308102. Preservation assistance

(a) *IN GENERAL.*—Using the established national historic preservation program to the extent practicable, the Secretary 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]** *Federal agencies, States, Tribes, local governments, other public entities, educational institutions, and nonprofit organizations* in identifying, researching, evaluating, 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 adopted means of providing financial assistance.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section \$3,000,000 for each fiscal year, to remain available until expended.

§ 308103. Battlefield acquisition grant program

[(a) DEFINITION.—In this section, the term “eligible site” means a site—

[(1) that is not within the exterior boundaries of a System unit; and

[(2) that is identified in the document entitled “Report on the Nation’s Civil War Battlefields”, prepared by the Civil War Sites Advisory Commission, and dated July 1993.]

(a) ELIGIBLE SITE DEFINED.—*In this section, the term “eligible site”—*

(1) means a site that—

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

(B) is identified in the Battlefield Reports as a battlefield; and

(2) *excludes sites identified in the Battlefield Reports as associated historic sites.*

(b) **ESTABLISHMENT.**—The Secretary shall establish a battlefield acquisition grant program under which the Secretary may provide grants to **[State and local governments]** *States, Tribes, local governments, and nonprofit organizations* to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.

(c) **NONPROFIT PARTNERS.**—A **[State or local government]** *State, Tribe, or local government* may acquire an interest in an eligible site using a grant under this section in partnership with a nonprofit organization.

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

(e) **LIMITATION ON LAND USE.**—An interest in an eligible site acquired **[under this section]** *under this section, including by States, Tribes, local governments, and nonprofit organizations*, shall be subject to section 200305(f)(3) of this title.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to provide grants under this section \$18,000,000 for each of fiscal years 2020 through 2028.

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§ 308105. Battlefield restoration grant program

[(a) ESTABLISHMENT.—The Secretary shall establish a battlefield restoration grant program (referred to in this section as the “program”) under which the Secretary may provide grants to States, Tribes, local governments, and nonprofit organizations for projects that restore day-of-battle conditions on land preserved under the battlefield acquisition grant program established under section 308103(b).]

[(b) ELIGIBLE SITES.—The Secretary may make grants under this section for Revolutionary War, War of 1812, and Civil War battlefield sites eligible for assistance under the battlefield acquisition grant program established under section 308103(b).]

(a) ESTABLISHMENT.—The Secretary shall establish a battlefield restoration grant program (referred to in this section as the “program”) under which the Secretary may provide grants to States, Tribes, local governments, and nonprofit organizations for projects that restore day-of-battle conditions on—

(1) land preserved and protected under the battlefield acquisition grant program established under section 308103(b); or

(2) battlefield land that is—

(A) owned by a State, Tribe, local government, or nonprofit organization; and

(B) referred to in the Battlefield Reports.

(b) ELIGIBLE SITES.—The Secretary may make grants under this section for Revolutionary War, War of 1812, and Civil War battlefield sites—

(1) eligible for assistance under the battlefield acquisition grant program established under section 308103(b); or

(2) on battlefield land that is—

(A) owned by a State, Tribe, local government, or nonprofit organization; and

(B) referred to in the Battlefield Reports.

(c) FEDERAL SHARE.—The Federal share of the cost of a restoration project funded through a grant provided under the program shall be not more than 50 percent of the total cost of the project.

(d) RESTORATION STANDARDS.—All restoration work carried out through a grant awarded under the program shall be performed in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties under part 68 of title 36, Code of Federal Regulations (or successor regulations).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to provide grants under this section \$1,000,000 for each of fiscal years 2020 through 2028.

§ 308106. Updates and improvements to Battlefield Reports

Not later than 2 years after the date of the enactment of this section, and every 10 years thereafter, the Secretary shall submit to Congress a report that updates the Battlefield Reports to reflect—

(1) preservation activities carried out at the battlefields in the period since the publication of the most recent Battlefield Reports update;

(2) changes in the condition, including core and study areas, of the battlefields during that period; and

(3) any other relevant developments relating to the battlefields during that period.

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