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SENATE

{ REPORT
105-177

NATIONAL DISCOVERY TRAILS ACT OF 1997

APRIL 29, 1998.—Ordered to be printed

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

REPORT

[To accompany S. 1069]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1069) entitled the “National Discovery Trails Act of 1997,” 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 out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Discovery Trails Act of 1997”.

SEC. 2. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

Section 3(a) of the National Trails System Act (16 U.S.C. 1242(a)) is amended by inserting after paragraph (4) the following:

“(5) National discovery trails, established as provided in section 5, which will be extended, continuous, interstate trails so located as to provide for outstanding outdoor recreation and travel and to connect representative examples of America’s trails and communities. National discovery trails should provide for the conservation and enjoyment of significant natural, cultural, and historic resources associated with each trail and should be so located as to represent metropolitan, urban, rural, and back country regions of the Nation. Any such trail may be designated on federal lands and, with the consent of the owner thereof, on any non federal lands.”.

(2) FEASIBILITY REQUIREMENTS; COOPERATIVE MANAGEMENT REQUIREMENT.—Section 5(b) of such Act (16 U.S.C. 1244) is amended by adding at the end the following new paragraph:

“(12) For purposes of subsection (b), a trail shall not be considered feasible and desirable for designation as a national discovery trail unless it meets all of the following criteria:

“(A) The trail must link one or more areas within the boundaries of a metropolitan area (as those boundaries are determined under section 134(c) of title

23, United States Code). It should also join with other trails, connecting the National Trails System to significant recreation and resources areas.

“(B) The trail must be supported by at least one competent trailwide volunteer-based organization. Each trail should have extensive local and trailwide support by the public, by user groups, and by affected State and local governments.

“(C) The trail must be extended and pass through more than one State. At a minimum, it should be a continuous, walkable route.

“(13) The appropriate Secretary for each national discovery trail shall administer the trail in cooperation with at least one competent trailwide volunteer-based organization. Where the designation of discovery trail is aligned with other units of the National Trails System, or State or local trails, the designation of a discovery trail shall not affect the protections or authorities provided for the other trail or trails, nor shall the designation of a discovery trail diminish the values and significance for which those trails were established.”.

(b) DESIGNATION OF THE AMERICAN DISCOVERY TRAIL AS A NATIONAL DISCOVERY TRAIL.—Section 5(a) of such Act (16 U.S.C. 1244(a)) is amended—

(1) by re-designating the paragraph relating to the California National Historic Trail as paragraph (18);

(2) by redesignating the paragraph relating to the Pony Express National Historic Trail as paragraph (19);

(3) by redesignating the paragraph relating to the Selma to Montgomery National Historic Trail as paragraph (20)

(4) by adding at the end the following:

“(21) The American Discovery Trail, a trail of approximately 6,000 miles extending from Cape Henlopen State Park in Delaware to Point Reyes National Seashore in California, extending westward through Delaware, Maryland, the District of Columbia, West Virginia, Ohio, and Kentucky, where near Cincinnati it splits into two routes. The Northern Midwest route traverses Ohio, Indiana, Illinois, Iowa, Nebraska, and Colorado, and the Southern Midwest route traverses Indiana, Illinois, Missouri, Kansas, and Colorado. After the two routes rejoin in Denver, Colorado, the route continues through Colorado, Utah, Nevada, and California. The trail is generally described in Volume 2 of the National Park Service feasibility study dated June 1995 which shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, the District of Columbia. The American Discovery Trail shall be administered by the Secretary of the Interior in cooperation with at least one competent trailwide volunteer-based organization and other affected federal land managing agencies, and state and local governments, as appropriate. No lands or interests outside the exterior boundaries of federally administered areas may be acquired by the Federal Government solely for the American Discovery Trail. The provisions of sections 7(e), 7(f), and 7(g) shall not apply to the American Discovery Trail.”.

(c) COMPREHENSIVE NATIONAL DISCOVERY TRAIL PLAN.—Section 5 of such Act (16 U.S.C. 1244) is further amended by adding at the end the following new subsection:

“(g) Within three complete fiscal years after the date of enactment of any law designating a national discovery trail, the administering Federal agency shall, in cooperation with at least one competent trailwide volunteer-based organization, submit a comprehensive plan for the protection, management, development, and use of the federal portions of the trail, and provide technical assistance to states and local units of government and private landowners, as requested, for non-federal portions of the trail, to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The responsible Secretary shall ensure that the comprehensive plan for the entire trail does not conflict with existing agency direction and that the volunteer-based organization shall consult with the affected land managing agencies, the Governors of the affected States, affected county and local political jurisdictions, and local organizations maintaining components of the trail. Components of the comprehensive plan include—

“(1) policies and practices to be observed in the administration and management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, model agreements necessary for joint trail administration among and between interested parties, and an identified carrying capacity for critical segments of the trail and a plan for their implementation where appropriate;

“(2) general and site-specific trail-related development including anticipated costs; and

“(3) the process to be followed by the volunteer-based organization, in cooperation with the appropriate Secretary, to implement the trail marking authorities in section 7(c) conforming to approved trail logo or emblem requirements.” Nothing in this Act may be construed to impose or permit the imposition of any landowner on the use of any non federal lands without the consent of the owner thereof. Neither the designation of a National Discovery Trail nor any plan relating thereto shall affect or be considered in the granting or denial of a right of way or any conditions relating thereto.”

SEC. 3. CONFORMING AMENDMENTS.

The National Trails System Act is amended—

(1) in section 2(b) (16 U.S.C. 1241(b)), by striking “scenic and historic” and inserting “scenic, historic, and discovery”;

(2) in the section heading to section 5 (16 U.S.C. 1244), by striking “**AND NATIONAL HISTORIC**” and inserting “, **NATIONAL HISTORIC, AND NATIONAL DISCOVERY**”;

(3) in section 5(a) (16 U.S.C. 1244(a)), in the matter preceding paragraph (1)—

(A) by striking “and national historic” and inserting “, national historic, and national discovery”; and

(B) by striking “and National Historic” and inserting “, National Historic, and National Discovery”;

(4) in section 5(b) (16 U.S.C. 1244(b)), in the matter preceding paragraph (1), by striking “or national historic” and inserting “, national historic, or national discovery”;

(5) in section 5(b)(3) (16 U.S.C. 1244(b)(3)), by striking “or national historic” and inserting “, national historic, or national discovery”;

(6) in section 7(a)(2) (16 U.S.C. 1246(a)(2)), by striking “and national historic” and inserting “, national historic, and national discovery”;

(7) in section 7(b) (16 U.S.C. 1246(b)), by striking “or national historic” each place such term appears and inserting “, national historic, or national discovery”;

(8) in section 7(c) (16 U.S.C. 1246(c))—

(A) by striking “scenic or national historic” each place it appears and inserting “scenic, national historic, or national discovery”;

(B) in the second proviso, by striking “scenic, or national historic” and inserting “scenic, national historic, or national discovery”; and

(C) by striking “, and national historic” and inserting “, national historic, and national discovery”;

(9) in section 7(d) (16 U.S.C. 1246(d)), by striking “or national historic” and inserting “national historic, or national discovery”;

(10) in section 7(e) (16 U.S.C. 1246(e)), by striking “or national historic” each place such term appears and inserting “, national historic, or national discovery”;

(11) in section 7(f)(2) (16 U.S.C. 1246(f)(2)), by striking “National Scenic or Historic” and inserting “national scenic, historic, or discovery trail”;

(12) in section 7(h)(1) (16 U.S.C. 1246(h)(1)), by striking “or national historic” and inserting “national historic, or national discovery”; and

(13) in section 7(i) (16 U.S.C. 1246(i)), by striking “or national historic” and inserting “national historic, or national discovery”.

PURPOSE OF THE MEASURE

The purpose of S. 1069 is to amend the National Trails System Act to designate the American Discovery Trail as the first National Discovery Trail and to establish a new category of National Discovery Trails within the National Trails System.

BACKGROUND AND NEED

The American Discovery Trail (ADT) is a project administered by the American Trail Society (ADTS) to develop the first coast-to-coast multi-use hiking trail. It connects large cities, small towns and urban areas, and mountains, forest, desert and natural areas by incorporating together local, regional and national trails.

The ADT which is approximately 6,356 miles long, travels through fifteen states and the District of Columbia. Most of the Trail's route is located on public land, crossing private lands for only 58 miles along its route. The trail begins at the Pacific Ocean at Point Reyes National Seashore in California. From there, it traverses California, Nevada, Utah and Colorado, where in Denver it splits into two routes. The Northern Midwest route travels through Nebraska, Iowa, Illinois and Indiana. The Southern Midwest route explores Kansas, Missouri, Illinois and Indiana. After rejoining just west of Cincinnati, the route continues through Kentucky, Ohio, West Virginia, Maryland, Washington DC and Delaware, where the ADT ends at the Atlantic Ocean at Cape Henlopen State Park.

The National Trails System Act (NTSA) was enacted in 1968 as a framework for a national system of connected scenic, historic and recreational trails. Today, there are eight National Scenic Trails, which are protected scenic corridors for outdoor recreation located primarily in the back country; 12 National Historic Trails, which recognize prominent routes of exploration, migration, commerce, and military actions; and over 800 National Recreational Trails, shorter trails which vary in length, terrain, difficulty and accessibility and are managed by public and private agencies at the local, state and national levels.

Public Law 102-461 directed the National Park Service to conduct a feasibility study for the ADT. The study was completed and transmitted to Congress on July 15, 1996. The ADT is being proposed as the first of a new category of long-distance trails to connect various urban and metropolitan trails that have developed over the past 25 years, as well as back country trails. The ADT would connect five of the National Scenic Trails, 10 of the National Historic Trails, 23 of the National Recreational Trails, and hundreds of other local and regional trails. According to ADT proponents, until now, there has not been a national system of "connected" trails.

The ADT is a trail of national significance not only because of its length, but because it fits the goals of the "1990 Trails for All Americans Report," which envisions trails which will serve all Americans, connect the people and places of the Nation, provide diverse experiences while respecting the natural and built environments, and be built through creative partnerships. The ADT combines the qualities of national scenic, historic and recreational trails, but its real strength is that it provides connections. Connections between trails, between cities and the back country, and between the Atlantic and Pacific Oceans.

LEGISLATIVE HISTORY

S. 1069 was introduced on July 25, 1997 by Senators Murkowski and Warner. Since introduction the following cosponsors were added: Senators Hatch, Moseley-Braun, Robb, Reid, Campbell and Roth.

The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 1069 on February 11, 1998.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 10, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1069, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1069, the Committee adopted an amendment in the nature of a substitute, which made a number of clarifying and technical amendments to the bill as introduced. In addition, where national discovery trails are congruent with other local, state, national scenic, or national historic trails, the amendment clarifies that the designation of the discovery trail shall not diminish the values and significance for which those trails were established.

The amendment also eliminates provisions which would have provided that private land owner consent could be revoked at any time, and a provision relating to buffer zones.

SECTION-BY-SECTION ANALYSIS

Section 1 cites the short title of the Act as the "National Discovery Trails Act of 1997."

Section 2(a) amends the National Trails Systems Act by adding "National Discovery Trails" as a new category of trails which may be designated as part of the Act. The section contains a provision which requires the consent of owner of any non-Federal lands to be designated as a "Discovery Trail".

The section further amends the National Trails Systems Act by establishing criteria and cooperative management requirements for National Discovery Trails. A National Discovery Trail must link one or more areas within the boundaries of a metropolitan area and it should join with other trails, connecting the National Trails System to significant recreation and resources areas.

The trail must be supported by a competent trailwide volunteer-based organization and have extensive local and trailwide support by the public, user groups, and by affected State and local governments.

The trail should be a continuous walkable route and it must extend and pass through more than one State.

The appropriate Secretary for each National Discovery Trail shall administer the trail in cooperation with a trailwide volunteer-based organization.

Section 2(b) amends Section 5(a) of the National Trails System Act designate the "American Discovery Trail" as a National Discovery Trail. The trail extends approximately 6,000 miles from Point Reyes National Seashore in California, traveling through fifteen states and the District of Columbia, and splitting into a northern and southern route about mid-way through the United States as described in Volume 2 of the National Park Service feasibility study dated June 1995.

Section 2(c) amends Section 5 of the National Trails System Act by adding a new subsection which adds criteria and direction on

the completion of comprehensive management plans for National Discovery Trails.

Section 3 amends the National Trails System Act to make several conforming amendments.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 26, 1998.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1069, the National Discovery Trails Act of 1997.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1069—National Discovery Trails Act of 1997

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1069 would cost the federal government about \$1 million over the next two or three fiscal years and about \$0.5 million annually thereafter. Enacting S. 1069 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in Unfunded Mandates Reform Act of 1995 and would have no significant impact on the budgets of state, local, or tribal governments.

S. 1069 would establish “national discovery trails” as a new category within the National Trails System (NTS). National discovery trails would be extended, continuous, interstate trails designated on federal lands (or nonfederal property with the consent of the owner). As for other national trails, each discovery trail would be administered by the Secretary of Agriculture (Forest Service) or the Interior (National Park Service), as appropriate. Additionally, the respective secretary would have to manage each discovery trail in cooperation with at least one trailwide volunteer-based organization.

Finally, the bill would designate a 6,000-mile route as the American Discovery Trail. This first national discovery trail would be managed by the National Park Service (NPS), which would be prohibited from acquiring any land outside of federally administered areas solely for the purpose of the trail. The NPS would have three years to submit a comprehensive management plan for the development and use of the federal portions of the trail. The bill also would direct the agency to provide technical assistance to state and

local governments and private landowners for planning and managing nonfederal portions of the trail.

CBO estimates that the cost of adding another category to the NTS would have no effect on the federal budget. Establishing the American Discovery Trail would involve some additional federal expense. But because most sectors of the new trail are already owned by the federal government or otherwise protected and interpreted, we estimate that these costs would be less than \$1 million. Such one-time costs would include amounts to develop the comprehensive management plan, provide technical assistance, and create exhibits and other interpretive materials. In addition, the NPS would spend between \$0.4 million and \$0.6 million annually to manage and maintain the trail once the management plan has been completed, depending on how much of this effort would be borne by nonfederal entities such as volunteer organizations or state and local governments. This estimate is based on information provided by the NPS. For purposes of the estimate, CBO assumes that all required funding will be appropriated as necessary.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

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. 1069. 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 enactment of S. 1069, as ordered reported.

EXECUTIVE COMMUNICATIONS

On March 11, 1998, 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. 1069. These reports had not been received at the time the report on S. 1069 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 of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR, CULTURAL RESOURCE STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before this Committee to present the Department's views on S. 1069, the National Discovery Trails Act of 1997.

The Administration recently sent to Congress its proposal for the American Discovery Trail. We support enactment of S. 1069 if amended according to our testimony and the Administration's bill. We strongly support the concept of the American Discovery Trail and believe that the best way to integrate it into the existing National Trails System is through carefully establishing a new category of national discovery long-distance trails.

The American Discovery Trail (ADT) was proposed in 1990 as a continuous mid-continent, coast-to-coast trail to link metropolitan areas to the Nation's major long-distance trails, as well as to shorter local and regional trails. It was envisioned by its founders as a strong backbone for America's National Trails System.

In October 1992, through P.L. 102-461, Congress directed the Secretary of the Interior to study the feasibility and desirability of adding the ADT to the National Trails System. This study was completed in December, 1995, and submitted to Congress last year. The ADT route, as described in this legislation and mapped in the feasibility study, extends for over 6,000 miles from Cape Henlopen State Park in Delaware to Point Reyes National Seashore in California, crossing the states of Nevada, Utah, Colorado, Nebraska, Kansas, Iowa, Missouri, Illinois, Indiana, Ohio, a bit of Kentucky, West Virginia, Maryland, and the District of Columbia.

The feasibility study team visited many parts of the trail's route, analyzed its purposes and goals as a stand-alone project and as an integral part of the National Trails System. They developed the following three alternatives based on their findings:

Alternative 1 examined the ADT as a potential national scenic trail.

Alternative 2 recognized the unique characteristics of this trail and suggested a new category of trail within the National Trails System.

Alternative 3 explored taking no federal action.

S. 1069 is based on Alternative 2, a new category of long-distance trail.

We believe that the National Trails System can be improved by adding this new category, which links America's cities together, is open to a variety of trail users (as determined by local conditions), and relies on a relationship of equals between the Federal Government and a nonprofit partner. However, such trails must be limited to those that meet specific requirements and are of national interest and significance.

If created generally as proposed in this legislation, the ADT, as well as the new category of national discovery trails, will further the goals of the National Trails System in several significant ways—ways which help update the system to reflect current popular and political realities. The ADT will:

(1) link America's long-distance trails to a variety of cities and towns, thereby providing population centers direct access to our Nation's remarkable trails system;

(2) welcome into the National Trails System a new category of trails for which the primary responsibility for protecting and maintaining these trails lies not with the Federal Government, but with others;

(3) be built largely upon existing trails and trail systems, thereby eliminating the need for federal acquisition; and

(4) require that an effective private-sector partner is present from the start, rather than following designation. It is our experience that trails created without such partners tend to flounder and do not serve the public well. In this care, the nonprofit partner would shoulder much of the coordination and certification responsibility which, in the past, has fallen to the Federal Government in caring for long-distance trails created under the National Trails System Act.

The importance of a strong partner. The Appalachian Trail was the model and impetus for the National Trails System. When that trail was established as a national scenic trail in 1968, it was well-supported by a vibrant nonprofit organization, the Appalachian Trail Conference, with thousands of members and decades of trail-building and maintaining experience. For the National Park Service, helping protect and administer the Appalachian Trail from the beginning has been a mutual partnership, with both the conference and the service offering their skills and strengths to keep the trail viable and intact.

However, some of the trails subsequently established as part of the National Trails System have not had (and still do not have) strong partner organizations. In some cases, the Federal agency administering a trail has had to wait for such a group to get started or to assist in organizing it. Trail partnerships are essential to the well-being of the National Trails System. We strongly support the amendment to the National Trails System Act in S. 1069, which insists that one of the criteria for establishing a national discovery trail is that there already exists at least one competent, volunteer-based organization for the proposed trail, backed up by state and local public support.

Trail protection. By far the most controversial issue associated with the National Trails System is trail and trail corridor protection and, specifically, federal land acquisition. The organizers of the ADT recognized this early on and located this trail to minimize its impact on private lands. It is our understanding that there are only a handful of private parcels crossed by the trail, and these occur where an underlying trail already exists, such as the Buckeye Trail in Ohio. The feasibility study team felt strongly that local and state jurisdictions should bear the primary responsibility for protecting and enhancing the

ADT and its corridor on both sides. The Federal Government should only be a facilitator and agent of last resort.

Trail costs: The National Park Service today administers 15 of the nation's 20 national scenic and historic trails. They range in length from 54 to 5,600 miles. Operating costs range from \$25,000 to over \$720,000 per year. Because of its length and complexity, costs for the ADT will fall somewhere in the middle of this range. The feasibility study team estimated the trail's comprehensive management plan would cost approximately \$360,000 over several years, and that annual Federal operating costs of the trail as a national discovery trail will be about \$400,000 a year. Additionally, costs would be incurred by the Bureau of Land Management and the Forest Service for the management of the portions of the trail under their jurisdiction. There should be no land acquisition or protection costs for the Federal Government, since primary responsibility for trail corridor protection lies with state, local, and nonprofit partners. It should be noted that authority already exists within the National Trails System Act to appropriate any necessary funds to support this trail, or other trails created as national discovery trails. Funding for this addition to the National Trails System is not currently assumed in outyear budget estimates. Establishment of this new trail, even if authorized by Congress, would be contingent on Administration priorities and available resources.

Amendments: Based on 20 years' experience administering national trails, we have a number of amendments to S. 1069 to conform the bill to the Administration's proposal and to provide clarity and consistency. We are particularly concerned about language in four places where we believe state and local jurisdictions, which have the primary responsibility for protecting and managing segments of national discovery trails, would be severely hampered in their ability to keep the trail open to the public and to provide recreational access. We propose deleting language in three of these places and offer alternative language in the fourth:

1. On page 2, strike the provision beginning on line 10 and ending on line 20, and place a period after "Federal lands" in line 10.

2. On page 3, line 18, place a period after "route" and strike the remainder of the sentence.

3. On page 6, line 24, strike the sentences beginning with "Nothing in this Act * * *" through page 7, line 7.

4. On page 5, strike the sentence beginning on line 8. Replace the sentence with the following language, which is consistent with other recently established national trails: "Where authorized, lands or interests in lands related to this trail may be acquired by the Federal Government only with the consent of the owner."

In addition, we have a number of clarifying and technical amendments to S. 1069, which we believe would help meet the Administration's objectives in establishing this

new category of trails. These amendments are outlined in the attached legislative report.

Mr. Chairman, we support designation of the ADT as the first of a new category of national discovery trails. We believe it is innovative and worthy of designation with the amendments suggested. The feasibility study has shown that people across the nation are clearly enthusiastic about this effort. The American Discovery Trail and future discovery trails will link America's towns and cities, creating a true National Trails System.

This concludes my prepared remarks. I will be glad to answer any questions you may have.

Proposed National Park Service amendments to S. 1069

1. On page 2, line 22, strike "Section 5" and insert "Section 5(b)".

2. On page 2, line 24, strike "subsection" and insert "paragraph".

3. On page 3, line 1, strike "(g)(1)" and insert "(12)".

Amendments 1-3 would keep the entire discussion of trail feasibility in the same section of the National Trails System Act.

4. On page 3, lines 11-12, lines 22-23, and on page 5, line 6, strike "a competent trailwide nonprofit organization" and insert "at least one competent, trailwide, volunteer-based organization". We propose this alternative language to highlight the importance of volunteer support for these trails. In some cases there may be more than one organization supporting a discovery trail.

5. On page 3, at the end of line 23, add "Where national discovery trails are congruent with other local, state, national scenic, or national historic trails, the designation of the discovery trail shall not diminish the values and significance for which those trails were established."

This amendment would ensure that discovery trails have the same significance as other trails in the system.

6. On page 4, line 9, strike "and" and add "(3) by redesignating the paragraph relating to the Selma to Montgomery National Historic Trail as paragraph (20)".

7. On page 4, line 10, strike "(3)" and insert "(4)".

8. On page 4, line 5, strike "(20)" and insert "(21)".

Amendments 6-8 are necessary since the establishment of the Selma to Montgomery National Historic Trail in the 104th Congress, which is numbered 20.

9. On page 5, line 7, strike "and other", place a comma after "agencies", and add the phrase "and state and local governments as appropriate".

This amendment would give full discretion to trail administrators to work with the necessary units of government.

10. On page 5, line 12, strike "sections 7(e), 7(f), and" and insert "subsection".

The NPS believes national discovery trails should not be exempt from subsections 7(e) and 7(f) of the National

Trails System Act. An exemption from subsections 7(e) and 7(f) may unduly restrict Federal activity needed to protect this trail. Subsection 78(e) authorizes acceptance of donations and collaboration through cooperative agreements, and 7(f) authorizes land exchanges to protect national trails.

11. On page 5, line 17, strike “(h)” and insert “(g)”.

This is a technical amendment.

12. On page 5, line 19, after the word “trail,” strike all through “trail,” on line 24 and insert “the responsible secretary shall submit a comprehensive plan for the protection, management, development, and use of the of the trail”.

It appears some words may have been left out of this sentence. The language we propose would clarify that technical assistance comes later during trail administration, not during the preparation of a plan for the trail.

13. On page 6, line 2, insert the word “responsible” before secretary to make it clear the language refers to the secretary responsible for that particular trail.

14. On page 6, strike lines 4–5 and insert “trail does not conflict with existing agency direction and shall consult with the affected”.

This language provides some clarity to the authority.

15. On page 6, line 7, insert “affected” before “county”.

This is a clarifying amendment.

16. On page 6, lines 9–10, delete “Mandatory” and capitalize “Components”.

This work is unnecessary since the rest of the sentence has the force of law.

17. On page 6, line 10, delete “specific objectives” and insert “policies”.

Policies are preferred to specific objectives to encourage trail partners to frame principles of cooperation during the planning process.

18. On page 6, line 16 and 17, strike “of the trail and a plan for its implementation” and insert “for critical segments of the trail and a plan for their implementation where appropriate.”

We suggest this amendment because the reference to “identified carrying capacity” creates a difficult requirement that has been almost impossible to address in other trail plans. The concept of carrying capacity must be done flexibly because of the great variability of sites and segments

19. On page 6, line 18, strike “plans” and insert “trail-related” before “development”.

This is a clarifying amendment.

20. On page 6, lines 20–22, strike “by the nonprofit organization, in cooperation with the appropriate Secretary,”.

This language is redundant.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1069, as ordered 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);

(Public Law 90-543, as amended—October 2, 1968)

SEC. 2(a) In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established (i) primarily, near the urban areas of the Nation, and (ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.

(b) The purpose of this Act is to provide the means for attaining these objectives by instituting a national system of recreation, [scenic and historic] *scenic, historic, and discovery* trails, by designating the Appalachian Trail and the Pacific Crest Trail as the initial components of that system, and by prescribing the methods by which, and standards according to which, additional components may be added to the system.

(c) The Congress recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's trails. In recognition of these contributions, it is further the purpose of this Act to encourage and assist volunteer citizen involvement in the planning, development, maintenance, and management, where appropriate, of trails.

SEC. 3(a) The national system of trails shall be composed of the following:

(1) National recreation trails, established as provided in section 4 of this Act, which will provide a variety of outdoor recreation uses in or reasonably accessible to urban areas.

(2) National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as land forms which exhibit significant characteristics of the physiographic regions of the Nation.

(3) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historic significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose

the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act are included as Federal protection components of a national historic trail. The appropriate Secretary may certify other lands as protected segments of a historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.

(4) Connecting or side trails, established as provided in section 6 of this Act, which will provide additional points of public access to national recreation, national scenic or national historic trails or which will provide connections between such trails.

The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker for the national trails system.

(5) National discovery trails, established as provided in section 5, which will be extended, continuous, interstate trails so located as to provide for outstanding outdoor recreation and travel as to connect representative examples of America's trails and communities. National discovery trails should provide for the conservation and enjoyment of significant natural cultural, and historic resources associated with each trail and should be so located as to represent metropolitan, urban, rural, and back country regions of the Nation. Any such trail may be designated on federal lands and, with the consent of the owner thereof, on any non federal lands.

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NATIONAL SCENIC AND [NATIONAL HISTORIC] NATIONAL HISTORIC,
AND NATIONAL DISCOVERY TRAILS

SEC. 5. (a) National Scenic and [national historic] *national historic, and national discovery* trails shall be authorized and designated only by an Act of Congress. There are hereby established the following National Scenic and [National Historic] *National Historic, and National Discovery* Trails:

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[0] (18) The California National Historic Trail, a route of approximately five thousand seven hundred miles, including all routes and cutoffs, extending from Independence and Saint Joseph, Missouri, and Council Bluffs, Iowa, to various points in California an Oregon, as generally described in the report of the Department of the "California Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment" and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the

National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the California National Historic Trail except with the consent of the owner thereof.

【(1)】 (19) The Pony Express national Historic Trail, a route of approximately one thousand nine hundred miles, including the original route and subsequent route changes, extending from Saint Joseph, Missouri, to Sacramento, California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled "California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment", and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof.

【(2)】 (20) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.

(21) *The American Discovery Trail, a trail of approximately 6,000 miles extending from Cape Henlopen State Park in Delaware to Point Reyes National Seashore in California, extending westward through Delaware, Maryland, the District of Columbia, West Virginia, Ohio, and Kentucky, where near Cincinnati it splits into two routes. The Northern Midwest route traverses Ohio, Indiana, Illinois, Iowa, Nebraska, and Colorado, and the Southern Midwest route traverses Indiana, Illinois, Missouri, Kansas, and Colorado. After the two routes rejoin in Denver, Colorado, the route continues through Colorado, Utah, Nevada, and California. The trail is generally described in Volume 2 of the National Park Service feasibility study dated June 1995 which shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, the District of Columbia. The American Discov-*

ery Trail shall be administered by the Secretary of the Interior in cooperation with at least one competent trailwide volunteer-based organization and other affected federal land managing agencies, and state and local governments, as appropriate. No lands or interests outside the exterior boundaries of federally administered areas may be acquired by the Federal Government solely for the American Discovery Trail. The provisions of sections 7(e), 7(f), and 7(g) shall not apply to the American Discovery Trail.”

(b) The Secretary of the Interior, through the agency most likely to administer such trail, and the Secretary of Agriculture where lands administered by him are involved, shall make such additional studies as are herein or may hereafter be authorized by the Congress for the purpose of determining the feasibility a desirability of designating other trails as national scenic or [national historic] *national historic, and national discovery* trails. Such studies shall be made in consultation with the heads of other Federal agencies administering lands through which such additional proposed trails would pass and in cooperation with interested interstate, State, and local governmental agencies, public and private organizations, and landowners and land users concerned. The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and whether the development of a trail would be financially feasible. The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not limited to:

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(3) the characteristics which, in the judgment of the appropriate Secretary, make the proposed trail worthy of designation as a national scenic or [national historic] *national historic or national discovery* trail; and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior’s National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; 16 U.S.C. 461);

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(12) *For purposes of subsection (b), a trail shall not be considered feasible and desirable for designation as a national discovery trail unless it meets all of the following criteria:*

(A) *The trail must link one or more areas within the boundaries of a metropolitan area (as those boundaries are determined under section 134(c) of title 23, United States Code). It should also join with other trails, connecting the National Trails System to significant recreation and resource areas.*

(B) *The trail must be supported by at least one competent trailwide volunteer-based organization. Each trail should have*

extensive local and trailwide support by the public, by user groups, and by affected State and local governments.

(C) The trail must be extended and pass through more than one State. At a minimum, it should be a continuous, walkable route.

(13) The appropriate Secretary for each national discovery trail shall administer the trail in cooperation with at least one competent trailwide volunteer-based organization. Where the designation of a discovery trail is aligned with other units of the National Trails System, or State or local trails, the designation of a discovery trail shall not affect the protections or authorities provided for the other trail or trails, nor shall the designation of a discovery trail diminish the values and significance for which those trails were established.

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(g) Within three complete fiscal years after the date of enactment of any law designating a national discovery trail, the administering Federal agency shall, in cooperation with at least one competent trailwide volunteer-based organization, submit a comprehensive plan for the protection, management, development, and use of the federal portions of the trail, and provide technical assistance to states and local units of government and private landowners, as requested, for non-federal portions of the trail, to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The responsible Secretary shall ensure that the comprehensive plan for the entire trail does not conflict with existing agency direction and that the volunteer-based organization shall consult with the affected land managing agencies, the Governors of the affected States, affected county and local political jurisdictions, and local organizations maintaining components of the trail. Components of the comprehensive plan include—

(1) policies and practices to be observed in the administration and management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, model agreements necessary for joint trail administration among and between interested parties, and an identified carrying capacity for critical segments of the trail and a plan for their implementation where appropriate;

(2) general and site-specific trail-related development including anticipated costs; and

(3) the process to be followed by the volunteer-based organization, in cooperation with the appropriate Secretary, to implement the trail marking authorities in section 7(c) conforming to approved trail logo or emblem requirements. Nothing in this Act may be construed to impose or permit the imposition of any landowner on the use of any non federal lands without the consent of the owner thereof. Neither the designation of a National Discovery Trail nor any plan relating thereto shall affect or be considered in the granting or denial of a right of way or any conditions relating thereto.

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SEC. 7(a)(2) Pursuant to section 5(a), the appropriate Secretary shall select the rights-of-way for national scenic and [national historic] *national historic*, and *national discovery* trails and shall publish notice of the availability of appropriate maps or descriptions in the Federal Register: *Provided*, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The location and width of such right-of-way across Federal lands under the jurisdiction of another Federal agency shall be by agreement between the head of that agency and the appropriate Secretary. In selecting rights-of-way for trail purposes the secretary shall obtain the advice and assistance of the States, local governments, private organizations, and landowners and land users concerned.

(b) After publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or [national historic] *national historic* or *national discovery* trail may relocate segments of a national scenic or [national historic] *national historic* or *national discovery* trail right-of-way, with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) Such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: *Provided*, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.

(c) National [scenic or national historic] *scenic*, *national historic*, or *national discovery* trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purpose of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts shall be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this Act shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: *Provided*, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights; *Provided further*, That private lands included in the national recreation, national [scenic, or national historic] *scenic*, *national historic*, or *national discovery* trails by cooperative agree-

ment of a landowner shall not preclude such owner from using motorized vehicles on or across such trails or adjacent land from time to time in accordance with regulations to be established by the appropriate Secretary. Where a [national historic] *national historic and national discovery* trail follows existing public roads, developed rights-of-way of waterways, and similar features of man's non-historically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a [national historic] *national historic, and national discovery* trail parallels an existing public road, such road may be marked to commemorate the historic route. Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail. The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, national [scenic, and national historic] *scenic, national historic, or national discovery* trail. Where the trails cross lands administered by Federal agencies such markers shall be erected at appropriated points along the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies and shall require such agencies to erect and maintain them in accordance with the standards established. The appropriate Secretary may also provide for trail interpretation sites, which shall be located at historic sites along the route of any national [scenic or national historic] *scenic, national historic, or national discovery* trail, in order to present information to the public about the trail, at the lowest possible cost, with emphasis on the portion of the trail passing through the State in which the site is located. Wherever possible, the sites shall be maintained by a State agency under a cooperative agreement between the appropriate Secretary and the State agency.

(d) Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for a national recreation, national scenic, or [national historic] *national historic, or national discovery* trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase without donated or appropriated fund or exchange.

(e) Where the lands included in a national scenic or [national historic] *national historic, or national discovery* trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be uti-

lized as segments of the national scenic or [national historic] *national historic, or national discovery* trail: *Provided*, That if the State or local governments fail to enter into such written cooperative agreements or to acquire such lands or interest therein after notice of the selection of the right-of-way is published, the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of subsection (f) of this section: *Provided further*, That the appropriate Secretary may acquire lands or interests therein from local governments or governmental corporations with the consent of such entities. The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired: *Provided*, That if the Secretary charged with the administration of such trail permanently relocates the right-of-way and disposes of all title or interest in the land, the original owner, or his heirs or assigns, shall be offered by notice given at the former owner's last known address, the right of first refusal at their fair market price.

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(f)(2) In acquiring lands or interest therein for a [National Scenic or Historic Trail] *national scenic, historic, or discovery trail*, the appropriate Secretary may, with consent of a landowner, acquire whole tracts notwithstanding the parts of such tracts may lie outside the area of trail acquisition. In furtherance of the purposes of this Act, lands so acquired outside the area of trail acquisition may be exchanged for any non-Federal lands or interests therein within the trail right-of-way or disposed of in accordance with such procedures or regulations as the appropriate Secretary shall prescribe, including: (i) provisions for conveyance of such acquired lands or interests therein at not less than fair market value to the highest bidder, and (ii) provisions for allowing the last owners or record a right to purchase said acquired lands or interests therein upon payment or agreement to pay an amount equal to the highest bid price. For lands designated for exchange or disposal, the appropriate Secretary may convey these lands with any reservations or covenants deemed desirable to further the purposes of this Act. The proceeds from any disposal shall be credited to the appropriation bearing the costs of land acquisition for the affected trail.

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(h)(1) The Secretary charged with the administration of a national recreation, national scenic, or [national historic] *national historic or national discovery* trail shall provide for the development and maintenance of such trails within federally administered areas and shall cooperate with and encourage the States to operate, develop, and maintain portions of such trails which are located outside the boundaries of federally administered areas. When deemed to be in the public interest, such Secretary may enter written cooperative agreements with the States or their political subdivisions, landowners, private organizations, or individuals to operate, develop, and maintain any portion of such a trail either within

or outside federally administered area. Such agreements may include provisions or limited financial assistance to encourage participation in the acquisition, protection, operation, development, or maintenance of such trails, provisions providing volunteer in the park or volunteer in the forest status (in accordance with the Volunteers in the Parks Act of 1969 and the Volunteers in the Forests Act of 1972) to individuals, private organizations, or landowners participating in such activities, or provisions of both types. The appropriate Secretary shall also initiate consultations with affected States and their political subdivisions to encourage:

(i) The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or **[national historic]** *national historic, or national discovery* trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary and any person who violates such regulations shall be guilty of a misdemeanor and may be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or by both such fine and imprisonment. The Secretary responsible for the administration of any segment of any component of the National Trails System (as determined in a manner consistent with sub section (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forest system, as the case may be, in carrying out his administrative responsibilities for such component.