

## Calendar No. 366

110TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
{ 110-168

### NATIONAL HERITAGE AREAS PARTNERSHIP ACT

SEPTEMBER 17, 2007.—Ordered to be printed

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

### R E P O R T

[To accompany S. 278]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 278) to establish a program and criteria for National Heritage Areas in the United States, and for other purposes, 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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “National Heritage Areas Partnership Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.
- Sec. 4. National Heritage Areas system.
- Sec. 5. Studies.
- Sec. 6. Designation of National Heritage Areas.
- Sec. 7. Management plans.
- Sec. 8. Evaluation; report.
- Sec. 9. Local coordinating entities.
- Sec. 10. Relationship to other Federal agencies.
- Sec. 11. Private property and regulatory protections.
- Sec. 12. Partnership support.
- Sec. 13. Authorization of appropriations.

#### SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to promote public understanding, appreciation, and enjoyment of many places, events and people that have contributed to the story of the United States;

(2) to promote innovative and partnership-driven management strategies that recognize regional values, encourage locally tailored resource stewardship and interpretation, and provide for the effective leveraging of Federal funds with other local, State, and private funding sources;

(3) to unify national standards and processes for conducting feasibility studies, designating a system of National Heritage Areas, and approving management plans for National Heritage Areas;

(4) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within National Heritage Areas; and

(5) to provide financial and technical assistance to National Heritage Area local coordinating entities that act as a catalyst for diverse regions, communities, organizations, and citizens to undertake projects and programs for collaborative resource stewardship and interpretation.

### SEC. 3. DEFINITIONS.

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term “local coordinating entity” means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term “management plan” means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 7.

(3) NATIONAL HERITAGE AREA.—The term “National Heritage Area” means an area designated by Congress that is nationally important to the heritage of the United States and meets the criteria established under section 5(a).

(4) NATIONAL IMPORTANCE.—The term “national importance” means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROPOSED NATIONAL HERITAGE AREA.—The term “proposed National Heritage Area” means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(7) STUDY.—The term “study” means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 5, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

(8) SYSTEM.—The term “system” means the system of National Heritage Areas established under section 4(a).

### SEC. 4. NATIONAL HERITAGE AREAS SYSTEM.

(a) IN GENERAL.—In order to recognize certain areas of the United States that tell nationally important stories and to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the areas that together illustrate significant aspects of the heritage of the United States, there is established a system of National Heritage Areas through which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment, development, and continuity of the National Heritage Areas.

(b) SYSTEM.—The system of National Heritage Areas shall be composed of—

(1) National Heritage Areas established by Congress before or on the date of enactment of this Act; and

(2) National Heritage Areas established by Congress after the date of enactment of this Act, as provided for in this Act.

(c) RELATIONSHIP TO THE NATIONAL PARK SYSTEM.—

(1) RELATIONSHIP TO NATIONAL PARK UNITS.—The Secretary shall—

(A) ensure, to the maximum extent practicable, participation and assistance by units of the National Park System located near or encompassed by National Heritage Areas in local initiatives for National Heritage Areas that conserve and interpret resources consistent with an approved management plan; and

(B) work with National Heritage Areas to promote public enjoyment of units of the National Park System and park-related resources.

(2) APPLICABILITY OF LAWS.—National Heritage Areas shall not be—

(A) considered to be units of the National Park System; or

(B) subject to the laws applicable to units of the National Park System.

(d) DUTIES.—Under the system, the Secretary shall—

- (1)(A) conduct studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or
- (B) review and comment on studies undertaken by other parties to make such assessment;
- (2) provide technical and financial assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;
- (3) enter into cooperative agreements with interested parties to carry out this Act;
- (4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;
- (5) provide national oversight, analysis, coordination, and technical and financial assistance and support to ensure consistency and accountability under the system;
- (6) submit annually to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act; and
- (7) conduct an evaluation of, and prepare a report on, National Heritage Areas in accordance with section 8.

**SEC. 5. STUDIES.**

(a) CRITERIA.—In conducting or reviewing a study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

- (A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;
- (B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;
- (C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;
- (D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;
- (E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;
- (F) provides outstanding recreational or educational opportunities; and
- (G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(c) APPROVAL.—On completion or receipt of a study for a National Heritage Area, the Secretary shall—

- (1) review, comment on, and determine if the study meets the criteria specified in subsection (a) for designation as a National Heritage Area;
- (2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (c)(3) a description of the reasons for the determination.

#### SEC. 6. DESIGNATION OF NATIONAL HERITAGE AREAS.

(a) IN GENERAL.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a study and an affirmative determination by the Secretary that the area meets the criteria established under section 5(a).

(b) COMPONENT OF THE SYSTEM.—Any National Heritage Area designated under subsection (a) shall be a component of the system.

#### SEC. 7. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until

such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

**SEC. 8. EVALUATION; REPORT.**

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for a National Heritage Area under section 13(b)(2), the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

- (2) analyze the Federal, State, local, and private investments in the National Heritage Area to determine the leverage and impact of the investments; and
- (3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the National Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the National Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

**SEC. 9. LOCAL COORDINATING ENTITIES.**

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 7;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

**SEC. 10. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is en-

couraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

- (1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;
- (2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or
- (3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

**SEC. 11. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.**

Nothing in this Act—

- (1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;
- (2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;
- (3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;
- (4) authorizes or implies the reservation or appropriation of water or water rights;
- (5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or
- (6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

**SEC. 12. PARTNERSHIP SUPPORT.**

(a) TECHNICAL ASSISTANCE.—On termination of the 15-year period for which assistance is provided under section 13, the Secretary may, on request of a local coordinating entity, continue to provide technical assistance to a National Heritage Area under section 4.

(b) GRANT ASSISTANCE.—

(1) IN GENERAL.—The Secretary may establish a grant program under which the Secretary provides grants, on a competitive basis, to local coordinating entities for the conduct of individual projects at National Heritage Areas for which financial assistance has terminated under section 13.

(2) CONDITIONS.—The provision of a grant under paragraph (1) shall be subject to the condition that—

(A) a project must be approved by the local coordinating entity as promoting the purposes of the management plan required under section 7;

(B) a project may receive only 1 grant of no more than \$250,000 in any 1 fiscal year;

(C) a maximum of \$250,000 may be received by a local coordinating entity for projects funded under this subsection in any 1 fiscal year; and

(D) a project shall not be eligible for funding under this section in any fiscal year that a local coordinating entity receives an appropriation through the National Park Service (excluding technical assistance) for the National Heritage Area at which the project is being conducted.

(c) REPORT.—For each fiscal year in which assistance is provided under this section, the Secretary shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate a list of the projects provided assistance for the fiscal year.

**SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

(a) STUDIES.—There is authorized to be appropriated to conduct and review studies under section 5 \$750,000 for each fiscal year, of which not more than \$250,000 for any fiscal year may be used for any individual study for a proposed National Heritage Area.

(b) LOCAL COORDINATING ENTITIES.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 9 \$25,000,000 for each fiscal year, of which not more than—

(A) \$1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of \$10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

## (2) TERMINATION DATE.—

(A) IN GENERAL.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this section (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating entity.

(B) DESIGNATION.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) ADMINISTRATION.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) HERITAGE PARTNERSHIP GRANT ASSISTANCE.—There is authorized to be appropriated to the Secretary to carry out section 12 \$5,000,000 for each fiscal year.

## (d) MATCHING FUNDS.—

(1) IN GENERAL.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) ADMINISTRATION.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

## PURPOSE

The purpose of S. 278 is to establish a program and criteria for National Heritage Areas.

## BACKGROUND AND NEED

National Heritage Areas are established to commemorate, conserve and economically promote important areas that include natural, scenic, historic, cultural or recreational resources. Unlike areas that are under the sole jurisdiction of the National Park Service (NPS), such as parks or monuments, heritage areas typically remain in non-Federal ownership and are managed by local communities and partners. To date, Congress has designated 37 National Heritage Areas, including ten new areas that were designated in the 109th Congress. National Heritage Areas receive financial and technical assistance through cooperative agreements with the National Park Service. They also receive funds from other agencies and non-Federal sources.

Most heritage areas are authorized to receive appropriations of up to \$1 million each year, with a maximum total appropriation of \$10 to \$15 million. Generally, the authorizing legislation for each heritage area includes a requirement that Federal funds must be matched equally by non-Federal funds. For fiscal years 1997 through 2002, national heritage areas received \$310 million in funding. Of this total, approximately \$154 million came from state and local governments and private sources and \$156 million came from the Federal government.

Currently the National Park Service has no systematic process for identifying or evaluating potential heritage areas and no formal program for managing them. The success of previously designated areas and the opportunity for Federal funding has resulted in an increase in proposals for new heritage areas, with more than two dozen national heritage area proposals currently pending in the 110th Congress. The sizable number of new proposals before Congress has raised some concern regarding the most effective means to manage the program in the future.



In 2004, the Government Accountability Office (GAO) published a report that examined national heritage areas and suggested ways to improve their accountability (GAO04-593T, March 30, 2004). To ensure that only nationally significant resources be designated as national heritage areas, the GAO recommended that standardized criteria be adopted for evaluating potential new areas. The GAO report also suggests, given the magnitude of funds appropriated, that certain key management controls be instituted to ensure accountability and program consistency.

In 2006, the National Park System Advisory Board released a report entitled “Charting a Future for National Heritage Areas.” The report found that “[w]hile existing [national heritage area] designations often share similar strategies, no legislative foundation ensures a standard approach to how new areas should be studied, designated, administered, and funded. A formal policy framework is needed to clarify the roles and responsibilities of partners in these efforts. The framework should specify criteria and standards for studying and establishing new areas, uniform timeframes, and funding and management strategies to accomplish the work.”

Consistent with the recommendations of these two reports, S. 278 would establish program requirements and criteria for evaluating national heritage areas, as well as place limitations on cumulative Federal funding for the program.

#### LEGISLATIVE HISTORY

S. 278 was introduced by Senator Thomas on January 12, 2007. Because the bill is similar to legislation reported by the Committee in previous Congresses, the Committee did not hold a hearing on S. 278.

The Committee considered similar legislation in the 109th Congress, S. 243, also sponsored by Senator Thomas. The Committee ordered S. 243 favorably reported on February 9, 2005 (S. Rept. 109-26), and the bill passed the Senate by unanimous consent, with amendments, on July 25, 2005. No further action occurred in the House of Representatives.

In the 108th Congress, Senators Thomas and Burns introduced a similar measure, S. 2543. The Subcommittee on National Parks held a hearing on that bill on June 24, 2004 (S. Hrg. 108-692). S. 2543 was favorably reported by the Committee with an amendment in the nature of a substitute on July 14, 2004 (S. Rept. 108-329), and passed the Senate by unanimous consent on September 15, 2004. No further action occurred in the House of Representatives.

At its business meeting on July 25, 2007, the Committee on Energy and Natural Resources ordered S. 278 favorably reported with an amendment in the nature of a substitute.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 25, 2007, by a voice vote of a quorum present, recommends that the Senate pass S. 278, if amended as described herein.

## COMMITTEE AMENDMENT

During its consideration of S. 278, the Committee adopted an amendment in the nature of a substitute. In addition to making several clarifying and conforming changes, the amendment adds a requirement that the Secretary of the Interior conduct an evaluation of each authorized heritage area not later than three years before the date authority for Federal funding terminates, to assess the progress of the management entity in accomplishing the purposes for which the heritage area was established and whether the goals and objectives of the management plan for the heritage area were achieved. The Secretary is required to submit a report of the findings of the evaluation to the Congressional authorizing Committees.

The amendment is explained in detail in the section-by-section analysis, below.

## SECTION-BY-SECTION ANALYSIS

Section 1(a) entitles the Act the “National Heritage Partnership Act.”

Subsection (b) contains the table of contents.

Section 2 lists the purposes of the Act.

Section 3 contains definitions of key terms used in the Act.

Section 4(a) establishes a system of National Heritage Areas in order to recognize certain areas of the United States that tell nationally important stories and to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the areas that together illustrate significant aspects of the heritage of the United States.

Subsection (b) provides that the National Heritage Areas System shall be composed of national heritage areas established by Congress on or before the date of enactment of this Act, and national heritage areas established by Congress after the date of enactment of this Act.

Subsection (c) describes the relationship of national heritage areas to the National Park System. The Secretary of the Interior is directed to ensure, to the maximum extent practicable, that units of the National Park System that are near designated national heritage areas, participate in and assist local initiatives related to the heritage area that conserve and interpret resources consistent with an approved management plan, and work with heritage areas to promote public enjoyment of the park and park-related resources. The subsection makes clear that national heritage areas are not units of the National Park System and are not subject to the laws applicable to units of the National Park System (although a National Park System unit located within the boundaries of a national heritage area would continue to be managed in accordance with National Park System laws).

Subsection (d) describes the duties of the Secretary under the program.

Section 5(a) lists the criteria to be used by the Secretary to determine the feasibility and suitability of a proposed heritage area.

Subsection (b) requires the Secretary, in conducting or reviewing a study, to consult with managers of Federal land within the pro-

posed heritage area and secure the concurrence of the managers before making a determination for designation.

Subsection (c) describes the process by which the Secretary approves a suitability and feasibility study.

Subsection (d) provides that if the Secretary determines that a proposed national heritage area does not meet the criteria for designation, the Secretary shall include the reasons for disapproval when the study is transmitted to Congress.

Section 6 provides that designation of a national heritage area shall only be by an Act of Congress and contingent upon the prior completion of a suitability and feasibility study with an affirmative determination by the Secretary that the area meets the criteria for designation. Any designated national heritage area shall be a component of the National Heritage Areas System.

Section 7(a) describes the requirements for a heritage area's management plan.

Subsection (b) requires the management entity to submit a management plan to the Secretary within three years after the date funds are made available for the plan. If the plan is not submitted on time, Federal funding for the heritage area is stopped until the plan is submitted.

Subsection (c) describes the process by which the Secretary approves or disapproves a management plan, and lists the criteria for approval.

Section 8(a) requires the Secretary to conduct an evaluation of the accomplishments of each national heritage area not later than three years before the date Federal funding authority for the area terminates.

Subsection (b) provides that the evaluation shall assess the progress of the local coordinating entity with respect to accomplishing the purposes of this Act for the heritage area and whether the local coordinating entity achieved the goals and objectives of the approved management plan for the heritage area. The evaluation is also required to analyze governmental investments in the heritage area to determine the leverage and impact of the investments.

Subsection (c) requires the Secretary to prepare a report, based on the evaluation, that includes recommendations for the future role of the National Park Service, if any, for the heritage area. If the report recommends that Federal funding for the area be reauthorized, it is required to include an analysis of ways Federal funding may be reduced or eliminated. The report is to be submitted to the House and Senate authorizing committees.

Section 9(a) describes the duties and responsibilities of the local coordinating entity for a heritage area.

Subsection (b) authorizes the local coordinating entity, for the purposes of preparing and implementing an approved management plan for the heritage area, to make grants, enter into cooperative agreements with governmental entities, non-profit organizations, and other interested persons, hire staff, obtain funds or services from any source, contract for goods or services, and support activities of partner groups.

Subsection (c) states that a local coordinating entity may not use Federal funds to acquire real property or an interest in real property.

Section 10 states that nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance to a national heritage area. Other Federal agencies are encouraged to consult with the Secretary on issues concerning the heritage area to the extent practicable. Nothing in this Act limits, modifies, alters or amends any authorized use of Federal land.

Section 11 contains several savings provisions to clarify that the designation of the national heritage area will not affect private property rights, affect governmental land use regulation, reserve or appropriate water rights, diminish the authority of the State to manage fish and wildlife, or create any liability for property owners within the heritage area.

Section 12 authorizes the Secretary to provide a grant to the local coordinating entity after termination of the 15-year Federal funding period. Grants would be awarded on a competitive basis and could not exceed \$250,000 for any local coordinating entity in a single year. The Secretary is required to submit a report to Congress for each year that grant assistance is provided.

Section 13(a) authorizes the appropriation of \$750,000 for each fiscal year to conduct and review feasibility studies for potential heritage areas. Not more than \$250,000 is authorized for any individual study for any given fiscal year.

Subsection (b) caps total annual authorizations for national heritage areas at \$25 million. Not more than \$1,000,000 annually could be appropriated for any individual heritage area. A total appropriation of \$10 million may be made for an individual heritage area over all fiscal years. The Secretary's authority to provide technical and financial assistance to each heritage area is limited to 15 years, but the area is authorized to retain the designation of National Heritage Area after Federal funding has terminated. Not more than five percent of appropriated funds may be used for technical assistance, oversight, and administrative purposes.

Subsection (c) authorizes \$5 million annually for the competitive grant program described in section 12.

Subsection (d) requires the recipient of any grant made under this Act to provide, through non-Federal sources, an amount equal to the Federal grant. The non-Federal contribution may include in-kind contributions of goods and services.

#### COST AND BUDGETARY CONSIDERATIONS

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

AUGUST 2, 2007.

Hon. JEFF BINGAMAN,  
*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. 278, the National Heritage Areas Partnership Act.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

*S. 278—National Heritage Areas Partnership Act*

S. 278 would provide a framework for establishing new national heritage areas (NHAs); however, none of the activities that would be governed by the bill could be carried out without further authorizing legislation. Congressional action would be required to authorize both the first step in the process to establish a national heritage area, a feasibility study, and the final step, a formal NHA designation. As a result, CBO estimates that enacting S. 278—by itself—would have no effect on the federal budget.

This legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Under the bill, once a feasibility study of a potential NHA has been authorized by the Congress, the National Park System would either conduct the study itself or allow one to be undertaken by an interested local entity. Completed and assessed studies would then be submitted to the Congress. If legislation to designate the NHA is enacted and funds are made available, the chosen local coordinating entity for the area would have three years to submit a general management plan to the Secretary of the Interior for approval. Under the bill, once an NHA is created, the Secretary of the Interior must submit a report to the Congress evaluating the NHA and assess the progress of the local coordinating entity in meeting the goals of the management plan.

The bill would set a ceiling for future specific authorizations of appropriations of \$750,000 a year for NHA feasibility studies (no more than \$250,000 annually could be used for any individual NHA study). It would also limit—to \$25 million annually—future authorizations for financial and technical assistance to local coordinating entities; no more than \$1 million could be used for any individual NHA. Such funds (up to \$10 million per NHA over a 15-year period) would be used to develop and implement management plans and administer a national heritage area.

The Secretary could award grants for individual projects at NHAs when funding to local coordinating entities has been terminated 15 years after the initial receipt of financial assistance. In such an instance, a local coordinating entity could receive a maximum of \$250,000 for all projects in any fiscal year and would be required to provide matching funds equal to the amount of the grant. The bill would establish a ceiling for such grants of \$5 million for each fiscal year.

Because the authority to appropriate funds under S. 278 would depend on subsequent acts of the Congress to authorize feasibility studies and designate specific new NHAs, CBO estimates that enacting this legislation alone would have no effect on the federal budget.

The CBO staff contacts for this estimate are Deborah Reis and Leigh Angres. The estimate was approved by Peter H. Fontaine, 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. 278. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

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

Little, if any, additional paperwork would result from the enactment of S. 278, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

Because S. 278 is similar to legislation considered during the 109th and 108th Congresses, the Committee did not request Executive Agency views on S. 278. The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 2543 in the 108th Congress follows:

#### STATEMENT OF A. DURAND JONES, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, it is my pleasure to appear before you today to testify on behalf of the Department of the Interior on S. 2543, the National Heritage Partnership Act. The Department strongly supports this bill, but has a few concerns about some of the provisions.

The Department strongly supports legislation to establish a national heritage areas program. We would like to thank Chairman Thomas for his leadership over the last year in evaluating programmatic issues, identifying areas for legislative action, and introducing this bill based on the Administration's legislative proposal. This legislation was developed through a yearlong process of Congressional oversight hearings, outside evaluations of the program (such as the March 2004 report by the General Accounting Office) and meetings among many of the groups interested in this issue.

S. 2543 provides a much-needed framework for evaluating proposed national heritage area designations, offers guidelines for successful planning, clarifies the roles and responsibilities of all parties, and standardizes timeframes and funding for designated areas.

The Department supports the national heritage areas approach to resource conservation through partnerships with communities. National heritage areas are intended to preserve nationally important natural, cultural, historic, and recreational resources through the creation of partnerships among Federal, State and local entities. National heritage areas are locally driven, initiated and managed by the people who live there and do not impose Federal zoning, land use controls nor do they require land acquisition. At its best, the collaborative approach of this program embodies Secretary of the Interior Gale Norton's "Four Cs"—Communication, Consultation and Cooperation, all in the service of Conservation.

S. 2543 supports a conservation strategy that recognizes that the people who live in a heritage area are uniquely

qualified to preserve it. Being designated as a national heritage area can benefit visitors, community residents, existing National Park units located in the area, and other Federal lands by expanding the opportunity to interpret and protect resources over a larger landscape and by telling our shared national story.

There are three provisions in S. 2543 that we wish to discuss in more detail and to offer suggestions for improvements.

#### CRITERIA FOR EVALUATION

The standards for evaluating areas proposed for national designation are an essential element in establishing a national heritage areas program. While many places in this nation have special meaning to the people that live there, for many places designation as a State or local heritage area may be most appropriate. The National Park Service should be the lead partner only when the resources within a proposed heritage area are of national importance.

The Department has some concerns about the use of the term “national significance” and the definition provided in S. 2543. We recommend replacing the term “national significance” with the term “national importance” to avoid confusion. The National Park Service specifically uses the term “national significance” in suitability and feasibility studies for new National Park System units. For this reason, the term “national importance” has been informally used by the National Park Service to describe the assessment of national heritage area resources.

In addition, having a concise, appropriate, and practical definition for “national significance” or “national importance” is critical. We would suggest a revised definition as applied in practice to existing and proposed national heritage areas:

The term “National Importance” is ascribed to a proposed heritage area that illustrates major historic, cultural, natural or social themes important to the history of the United States and contains resources that are outstanding examples of natural and cultural features that contribute to the theme, and which possess a high degree of integrity, and are compatible with continued community development, public enjoyment, and use.

#### SUITABILITY/FEASIBILITY STUDY

The Department believes that a study should be required for every proposed national heritage area and the study should be evaluated against legislatively established criteria before designation. S. 2543 requires that such a study be prepared that demonstrates evidence of place-based resources that tell a nationally significant story, which has the support and involvement of the local community. This requirement has been field-tested and has

been shown to increase the future success of the heritage area.

The Department recommends a modification to the terminology used for studies. In order to be consistent with terminology used in past study and designation bills for national heritage areas, we recommend that the studies be called "feasibility studies" instead of "suitability/feasibility studies." This would also lessen any confusion with studies for new units of the National Park System that are called suitability and feasibility studies. We recommend that this change in terminology be used throughout the bill when referring to these studies.

#### FUNDING AND TIMEFRAMES

When the first national heritage corridors were designated twenty years ago, a Federal commission provided management for the areas and the National Park Service provided most of the staff. The national heritage corridor or area was conceived as a less expensive alternative to the acquisition and operation costs of creating a new unit of the National Park System. These areas were originally authorized for five years with a five-year extension; over time, the corridors have been reauthorized for additional periods.

For the 18 national heritage areas established after 1995, the National Park Service encouraged management with greater involvement by local entities as a more cost-effective use of Federal resources. Most of these newer areas are managed by a non-profit entity or a State government and include a funding formula of not more than \$10 million Federal dollars over a fifteen-year period. Our legislative proposal recommends codifying this approach and for the first time requires that a business plan be developed as part of the management planning for proposed new areas. This would ensure that from the beginning, national heritage areas are working towards and have an established plan for self-sufficiency. So far, no existing area has "graduated" from the program, even after 20 years and in some cases, and nearly \$100 million invested overall. For this reason, we recognize the need to work with existing areas to assist them in a transition strategy as they reach the end of their funding authorization. As areas become self-sufficient, available resources could be reallocated to newly designated areas or other priorities.

The Department is concerned with the new provision in section 9 of S. 2543 that caps the heritage areas program at \$15 million per year. The Administration did not propose a cap on the program because we believe it is more appropriate to cap the amount of appropriations each area is authorized to receive, and to limit the authorized period for appropriations. Currently, there are 15 new national heritage areas pending for designation in Congress. In addition, there are 24 designated national heritage areas, many of which are authorized to receive appropriations of \$1 million per year. However, we would expect to allocate



funding among these areas within the levels of funds appropriated, which might require providing less than the individual authorized ceilings in some instances.

#### CONCLUSION

Recent studies and our own experiences have shown that the national heritage area approach links people and place, nature and culture, and the present with the past. National heritage areas capitalize on the unique role local communities play in preserving their heritage and telling their stories. S. 2543 respects these principles. It assigns the appropriate roles and responsibilities to the key partners that must work together to make the program successful. It also recognizes the need to target our assistance to those areas where there is a national interest and where the local partners meet established criteria for success. We look forward to working with the committee to enact this important legislation.

This concludes my prepared remarks and I will be pleased to answer any questions you or other members of the subcommittee may have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 278, as ordered reported.

