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SENATE

{ REPORT  
{ 111-152

### AMERICAN BATTLEFIELD PROTECTION PROGRAM

MARCH 2, 2010.—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 H.R. 1694]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1694) to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

On page 2, strike lines 6 through 11 and insert the following:

(1) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

“(A) BATTLEFIELD REPORT.—The term “battlefield report” means, collectively—

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

“(ii) the report entitled ‘Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States’, prepared by the National Park Service, and dated September 2007.”; and

(B) in subparagraph (C)(ii), by striking “Battlefield Report” and inserting “battlefield report”.

On page 3, after line 16, add the following:

(8) By striking paragraph (8) (as redesignated by paragraph (6)) and inserting the following:

“(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to provide grants under this subsection for each of fiscal years 2009 through 2019—

“(A) \$10,000,000 for the protection of Civil War battlefields; and

“(B) \$10,000,000 for the protection of Revolutionary War and War of 1812 battlefields.”.

#### PURPOSE

The purpose of H.R. 1694 is to provide for the protection of historically significant Revolutionary War and the War of 1812 battlefield sites under the American Battlefield Protection Program.

#### BACKGROUND AND NEED

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k) was enacted to preserve and protect historically significant battlefields associated with the Civil War. The law directs the Secretary of the Interior, acting through the American Battlefield Protection Program, to encourage, support, and assist in identifying, researching, evaluating, interpreting, and protecting historic Civil War battlefields and associated sites on a National, State, and local level.

The American Battlefield Protection Act of 1996 primarily addressed the preservation and protection of Civil War battlefields through conservation easements, or through the purchase of land from willing sellers. It placed emphasis on creating partnerships among State and local governments, regional entities, and the private sector to preserve, conserve and enhance these nationally significant battlefields, and authorized \$3 million annually for such programs. The Act expired in 2008, but was reenacted and reauthorized through 2013 as part of the Omnibus Public Land Management Act of 2009 (Public Law 111–11, sec. 7301; 16 U.S.C. 469k–1).

The American Battlefield Protection Program was developed following the 1993 “Report on the Nation’s Civil War Battlefields” by the Congressionally established Civil War Sites Advisory Commission, which inventoried and detailed the condition of Civil War battlefields.

The American Battlefield Protection Program has helped to preserve threatened Civil War battlefields combining over \$26 million in Federal appropriations with over \$55 million in non-Federal matching funding. However, the program only authorized the protection of Civil War battlefields and did not address other threatened battlefield sites.

In September 2007, the National Park Service completed a “Report to Congress on the Historic Preservation of Revolutionary War and War of 1812.” The report examined 243 battlefields and 434 historic properties in 31 States, the District of Columbia, and the Virgin Islands. Like the Civil War report, it inventoried and identified nationally significant conflict sites and noted areas threatened by modern conditions and development.

H.R. 1694 amends section 7301 of the Omnibus Public Land Management Act of 2009, which reenacted the American Battlefield Protection Act, to include battlefield sites associated with the Revo-

lutionary War and the War of 1812 among the sites authorized to receive funding under the American Battlefield Protection Program.

#### LEGISLATIVE HISTORY

H.R. 1694, sponsored by Representative Holt, passed the House of Representatives by a voice vote on April 21, 2009. H.R. 1694 is identical to H.R. 164, also sponsored by Representative Holt, which previously passed the House on March 3, 2009. The Senate deleted the text of H.R. 164 and used that bill as the vehicle for the Omnibus Public Lands Management Act, Public Law 111–11.

Identical legislation, S. 1168, was introduced by Senators Schumer and Lautenberg on June 3, 2009. The Subcommittee on National Parks held a hearing on S. 1168 and H.R. 1694 on July 15, 2009 (S. Hrg. 111–92). At its business meeting on December 16, 2009, the Committee on Energy and Natural Resources ordered H.R. 1694 favorably reported with amendments.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by a voice vote of a quorum present, recommends that the Senate pass H.R. 1694, if amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of H.R. 1694, the Committee adopted an amendment in the nature of a substitute. As passed by the House of Representatives, H.R. 1694 modified the American Battlefield Protection Program to include Revolutionary War and War of 1812 battlefields within the scope of the program, but did not authorize any additional funding. The Committee amendment establishes a parallel grant authority to the existing authority for Civil War battlefields. The amendment authorizes \$10 million for each of fiscal years 2009 through 2019 for Revolutionary War and War of 1812 battlefield preservation grants, which is the same authority provided for Civil War battlefields. The amendment also makes several technical, clarifying, and conforming amendments, and is explained in detail in the section-by-section analysis, below.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* amends section 7301(c) (relating to the American Battlefield Protection Program) of Public Law 111–11, the Omnibus Public Land Management Act of 2009, to authorize funding for the preservation of nationally significant Revolutionary War and War of 1812 battlefields.

Paragraph (1) amends paragraph 1(A) of section 7301(c) to redefine the term “battlefield report” to include both the National Park Service’s 2007 “Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States,” in addition to the Civil War Sites Advisory Commission’s 1993 “Report on the Nation’s Civil War Battlefields.” The effect of this revised definition is to allow efforts to protect battlefields listed in

both reports to be eligible for funding under the American Battlefield Protection Program.

Paragraphs (2) through (6) make a number of modifications to section 7301(c), to allow the funds under the Act to be used for the acquisition of eligible sites or interests in land.

Paragraph (7) adds two new paragraphs to section 7301(c). New paragraph (6) specifies that grants administered under this program for the acquisition of lands, or interests in lands, under the Act must be from willing sellers only.

New paragraph (7) requires the Secretary of the Interior to submit a report to Congress describing the preservation activities carried out, changes in the condition of the battlefields and associated sites, and any other relevant developments relating to the battlefields and associated sites not later than 5 years about the date of enactment.

Paragraph (8) adds a new paragraph (8) to section 7301(c), which authorizes the appropriation of \$10,000,000 for the protection of Civil War battlefields and \$10,000,000 for the protection of Revolutionary War and War of 1812 battlefields for each of fiscal years 2009 through 2019.

#### COST AND BUDGETARY CONSIDERATIONS

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

*H.R. 1694—An act to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program*

Summary: H.R. 1694 would authorize appropriations totaling \$200 million through fiscal year 2019 for the American Battlefield Protection Program. Of that amount, \$31 million is already authorized under existing law, and \$9 million has been appropriated for 2010 to date. The amounts authorized for each year (\$10 million for Revolutionary War and War of 1812 battlefields and \$10 million for Civil War battlefields) would be used to provide financial assistance to state or local governments to purchase land that has been identified by the National Park Service (NPS) as eligible for protection through the program but is not contained within the boundaries of a unit of the National Park System.

Assuming appropriation of the authorized amounts, CBO estimates that the NPS would spend \$67 million over the 2010–2015 period to provide grants under the legislation and about \$90 million more after 2015. (Those amounts are in addition to the approximately \$40 million that has already been appropriated or authorized under current law.) Enacting H.R. 1694 would not affect revenues or direct spending.

H.R. 1694 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1694 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						
	2010	2011	2012	2013	2014	2015	2010–2015
SPENDING SUBJECT TO APPROPRIATION							
Spending Under Current Law:							
Authorization Level <sup>a</sup> .....	10	10	10	10	0	0	40
Estimated Outlays .....	6	7	10	10	7	0	40
Proposed Changes:							
Authorization Level .....	10	10	10	10	20	20	80
Estimated Outlays .....	3	9	10	10	15	20	67
Spending Under H.R. 1694:							
Authorization Level .....	20	20	20	20	20	20	120
Estimated Outlays .....	9	16	20	20	22	20	107

<sup>a</sup> For 2010, the remaining authorization level under current law is \$1 million (\$10 million less \$9 million already appropriated).

**Basis of estimate:** For this estimate, CBO assumes that H.R. 1694 will be enacted during fiscal year 2010 and that the amounts authorized by the bill will be appropriated each year. Estimated outlays are based on historical spending patterns for NPS grant programs.

**Intergovernmental and private-sector impact:** H.R. 1694 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The act would modify an existing grant for the preservation of battlefield sites and would benefit state and local governments. Any costs to those governments would be incurred voluntarily as a condition of federal assistance.

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

Estimate approved by: Theresa Gullo, 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 H.R. 1694.

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 H.R. 1694, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

H.R. 1694, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the July 15, 2009 Subcommittee hearing on H.R. 1694 follows:

STATEMENT OF KATHERINE H. STEVENSON, ACTING DEPUTY  
DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF  
THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before you today to present the views of the Department of the Interior on S. 1168 and H.R. 1694, to amend Sec. 7301 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11) to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program.

The Department supports S. 1168 and H.R. 1694 with an amendment to include language that passed the House on April 21, 2009.

In March 2008, the National Park Service transmitted the Report to Congress on the Historic Preservation of Revolutionary War and the War of 1812 Sites in the United States, which identified and determined the relative significance of sites related to the Revolutionary War and the War of 1812. The study assessed the short and long-term threats to the sites. Following the success of the 1993 Civil War Sites Advisory Commission Report on the Nation's Civil War Battlefields, this study similarly provides alternatives for the preservation and interpretation of the sites by Federal, State, and local governments or other public or private entities.

The direction from Congress for the study was the same as for a Civil War sites study of the early 1990s. As authorized by Congress for this study, the National Park Service looked at sites and structures that are thematically tied with the nationally significant events that occurred during the Revolutionary War and the War of 1812. The result was a more thorough survey that represents twice the field effort undertaken for the Civil War study.

Building upon this recent study, S. 1168 and H.R. 1694 would create a matching grant program for Revolutionary War and the War of 1812 sites that closely mirrors a very successful matching grant program for Civil War sites. The Civil War acquisition grant program was first authorized by Congress in the Civil War Battlefield Protection Act of 2002 (Public Law 107-359), and was recently reauthorized by the Omnibus Public Land Management Act of 2009 (Public Law 111-11).

That grant fund has been tremendously successful in allowing local preservation efforts to permanently preserve Civil War battlefield land with a minimum of Federal assistance. Grants of \$26.3 million from the National Park Service have leveraged a total of \$55.3 million in non-federal funding. To date, the grant program has assisted in the permanent protection of 13,906 acres at 54 Civil War battlefields. In FY 2009, \$4 million was appropriated for this program. The President's FY 2010 Budget also includes a request for \$4 million.

With the release of the Report to Congress on the Historic Preservation of Revolutionary War and the War of 1812 Sites in the United States, communities interested in preserving their Revolutionary War and the War of 1812 sites can take the first steps similar to what the Civil War advocates did 15 years ago. If established, this new grant program can complement the existing grant program for Civil War battlefields and, in doing so, become a benefit to the American people by providing for the preservation and protection of a greater number of sites from the Revolutionary War and War of 1812. All funds are subject to NPS priorities and the availability of appropriations.

The Department recommends an amendment to S. 1168 and H.R. 1694 to include language that passed the House on April 21, 2009. In the introduced version of H.R. 1694, there was a \$10 million annual authorization for the Revolutionary War and War of 1812 acquisition grant program. This funding level was separate and in addition to the \$10 million annual authorization for the existing Civil War acquisition grant program. On April 21, 2009, the House-passed version of H.R. 1694 included language that provided a combined funding of \$20 million for both acquisition grant programs in each of fiscal years 2010 through 2014. However, we understand that this language was inadvertently dropped by the House legislative clerk when the bill was engrossed and sent to the Senate.

When the bill was introduced in the Senate as S. 1168, it also did not contain the authorization language for the acquisition grant program and we understand this was an inadvertent error on the sponsor's part. We recommend adding the House-passed funding language. We also support the increased authorization level as there are two separate constituencies for these programs. The language of the amendment is attached.

Mr. Chairman, this concludes my testimony. I would be pleased to respond to any questions from you and members of the committee.

Proposed amendment to H.R. 1694 and S. 1168:

H.R. 1694, as engrossed by the House:

On page 3, after line 16, add the following:

“(8) In paragraph (8) (as so redesignated), by striking ‘\$10,000,000 for each of fiscal years 2009 through 2013’ and inserting ‘20,000,000 for each of fiscal years 2010 through 2014.’”

S. 1168, as introduced:

On page 3, after line 14, add the following:

“(8) In paragraph (8) (as so redesignated), by striking ‘\$10,000,000 for each of fiscal years 2009 through 2013’ and inserting ‘20,000,000 for each of fiscal years 2010 through 2014.’”

#### 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 Act H.R. 1694, as ordered reported, are shown as follows (existing law pro-

posed 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):

**OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009**

(Public Law 111–11; Approved March 30, 2009)

AN ACT To designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Omnibus Public Land Management Act of 2009”.

\* \* \* \* \*

**TITLE VII—NATIONAL PARK SERVICE AUTHORIZATIONS**

Subtitle D—Program Authorizations

**SEC. 7301. AMERICAN BATTLEFIELD PROTECTION PROGRAM.**

\* \* \* \* \*

(c) BATTLEFIELD ACQUISITION GRANT PROGRAM.—

(1) DEFINITIONS.—In this subsection:

[(A) BATTLEFIELD REPORT.—The term “Battlefield Report” means the document entitled “Report on the Nation’s Civil War Battlefields”, prepared by the Civil War Sites Advisory Commission, and dated July 1993.]

(A) BATTLEFIELD REPORT.—*The term “battlefield report” means, collectively—*

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

*(ii) the report entitled “Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States”, prepared by the National Park Service, and dated September 2007.*

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

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

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

(ii) that is identified in the [Battlefield Report] *bat-*  
*tlefield report.*

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

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



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

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

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

(6) **WILLING SELLERS.**—*Acquisition of land or interests in land under this subsection shall be from willing sellers only.*

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

*(A) preservation activities carried out at the battlefields and associated sites identified in the battlefield report during the period between publication of the battlefield report and the report required under this paragraph;*

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

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

**【(6) AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to provide grants under this subsection \$10,000,000 for each of fiscal years 2009 through 2013.**】**

(8) **AUTHORIZATION OF APPROPRIATIONS.**—*There are authorized to be appropriated to the Secretary to provide grants under this subsection for each of fiscal years 2009 through 2019—*

*(A) \$10,000,000 for the protection of Civil War battlefields; and*

*(B) \$10,000,000 for the protection of Revolutionary War and War of 1812 battlefields.*