

UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA
ACT

NOVEMBER 17, 2003.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1798]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1798) to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Upper Housatonic Valley National Heritage Area Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places including—

(A) five National Historic Landmarks—

- (i) Edith Wharton’s home, The Mount, Lenox, Massachusetts;
- (ii) Herman Melville’s home, Arrowhead, Pittsfield, Massachusetts;
- (iii) W.E.B. DuBois’ Boyhood Homesite, Great Barrington, Massachusetts;
- (iv) Mission House, Stockbridge, Massachusetts; and
- (v) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and

(B) four National Natural Landmarks—

- (i) Bartholomew's Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;
- (ii) Beckley Bog, Norfolk, Connecticut;
- (iii) Bingham Bog, Salisbury, Connecticut; and
- (iv) Cathedral Pines, Cornwall, Connecticut.

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country's leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B. DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob's Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a fabric of significant conservation areas including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays' Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years and Mohicans had a formative role in contact with Europeans during the seventeenth and eighteenth centuries.

(9) The Upper Housatonic Valley National Heritage Area has been proposed in order to heighten appreciation of the region, preserve its natural and historical resources, and improve the quality of life and economy of the area.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

(2) To implement the national heritage area alternative as described in the document entitled "Upper Housatonic Valley National Heritage Area Feasibility Study, 2003".

(3) To provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the upper Housatonic Valley region to conserve the region's heritage while continuing to pursue compatible economic opportunities.

(4) To assist communities, organizations, and citizens in the State of Connecticut and the Commonwealth of Massachusetts in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term "Heritage Area" means the Upper Housatonic Valley National Heritage Area, established in section 4.

(2) MANAGEMENT ENTITY.—The term "Management Entity" means the management entity for the Heritage Area designated by section 4(d).

(3) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area specified in section 6.

(4) MAP.—The term "map" means the map entitled "Boundary Map Upper Housatonic Valley National Heritage Area", numbered P17/80,000, and dated February 2003.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Connecticut and the Commonwealth of Massachusetts.

SEC. 4. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Upper Housatonic Valley National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River's watershed, which extends 60 miles from Lanesboro, Massachusetts to Kent, Connecticut;

(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut; and

(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlboro, Pittsfield, Richmond, Sheffield, Stockbridge, Tyringham, Washington, and West Stockbridge in Massachusetts.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The Upper Housatonic Valley National Heritage Area, Inc. shall be the management entity for the Heritage Area.

SEC. 5. AUTHORITIES, PROHIBITIONS AND DUTIES OF THE MANAGEMENT ENTITY.

(a) DUTIES OF THE MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 6;

(2) assist units of local government, regional planning organizations, and non-profit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the management entity receives Federal funds under this Act, setting forth its accomplishments, expenses, and income, including grants to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this Act, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic development that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The management entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this Act to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State of Connecticut and the Commonwealth of Massachusetts, their subdivisions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to be a catalyst for any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

(c) PROHIBITIONS ON THE ACQUISITION OF REAL PROPERTY.—The management entity may not use Federal funds received under this Act to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, intended for the acquisition of real property.

SEC. 6. MANAGEMENT PLAN.

- (a) **IN GENERAL.**—The management plan for the Heritage Area shall—
- (1) include comprehensive policies, strategies and recommendations for conservation, funding, management and development of the Heritage Area;
 - (2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;
 - (3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical and cultural resources of the Heritage Area;
 - (4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area in the first 5 years of implementation;
 - (5) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area related to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained;
 - (6) describe a program of implementation for the management plan including plans for resource protection, restoration, construction, and specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of implementation; and
 - (7) include an interpretive plan for the Heritage Area.
- (b) **DEADLINE AND TERMINATION OF FUNDING.**—
- (1) **DEADLINE.**—The management entity shall submit the management plan to the Secretary for approval within 3 years after funds are made available for this Act.
 - (2) **TERMINATION OF FUNDING.**—If the management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal funding under this Act until such time as the management plan is submitted to the Secretary.

SEC. 7. DUTIES AND AUTHORITIES OF THE SECRETARY.

- (a) **TECHNICAL AND FINANCIAL ASSISTANCE.**—The Secretary may, upon the request of the management entity, provide technical assistance on a reimbursable or non-reimbursable basis and financial assistance to the Heritage Area to develop and implement the approved management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—
- (1) conserving the significant natural, historical, cultural, and scenic resources of the Heritage Area; and
 - (2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.
- (b) **APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.**—
- (1) **IN GENERAL.**—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.
 - (2) **CRITERIA FOR APPROVAL.**—In determining the approval of the management plan, the Secretary shall consider whether—
 - (A) the management entity is representative of the diverse interests of the Heritage Area including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;
 - (B) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;
 - (C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area; and
 - (D) the management plan is supported by the appropriate State and local officials whose cooperation is needed to ensure the effective implementation of the State and local aspects of the management plan.
 - (3) **ACTION FOLLOWING DISAPPROVAL.**—If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision within 60 days after the date it is submitted.
 - (4) **APPROVAL OF AMENDMENTS.**—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The management entity shall not

use Federal funds authorized by this Act to implement any amendments until the Secretary has approved the amendments.

SEC. 8. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

- (1) consult with the Secretary and the management entity with respect to such activities;
- (2) cooperate with the Secretary and the management entity in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and,
- (3) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 9. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) **NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.**—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) **LANDOWNER WITHDRAW.**—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 10. PRIVATE PROPERTY PROTECTION.

(a) **ACCESS TO PRIVATE PROPERTY.**—Nothing in this Act shall be construed to—

- (1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or
- (2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) **LIABILITY.**—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) **RECOGNITION OF AUTHORITY TO CONTROL LAND USE.**—Nothing in this Act shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) **PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.**—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) **EFFECT OF ESTABLISHMENT.**—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this Act may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexistent regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated for the purposes of this Act not more than \$1,000,000 for any fiscal year. Not more than a total of \$10,000,000 may be appropriated for the Heritage Area under this Act.

(b) **MATCHING FUNDS.**—Federal funding provided under this Act may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this Act.

SEC. 12. SUNSET.

The authority of the Secretary to provide assistance under this Act shall terminate on the day occurring 15 years after funds are first made available for this Act.

PURPOSE OF THE BILL

The purpose of H.R. 1798 is to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The upper Housatonic Valley in Connecticut and Massachusetts boasts significant national contributions through its literary, artis-

tic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts. The upper Housatonic Valley also has 139 properties and historic districts listed on the National Register of Historic Places.

In 2000, legislation was enacted that directed the Secretary of the Interior to conduct a study to determine the suitability and feasibility of establishing the Upper Housatonic National Heritage Area. The National Park Service has completed the study and is awaiting approval from the Office of Management and Budget.

H.R. 1798 would establish the Upper Housatonic Valley National Heritage Area, which would encompass part of the Housatonic River's watershed which extends 60 miles from Lanesboro, Massachusetts, to Kent, Connecticut, and 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut. The goals of this bill are consistent with the majority of other heritage areas previously established, which are to establish a National Heritage Area and encourage cultural tourism through the promotion of the resource, while leveraging federal appropriations to encourage private giving. The 15-year, \$10 million authorization of appropriation is consistent as well. The management entity for the heritage area will be the Upper Housatonic Valley National Heritage Area, Inc.

COMMITTEE ACTION

H.R. 1798 was introduced by Congresswoman Nancy Johnson (R-CT) on April 11, 2003. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation and Public Lands. The Subcommittee held a hearing on the bill on October 16, 2003. On October 21, 2003, the Subcommittee met to mark up the bill. Congressman George Radanovich (R-CA) offered an amendment in the nature of a substitute to require that private landowners whose property is located within the boundary of the heritage area have their property excluded from within the boundary upon written request to the management entity. The amendment also required that the owner of any private property located within the boundary of the heritage area be contacted in writing. The owner must provide written consent for inclusion in the heritage area if his property is to be governed by the management plan for the heritage area. The amendment was agreed to by unanimous consent. The bill, as amended, was then ordered favorably reported to the Full Resources Committee by unanimous consent. On November 5, 2003, the Full Resources Committee met to consider the bill. Mr. Radanovich offered an amendment in the nature of a substitute to further refine the private property rights language in the bill. The amendment was agreed to by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3, of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

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

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

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 13, 2003.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1798, the Upper Housatonic Valley National Heritage Area Act.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 1798—Upper Housatonic Valley National Heritage Area Act

H.R. 1798 would establish the Upper Housatonic Valley National Heritage Area (NHA) in northwestern Connecticut and western Massachusetts. The bill would designate the Upper Housatonic Valley National Heritage Area, Inc., as the management entity for the proposed NHA. Under the bill, that organization would develop a management plan to identify strategies for preserving, funding, managing, and developing the proposed NHA. The Department of the Interior would provide technical and financial assistance to the

corporation for developing and implementing that plan. For these purposes, the bill would authorize the appropriation of \$10 million, not to exceed \$1 million annually.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 1798 would cost \$10 million over the next 10 to 15 years. Such amounts would be used to cover a portion of the costs of establishing, operating, and interpreting the heritage area. Enacting H.R. 1798 would have no effect on revenues or direct spending.

H.R. 1798 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.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

