

## TRAIL OF TEARS DOCUMENTATION ACT

SEPTEMBER 11, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

### R E P O R T

[To accompany H.R. 5335]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5335) to amend the National Trails System Act to provide for the inclusion of new trail segments, land components, and campgrounds associated with the Trail of Tears National Historic Trail, 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 “Trail of Tears Documentation Act”.

#### SEC. 2. ADDITIONS TO TRAIL OF TEARS NATIONAL HISTORIC TRAIL.

Section 5(a)(16) of the National Trails System Act (16 U.S.C. 1244(a)(16)) is amended as follows:

(1) By amending subparagraph (C) to read as follows:

“(C) In addition to the areas otherwise designated under this paragraph, the following routes and land components by which the Cherokee Nation was removed to Oklahoma are components of the Trail of Tears National Historic Trail, as generally described in the environmentally preferred alternative of the November 2007 Feasibility Study Amendment and Environmental Assessment for Trail of Tears National Historic Trail:

“(i) The Bengé and Bell routes.

“(ii) The land components of the designated water routes in Alabama, Arkansas, Oklahoma, and Tennessee.

“(iii) The routes from the collection forts in Alabama, Georgia, North Carolina, and Tennessee to the emigration depots.

“(iv) The related campgrounds located along the routes and land components described in clauses (i) through (iii).”.

(2) In subparagraph (D)—

- (A) by striking the first sentence; and
- (B) by adding at the end the following: “No lands or interests in lands outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears National Historic Trail except with the consent of the owner thereof.”.

#### PURPOSE OF THE BILL

The purpose of H.R. 5335 is to amend the National Trails System Act to provide for the inclusion of new trail segments, land components, and campgrounds associated with the Trail of Tears National Historic Trail, and for other purposes.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 5335 implements the recommendations of a National Park Service study that examined adding several side trails associated with the Trail of Tears National Historic Trail.

In 1838–1839, the U.S. government removed at gunpoint most Cherokee Indians from their ancestral homelands in the southeastern United States and resettled them in Indian Territory west of Arkansas. More than 15,000 people were systematically rounded up and held in detainment camps. They were then divided into detachments and forced to travel west. More than 1,000 people died on this journey from exposure, illness and exhaustion.

In 1987, Congress designated the original 2,422-mile Trail of Tears National Historic Trail commemorating the two main routes used during the forced removal (P.L. 100–192). At that time, many of the side routes used during the removal were not well documented, including important round-up routes from the forts to which the Cherokee had originally been taken in North Carolina, Georgia, Tennessee and Alabama, as well as the unique routes taken by the detachments led by pro-treaty leader John Bell and Cherokee Captain John Benge.

Subsequent research has identified those routes, and, in 2006, Congress directed the National Park Service to determine if more routes of the Cherokee removal would be eligible to be added to the existing National Historic Trail (P.L. 109–378).

The National Park Service study, delivered to Congress in March 2008, found a number of components eligible for designation, including the Bell and Benge routes, various round-up forts and camps, routes from the forts and camps to main emigration depots in Tennessee and Alabama, and additional water routes and related land routes, as well as the routes taken at the end of the trail as the Cherokee dispersed to their new settlements. H.R. 5335 adds those routes, totaling 2,845 new miles, to the existing trail.

#### COMMITTEE ACTION

H.R. 5335 was introduced on February 8, 2008, by Representative Zack Wamp (R–TN). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On July 15, 2008, the Subcommittee held a hearing on the legislation, during which a representative of the National Park Service testified that the Administration supports the bill with minor amendments.

On July 23, 2008, the Full Natural Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged from further consideration of H.R. 5335. An amendment in the nature of a substitute was offered by Subcommittee Chairman Grijalva (D-AZ) to add a short title, add a reference to the National Park Service study recommending the additional routes, and add property rights language consistent with the original Trail of Tears Act.

Representative Lamborn (R-CO) then offered an amendment to the amendment in the nature of a substitute on behalf of Representative Sali (R-ID) to specify that all lands within the designated trail should be governed by relevant state and local laws regarding the possession or use of a weapon, including a concealed weapon. The amendment to the amendment in the nature of a substitute was not agreed to by a roll call vote of 8 yeas and 16 nays, as follows:



The amendment in the nature of a substitute was then agreed to by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants 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, as ordered reported, is to amend the National Trails System Act to provide for the inclusion of new trail segments, land components, and campgrounds associated with the Trail of Tears National Historic Trail, 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:

#### *H.R. 5335—Trail of Tears Documentation Act*

H.R. 5335 would add new routes to the Trail of Tears National Historic Trail, which runs through several states across the country. Adding the proposed routes would expand the trail from about 2,400 miles to early 5,300 miles.

Based on information provided by the National Park Service and assuming the availability of appropriated funds, CBO estimates that implementing the bill would cost about \$300,000 a year beginning in fiscal year 2009. This amount would be used by the agency to administer the new routes, including minor costs to revise maps and erect signs. Enacting the legislation would not affect revenues or direct spending.

H.R. 5335 contain 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 Theresa Gullo, Deputy Assistant for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### EARMARKS STATEMENT

H.R. 5335 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### NATIONAL TRAILS SYSTEM ACT

\* \* \* \* \*

#### NATIONAL SCENIC AND NATIONAL HISTORICAL TRAILS

SEC. 5. (a) National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

(1) \* \* \*

\* \* \* \* \*

(16)(A) \* \* \*

\* \* \* \* \*

[(C) Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior shall complete the remaining criteria and submit to Congress a study regarding the feasibility and suitability of designating, as additional components of the Trail of Tears National Historic Trail, the following routes and land components by which the Cherokee Nation was removed to Oklahoma:

[(i) The Benge and Bell routes.

[(ii) The land components of the designated water routes in Alabama, Arkansas, Oklahoma, and Tennessee.

[(iii) The routes from the collection forts in Alabama, Georgia, North Carolina, and Tennessee to the emigration depots.

[(iv) The related campgrounds located along the routes and land components described in clauses (i) through (iii).]

*(C) In addition to the areas otherwise designated under this paragraph, the following routes and land components by which the Cherokee Nation was removed to Oklahoma are components of the Trail of Tears National Historic Trail, as generally described in the environmentally preferred alternative of the November 2007 Feasibility Study Amendment and Environmental Assessment for Trail of Tears National Historic Trail:*

*(i) The Bengie and Bell routes.*

*(ii) The land components of the designated water routes in Alabama, Arkansas, Oklahoma, and Tennessee.*

*(iii) The routes from the collection forts in Alabama, Georgia, North Carolina, and Tennessee to the emigration depots.*

*(iv) The related campgrounds located along the routes and land components described in clauses (i) through (iii).*

(D) [No additional funds are authorized to be appropriated to carry out subparagraph (C).] The Secretary may accept donations for the Trail from private, nonprofit, or tribal organizations. *No lands or interests in lands outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears National Historic Trail except with the consent of the owner thereof.*

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