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### AMERICAN BATTLEFIELD PROTECTION PROGRAM AMENDMENTS ACT

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JANUARY 13, 2012.—Ordered to be printed

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

### R E P O R T

[To accompany S. 779]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 779) 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 without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 779 is to amend the American Battlefield Protection Act to authorize funding for Revolutionary War and War of 1812 battlefield sites.

#### 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 it 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 Sites in the United States.” 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.

S. 779 amends section 7301 of the Omnibus Public Land Management Act of 2009, which reenacted the American Battlefield Protection Act, to authorize a similar funding program for Revolutionary War and War of 1812 battlefields, to assist in the preservation of these sites through the American Battlefield Protection Program.

#### LEGISLATIVE HISTORY

S. 779 was introduced on April 8, 2011, by Senator Schumer. Senator Coons is a cosponsor. The Subcommittee on National Parks held a hearing on S. 779 on May 11, 2011 (S. Hrg. 112–124). At its business meeting on November 10, 2011, the Committee on Energy and Natural Resources ordered S. 779 favorably reported.

S. 779 is similar to S. 1168, which was introduced by Senators Schumer and Lautenberg on June 3, 2009. Companion legislation to S. 1168, H.R. 1694, was passed by the House of Representatives by voice vote on April 21, 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. Other than inclusion of a short title in S. 779, S. 779 is identical to H.R. 1694 as reported in the 111th Congress.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on November 10, 2011, by voice vote of a quorum

present, recommends that the Senate pass S. 779. Senators Barrasso, Risch, Lee, Paul, Portman and Corker asked to be recorded as opposing the measure.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the “American Battlefield Protection Program Amendments Act of 2011.”

*Section 2* 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 conforming 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 after 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 2012 through 2022.

#### COST AND BUDGETARY CONSIDERATIONS

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

##### *S. 779—American Battlefield Protection Program Amendments Act of 2011*

Summary: S. 779 would authorize appropriations totaling \$220 million through fiscal year 2022 for the American Battlefield Protection Program. Of that amount, \$20 million is already authorized under existing law. The amounts authorized for each year 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 implementing S. 779 would cost \$67 million over the 2012–2016 period and about \$133 million more after 2016. Enacting S. 779 would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

S. 779 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 S. 779 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—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	10	10	20	20	20	80
Estimated Outlays .....	3	9	15	20	20	67

**Basis of estimate:** For this estimate, CBO assumes that S. 779 will be enacted during fiscal year 2012 and that the amounts authorized by the bill (\$10 million for Revolutionary War and War of 1812 battlefields and \$10 million for Civil War battlefields) will be appropriated in each year. Estimated outlays are based on historical spending patterns of similar NPS grant programs.

**Pay-As-You-Go considerations:** None.

**Estimated impact on State, local, and tribal governments:** S. 779 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill 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: Martin von Gnechten; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

**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 S. 779.

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. 779, as ordered reported.

## CONGRESSIONALLY DIRECTED SPENDING

S. 779, as ordered 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 May 11, 2011, Subcommittee on National Parks hearing on S. 779 follows:

STATEMENT OF STEVEN E. WHITESELL, ASSOCIATE DIRECTOR FOR PARK PLANNING, FACILITIES, AND LANDS, 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. 779, 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. 779. This legislation would expand the American Battlefield Protection Program to include both the War of 1812 and Revolutionary War battlefields in addition to Civil War battlefields, which are covered under the current program. It would authorize \$10 million in grants for Revolutionary War and War of 1812 battlefield sites, as well as \$10 million in grants for Civil War battlefield sites, for each of fiscal years 2012 through 2022. The American Battlefield Protection Program is currently authorized through fiscal 2013.

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 study, S. 779 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 reauthorized through FY 2013 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.

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 began doing nearly two decades 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 1812. All funds would be subject to NPS priorities and availability of appropriations.

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

#### 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 S. 779, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### **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

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#### **TITLE VII—NATIONAL PARK SERVICE AUTHORIZATIONS**

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#### **Subtitle D—Program Authorizations**

#### **SEC. 7301. AMERICAN BATTLEFIELD PROTECTON PROGRAM.**

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(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 】 *battlefield 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 the period described in subparagraph (A); and*

(C) *any other relevant developments relating to the battlefields and associated sites during the period described in subparagraph (A).*

【(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 2012 through 2022—*

*(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.*

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