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SENATE

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AMERICAN BATTLEFIELD PROTECTION PROGRAM AMENDMENTS ACT

MAY 22, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 1033]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1033) 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 an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Beginning on page 4, strike line 7 and all that follows through page 5, line 3, and insert the following:

“(8) PROHIBITION ON LOBBYING.—None of the funds provided pursuant to this section shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress.”.

PURPOSE

The purpose of H.R. 1033 is to expand the American Battlefield Protection Program to include Revolutionary War and War of 1812 battlefield sites.

BACKGROUND AND NEED

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k, repealed on September 30, 2008 by U.S.C. 469k(e)(1)) was enacted to preserve and protect historically significant battlefields associated with the Civil War. The law directed the Secretary of the Interior, acting through the American Battlefield Protection Program, to encourage, support, and assist in identifying, researching, evalu-

ating, interpreting, and protecting historic Civil War battlefields and associated sites on a national, state, and local level.

The American Battlefield Protection Act 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 nationally significant battlefields, and it authorized \$3 million annually for such programs. The Act expired in 2008, but was reenacted and reauthorized through 2013 by section 7301 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 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.

H.R. 1033 amends section 7301(c) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11), which authorizes the American Battlefield Protection Program, 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

H.R. 1033 was introduced by Representative Holt on March 7, 2013. The House Committee on Natural Resources ordered H.R. 1033 reported on March 20, 2013 (H. Rept. 113–29), and the House of Representatives passed H.R. 1033 by a roll call vote of 283–122 on April 9, 2013.

In the Senate, the Subcommittee on National Parks held a hearing on H.R. 1033 and its Senate companion measure, S. 916, on July 31, 2013 (S. Hrg. 113–93). At its business meeting on November 21, 2013, the Committee ordered H.R. 1033 favorably reported with an amendment.

In the 112th Congress, the Committee considered a similar bill, S. 779, sponsored by Senator Schumer. 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. Rept. 112–116).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 21, 2013, by a voice vote of a quorum present, recommends that the Senate pass H.R. 1033, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of H.R. 1033, the Committee adopted an amendment that clarified that none of the funds appropriated for this program could be for lobbying purposes. The amended language is similar to the lobbying prohibitions included in various appropriations bills that have been enacted in recent years, including Public Law 113–6, the Consolidated and Continuing Appropriations Act, 2013.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the “American Battlefield Protection Program Amendments Act of 2013.”

Section 2 amends section 7301(c) 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. Section 7301 authorizes the American Battlefield Protection Program.

Paragraph (1) amends 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 three new paragraphs to section 7301(c). New paragraph (6) specifies that grants administered under this program for the acquisition of land, or interests in land, under the Act must be only from willing sellers. 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. New paragraph (8) prohibits the use of funds provided under this program for lobbying.

Paragraph (8) amends paragraph (9), as redesignated by this Act, to extend the expiration date of the authorization from 2013 to 2018.

COST AND BUDGETARY CONSIDERATIONS

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

H.R. 1033—American Battlefield Protection Program Amendments Act of 2013

Summary: H.R. 1033 would expand the American Battlefield Protection Program (ABPP) to include battlefields from the Revolutionary War and the War of 1812 and would authorize the appropriation of \$10 million a year over the 2014–2018 period for this program. Assuming appropriation of the newly authorized amounts, CBO estimates that implementing H.R. 1033 would cost \$42 million over the 2014–2019 period. Enacting H.R. 1033 would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

H.R. 1033 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1033 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—						
	2014	2015	2016	2017	2018	2019	2014–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Authorization Level	2	10	10	10	10	0	42
Estimated Outlays	2	8	10	10	10	2	42

Basis of estimate: For this estimate, CBO assumes that H.R. 1033 will be enacted early in 2014 and that the amounts authorized by the act will be appropriated in each year. Estimated outlays are based on historical spending patterns for the ABPP.

Funding for the ABPP has been appropriated in fiscal year 2014 through January 15, 2014, at an annualized level of about \$8 million. H.R. 1033 would authorize the appropriation of \$10 million annually for the ABPP. 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 as eligible for protection through the program but is not contained within the boundaries of a unit of the National Park System. CBO estimates that implementing the act would cost about \$42 million over the 2014–2019 period.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: H.R. 1033 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments. The act would benefit state and local governments by allowing grants for the preservation of Civil War battlefield sites to also be used for Revolutionary War and War of 1812 battlefield sites. Any associated costs would be incurred voluntarily by those governments as a condition of federal assistance.

Previous CBO estimate: On March 27, 2013, CBO transmitted a cost estimate for H.R. 1033, the American Battlefield Protection Program Amendments Act of 2013, as ordered reported by the House Committee on Natural Resources on March 20, 2013. The two versions of the legislation are similar. However, amounts have

now been appropriated for the ABPP for fiscal year 2014 and thus the estimated cost of the legislation for 2014 is now less than it was in March. In addition, CBO cost estimates now include projected costs for an additional year through 2019.

Estimate prepared by: Federal Costs: Martin von Gnechten; Impact on State, Local, and Tribal Governments: Michael Kulas; 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 H.R. 1033.

The Act 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. 1033, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 1033, 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 November 21, 2013, Subcommittee on National Parks hearing on H.R. 1033 follows:

STATEMENT OF STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, 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. 916 and H.R. 1033, 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. 916 and H.R. 1033 with an amendment described later in this statement. 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 a total of \$10 million in grants for the American Battlefield Protection Program for both Civil War battlefield sites and Revolutionary War and War of

1812 battlefield sites, for each of fiscal years 2014 through 2018.

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. 916 and H.R. 1033 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 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 those taken by the Civil War advocates 20 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.

The NPS is currently finalizing its update to the 1993 Civil War Sites report, which reviews the conditions of 383 Civil War battlefields, and which we plan to transmit to Congress in 2013. As currently drafted, S. 916 and H.R. 1033 require another update of the condition of these same Civil War battlefields in five years, in addition to an update of the 677 sites of the Revolutionary War and the War of 1812 identified in the *Report to Congress on the Historic Preservation of Revolutionary War and the War of 1812 Sites in the United States*. The NPS feels that updat-

ing information for all of these sites, most of which are not within the National Park System itself, will not be feasible in five years. Therefore, the NPS suggests one change in the reporting language of the bill so that the reporting requirement for the Civil War update is not later than 10 years after the date of enactment.

The Department recommends an amendment to S. 916 and H.R. 1033 to include language for combined funding of \$20 million for both the Civil War and the Revolutionary War and War of 1812 acquisition grant programs in each of fiscal years 2014 through 2018. Under current law, \$10 million is authorized for the Civil War battlefields alone. With the addition of the Revolutionary War and War of 1812 battlefields to the program, we believe that a \$20 million annual authorization would be appropriate. We would be happy to provide language for this amendment.

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 bill H.R. 1033, 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

* * * * *

TITLE VII—NATIONAL PARK SERVICE AUTHORIZATIONS

* * * * *

SUBTITLE D—PROGRAM AUTHORIZATIONS

SEC. 7301. AMERICAN BATTLEFIELD PROTECTION 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.

* * * * *

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

* * * * *

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

* * * * *

(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*

(8) PROHIBITION ON LOBBYING.—*None of the funds provided pursuant to this section shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress.*

【(6)】(9) 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】** 2018.

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