

## Calendar No. 593

114TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 114-320

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### KENNESAW MOUNTAIN NATIONAL BATTLEFIELD PARK BOUNDARY ADJUSTMENT ACT OF 2016

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SEPTEMBER 6, 2016.—Ordered to be printed

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

#### R E P O R T

[To accompany S. 1930]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1930) to adjust the boundary of the Kennesaw Mountain National Battlefield Park to include the Wallis House and Harriston Hill, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 1930 is to adjust the boundary of the Kennesaw Mountain National Battlefield Park to include the Wallis House and Harriston Hill.

#### BACKGROUND AND NEED

Kennesaw Mountain Battlefield in Georgia was set aside for preservation and protection in 1917 to commemorate the Civil War Battle of Kennesaw Mountain, which proved to be a major turning point for the Union Army and the eventual fall of Atlanta. The battlefield was designated as a National Battlefield Park in 1935.

The Wallis House is one of the few original structures still remaining from the battle. Built by Josiah Wallis in mid-1850, the house served as the headquarters of Union General Oliver O. Howard, and was the scene of heavy fighting on July 27, 1864. Immediately north of the Wallis House is Harriston Hill, the site of a signal tower for General Howard's Army Corps during the battle.

S. 1930 would expand the boundary of the Battlefield and authorize the Secretary of the Interior to acquire approximately eight

acres of land, including the Wallis House and Harriston Hill, by donation or exchange to expand the park. Cobb County is the current owner of the eight acres of property and has expressed a desire to convey the land to National Park Service (NPS) once the NPS is authorized to receive it.

Currently, the battlefield enables visitors to view the Confederate Army positions during the battle. Adding the Wallis House and Harriston Hill will allow interpretation of the Union Army positions as well, improving visitor understanding of this conflict.

#### LEGISLATIVE HISTORY

In the 113th Congress, Senators Isakson and Chambliss introduced S. 2571, on July 9, 2014. Representative Gingrey introduced a companion bill, H.R. 5003, on June 26, 2014. The Subcommittee on Public Lands and Environmental Regulation held a hearing on H.R. 5003 on September 9, 2014. On September 18, 2014, the Committee on Natural Resources ordered the bill to be reported as amended by unanimous consent (H. Rpt. 113–701).

In the 114th Congress, S. 1930 was introduced by Senators Isakson and Perdue on August 4, 2015. The Subcommittee on National Parks held a hearing on the bill on March 17, 2016. In the House of Representatives, Representative Loudermilk introduced a companion bill, H.R. 3371, on July 29, 2015. H.R. 3371 was ordered to be reported by unanimous consent by the House Committee on Natural Resources on February 24, 2016 (H. Rept. 114–434). On the same day, H.R. 3371 passed by a voice vote in the House of Representatives.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 193 favorably reported.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass S. 1930.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 provides a short title for the measure.

##### *Section 2. Findings*

Section 2 provides the findings of Congress.

##### *Section 3. Boundary adjustment; land acquisition; administration*

Section 3(a) modifies the boundary of the Kennesaw Mountain National Battlefield Park to include Wallis House and Harriston Hill and requires a map of the new boundary to be on file and available.

Subsection (b) authorizes the Secretary of the Interior to acquire the approximately eight acres from willing owners by donation or exchange.

Subsection (c) directs the Secretary to administer the new acquisitions as part of the Kennesaw Mountain National Battlefield Park in accordance with applicable law.

## COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 5, 2016.*

Hon. LISA MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1930, the Kennesaw Mountain National Battlefield Park Boundary Adjustment Act of 2015.

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

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*S. 1930—Kennesaw Mountain National Battlefield Park Boundary Adjustment Act of 2015*

S. 1930 would adjust the boundary of the Kennesaw Mountain National Battlefield Park in the state of Georgia. The bill would authorize the National Park Service (NPS) to acquire about 8 acres of land, including the Wallis house and Harriston Hill, by donation or exchange. Based on information provided by the NPS, CBO estimates that implementing S. 1930 would cost \$2 million over the 2017–2021 period to develop and operate the new property. That spending would be subject to availability of appropriated funds.

Because enacting S. 1930 would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1930 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 1930 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.

On February 19, 2016, CBO transmitted a cost estimate for H.R. 3371, the Kennesaw Mountain National Battlefield Park Boundary Adjustment Act of 2015, as ordered reported by the House Committee on Natural Resources on February 3, 2016. The two pieces of legislation are similar and CBO's estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Jon Sperl. The estimate was approved by Theresa Gullo, 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. 1930. The bill is not a regulatory measure in the sense of impos-

ing 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. 1930, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 1930, 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 March 17, 2016, Subcommittee on National Parks hearing on S. 1930 follows:

#### STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR FOR OPERATIONS, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 1930 and H.R. 3371, bills to authorize the Secretary of the Interior to adjust the boundary of the Kennesaw Mountain National Battlefield Park in the State of Georgia to include the Wallis House and Harriston Hill, and for other purposes.

The Department supports S. 1930 and would support H.R. 3371 if amended in accordance with this statement. This legislation would authorize the Secretary of the Interior to acquire by donation or exchange approximately 8 acres of land or interests in land known as the Wallis House property and Harriston Hill in Cobb County, Georgia.

The Wallis house is one of the few original structures remaining from the Battle of Kennesaw Mountain. The house is in its original location, ½ mile west of the park on Burnt Hickory Road. The Wallis house was built by Josiah Wallis in 1853 and occupied by his family until the Civil War, when it was used first as a Confederate hospital and then as the headquarters for Union General O.O. Howard during the Battle of Kennesaw Mountain. General William T. Sherman was stationed at the Wallis house during the Battle of Kolb's Farm that took place at the south end of the park and immediately preceded the Battle of Kennesaw Mountain. Adjacent to the Wallis house is Harriston Hill, which offers a sweeping vista of the valley leading to the Confederate line atop Kennesaw Mountain. From this position it is clear why General Howard picked this site for his headquarters and signaling position. The majority of the park's auto tour and trails interpret Confederate positions. The acquisition of this site would enhance visitor understanding of the Union strategy during

the Battle of Kennesaw Mountain. This addition would enable the park to interpret a key Union position in the last major battle leading to the fall of Atlanta during the Civil War.

The Wallis house was in imminent danger of being demolished by a developer in 2002. The developer had purchased 26.66 acres including the Wallis house and adjoining Harriston Hill with plans to construct 43 homes on the property. In cooperation with the National Park Service, the Cobb Land Trust, and the Georgia Civil War Commission, Cobb County agreed to purchase the Wallis house property and the 5.5 acres encompassing Harriston Hill with the intent of donating the properties to Kennesaw Mountain National Battlefield Park. The Cobb Land Trust agreed to purchase 1.13 acres at the foot of Harriston Hill that are essential for providing visitor access to all properties and to donate this property to the NPS. Neither the county nor the Cobb Land Trust has the funds to restore, maintain or manage the site, and no other entity has indicated the interest or ability to do so.

The NPS estimates that the site would require an immediate one-time cost of \$1 million for repair and safety improvements, and an annual operational cost of \$204,000 for salaries, supplies, and maintenance. All funds would be subject to NPS priorities and the availability of appropriations.

The Department supports S. 1930 as introduced and would support H.R. 3371 as passed by the House if amended to conform to the language in S. 1930. As passed by the House, H.R. 3371 makes the establishment of the expanded boundary subject to the written consent of the owners of properties that would be included within the new boundary. This places landowners, rather than Congress or the Administration, in the position of determining the boundary of a federal park, which we believe is inappropriate. This provision has the potential to create legal and practical confusion over the boundary since it is possible that a landowner could give consent, then change his or her mind and withdraw consent or convey the property to another owner who withdraws consent. If the intent of this language is to ensure that no land is included within the park boundary without the consent of the landowner, we recommend amending the bill to provide that the park boundary shall not be adjusted unless and until a specified property is acquired for the park. By waiting to include land in the boundary until it is acquired by the federal government, this approach avoids entirely the potential problems we see with the approach used in the House bill. Our recommended approach has precedent in other park laws.

H.R. 3371 prohibits acquisition by condemnation of any land or interests in land within the boundaries of the park. However, the bill already limits acquisition to donation or exchange. If the intent of this provision is to prohibit condemnation of the approximately 8 acres that would be in-

cluded in the park boundary, we believe limiting acquisition to donation or exchange achieves the same goal.

H.R. 3371 also includes language that says that an activity outside the boundary shall not be precluded because it can be heard or seen inside the park boundary. The Department has concerns about this language. It is misleading, as it suggests that the NPS may have authority to preclude activities outside the boundaries, which it does not. Of even greater concern, however, is that the language could discourage park managers from addressing threats to park resources from external sources. Even though the NPS does not control what happens outside of its boundaries, park managers have a responsibility under the NPS Organic Act and other laws to work with owners of properties outside of park boundaries to resolve problems that could negatively impact the resources the NPS is responsible for protecting.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or any members of the subcommittee may have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

