

107TH CONGRESS
2D SESSION

S. 2575

To preserve the sovereignty of the United States over property owned by the United States, to preserve State sovereignty over and private property rights in non-Federal property surrounding Federal Property, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2002

Mr. SMITH of New Hampshire introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To preserve the sovereignty of the United States over property owned by the United States, to preserve State sovereignty over and private property rights in non-Federal property surrounding Federal Property, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Land Sov-
5 ereignty Protection Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) the power to dispose of and make all nec-
2 essary rules governing property belonging to the
3 United States is vested in Congress under section 3
4 of article IV of the Constitution;

5 (2) some Federal property designations under
6 international agreements concern land use policies
7 and regulations for property belonging to the United
8 States that, under section 3 of article IV of the Con-
9 stitution, can be implemented only by an Act of Con-
10 gress;

11 (3) some international property designations,
12 such as those under the United States Biosphere
13 Reserve Program and the Man and Biosphere Pro-
14 gram of the United Nations Scientific, Educational,
15 and Cultural Organization, operate under inde-
16 pendent national committees, such as the United
17 States National Man and Biosphere Committee, that
18 have no legislative directive or authorization from
19 Congress;

20 (4) actions by the United States in making
21 such designations may affect the use and value of
22 nearby non-Federal property;

23 (5) the sovereignty of the States is a critical
24 component of our Federal system of government and

1 a bulwark against the unwise concentration of
2 power;

3 (6) private property rights are essential for the
4 protection of freedom;

5 (7) actions by the United States to designate
6 property belonging to the United States under inter-
7 national agreements in some cases conflict with con-
8 gressional constitutional responsibilities and the sov-
9 ereign powers of the States; and

10 (8) actions by the President in applying certain
11 international agreements to property owned by the
12 United States diminish the authority of Congress to
13 make rules respecting the property.

14 (b) PURPOSES.—The purposes of this Act are—

15 (1) to reaffirm the power of Congress under
16 section 3 of article IV of the Constitution over inter-
17 national agreements that concern disposal, manage-
18 ment, and use of property belonging to the United
19 States;

20 (2) to protect State powers not reserved to the
21 Federal Government under the Constitution from
22 Federal actions designating property under inter-
23 national agreements;

24 (3) to ensure that no United States citizen suf-
25 fers any diminishment or loss of individual rights as

a result of Federal action designating property under an international agreement for the purpose of imposing restrictions on use of the property;

(4) to protect private interests in property from diminishment as a result of Federal action designating property under international agreements; and

(5) to provide a process under which the United States may, when it is desirable to do so, designate property under an international agreement.

**SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN
WORLD HERITAGE SITE LISTING.**

Section 401 of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1) is amended—

(1) by striking “SEC. 401. (a)” and inserting the following:

“SEC. 401. PARTICIPATION BY THE UNITED STATES.

“(a) IN GENERAL.—”;

(2) in the first sentence of subsection (a)—

(A) by striking “The Secretary of the Interior” and inserting “Subject to subsections (b), (c), (d), and (e), the Secretary of the Interior (referred to in this section as the ‘Secretary’)”;

and

(B) by inserting “(referred to in this section as the ‘Convention’)” after “1973”;

1 (3) in subsection (b)—

2 (A) by striking “(b) The Secretary of the
3 Interior” and inserting “(b) NOMINATION OF
4 PROPERTY TO WORLD HERITAGE COM-
5 MITTEE.—The Secretary”; and

6 (B) in the fourth sentence—

7 (i) by striking “Representatives and”
8 and inserting “Representatives,”; and

9 (ii) by inserting before the final period
10 “, and the appropriate State and local gov-
11 ernments”;

12 (4) in subsection (c), by striking “(c) No non-
13 Federal property may be nominated by the Secretary
14 of the Interior” and inserting “(c) NOMINATION OF
15 NON-FEDERAL PROPERTY TO WORLD HERITAGE
16 COMMITTEE.—No non-Federal property may be
17 nominated by the Secretary”; and

18 (5) by adding at the end the following:

19 “(d) REQUIREMENTS FOR NOMINATION OF PROP-
20 erties.—The Secretary shall not nominate a property
21 under subsection (b) unless—

22 “(1) the Secretary publishes a proposed nomi-
23 nation in the Federal Register and conducts a pro-
24 ceeding under sections 555, 556, and 557, of title 5,
25 United States Code;

1 “(2) the Secretary, in carrying out the pro-
2 ceeding described in paragraph (1)—

3 “(A) considers—

4 “(i) natural resources associated with
5 the property proposed to be nominated and
6 other property located within 10 miles of
7 the property to be nominated; and

8 “(ii) the impact that inclusion of the
9 property proposed to be nominated on the
10 World Heritage List would have on exist-
11 ing and future uses of the property pro-
12 posed to be nominated or other property
13 located within 10 miles of the property to
14 be nominated; and

15 “(B) determines that commercially viable
16 uses (in existence on the date of the nomina-
17 tion) of the property proposed to be nominated
18 and of other property located within 10 miles of
19 the property proposed to be nominated will not
20 be adversely affected by inclusion of the prop-
21 erty on the World Heritage List; and

22 “(3) the Secretary submits to Congress a report
23 that—

24 “(A) contains the information described in
25 subparagraphs (A) and (B);

1 “(B) describes the necessity for including
2 the property on the list; and

3 “(C) proposes legislation authorizing nomi-
4 nation of the property; and

5 “(4) the nomination is specifically authorized by
6 an Act of Congress enacted after the date of the re-
7 port.

8 “(e) OBJECTION TO INCLUSION OF PROPERTY.—The
9 Secretary shall object to the inclusion of property in the
10 United States on the list of World Heritage in Danger
11 established under Article 11.4 of the Convention, unless—

12 “(1) the Secretary submits to Congress the re-
13 port required under subsection (d)(1)(C); and

14 “(2) the Secretary is specifically authorized to
15 assent to the inclusion of the property on the list by
16 an Act of Congress enacted after the date of submis-
17 sion of the report under paragraph (1).

18 “(f) DECISIONMAKING.—Notwithstanding any provi-
19 sion of the Convention, all land management decisions
20 with respect to any Federal or State land shall remain
21 the responsibility of the land management agency that ad-
22 ministers the land.”.

1 **SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHOR-**
 2 **IZED UNITED NATIONS BIOSPHERE RE-**
 3 **SERVES.**

4 Title IV of the National Historic Preservation Act
 5 Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is
 6 amended by adding at the end the following:

7 **“SEC. 403. PROHIBITION AND TERMINATION OF UNAU-**
 8 **THORIZED UNITED NATIONS BIOSPHERE RE-**
 9 **SERVES.**

10 “(a) IN GENERAL.—No Federal official may nomi-
 11 nate property in the United States for designation as a
 12 Biosphere Reserve under the Man and Biosphere Program
 13 of the United Nations Educational, Scientific, and Cul-
 14 tural Organization unless—

15 “(1) the Secretary of State publishes a pro-
 16 posed nomination in the Federal Register and con-
 17 ducts a proceeding under sections 555, 556, and
 18 557, of title 5, United States Code;

19 “(2) the Secretary of State, in carrying out the
 20 proceeding described in paragraph (1)—

21 “(A) considers—

22 “(i) natural resources associated with
 23 the property proposed to be nominated and
 24 other property located within 10 miles of
 25 the property to be nominated; and

1 “(ii) the impact that inclusion of the
2 property proposed to be designated as a
3 Biosphere would have on existing and fu-
4 ture uses of the property proposed to be
5 nominated or other property located within
6 10 miles of the property to be nominated;

7 “(B) determines that commercially viable
8 uses (in existence on the date of the nomina-
9 tion) of the property proposed to be nominated
10 and of other property located within 10 miles of
11 the property proposed to be nominated will not
12 be adversely affected by designation of the
13 property as a Biosphere; and

14 “(3) the Secretary of State submits to Congress
15 a report that—

16 “(A) contains the information described in
17 subparagraphs (A) and (B);

18 “(B) describes the necessity for including
19 the property in the program; and

20 “(C) proposes legislation authorizing nomi-
21 nation of the property; and

22 “(4) the nomination is specifically authorized by
23 an Act of Congress enacted after the date of the re-
24 port.

1 “(b) OBJECTION TO INCLUSION OF PROPERTY.—The
2 Secretary of State shall object to the designation of prop-
3 erty in the United States as a Biosphere Reserve under
4 the Man and Biosphere Program of the United Nations
5 Educational, Scientific, and Cultural Organization,
6 unless—

7 “(1) the Secretary of State submits Congress
8 the report required under subsection (a)(1)(C); and

9 “(2) the Secretary of State is specifically au-
10 thorized to assent to the inclusion of the property on
11 the list by an Act of Congress enacted after the date
12 of submission of the report under paragraph (1).

13 “(c) PROPERTIES DESIGNATED BEFORE DATE OF
14 ENACTMENT.—Any designation of property in the United
15 States as a Biosphere Reserve under the Man and Bio-
16 sphere Program of the United Nations Educational, Sci-
17 entific, and Cultural Organization made before the date
18 of enactment of this section shall terminate on December
19 31, 2003, unless the Biosphere Reserve—

20 “(1) is specifically authorized by a law enacted
21 after the date of enactment of this section and be-
22 fore December 31, 2003;

23 “(2) consists solely of property that on the date
24 of enactment of this section is owned by the United
25 States; and

1 “(3) is subject to a management plan that spe-
 2 cifically ensures that the use of nearby non-Federal
 3 property is not limited or restricted as a result of
 4 the designation.

5 “(d) DECISIONMAKING.—Notwithstanding any provi-
 6 sion of the Convention, all land management decisions
 7 with respect to any Federal or State land shall remain
 8 the responsibility of the land management agency that ad-
 9 ministers the land.”.

10 **SEC. 5. TECHNICAL AMENDMENTS.**

11 Title IV of the National Historic Preservation Act
 12 Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is
 13 amended—

14 (1) in the last sentence of section 401(b), by
 15 striking “Committee on Natural Resources” and in-
 16 serting “Committee on Resources”; and

17 (2) in section 402, by striking “SEC. 402. Prior
 18 to the approval” and inserting the following:

19 **“SEC. 402. MITIGATION OF ADVERSE EFFECTS OF FEDERAL**
 20 **UNDERTAKINGS OUTSIDE THE UNITED**
 21 **STATES.**

22 “Prior to the approval”.

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