

111TH CONGRESS  
1ST SESSION

# S. 359

To establish the Hawai'i Capital National Heritage Area, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2009

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To establish the Hawai'i Capital National Heritage Area, 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 “Hawai'i Capital Na-  
5 tional Heritage Area Establishment Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) HERITAGE AREA.—The term “Heritage  
9 Area” means the Hawai'i Capital National Heritage  
10 Area established by section 3(a).

1           (2) LOCAL COORDINATING ENTITY.—The term  
2           “local coordinating entity” means the local coordi-  
3           nating entity for the Heritage Area designated by  
4           section 3(d).

5           (3) MANAGEMENT PLAN.—The term “manage-  
6           ment plan” means the management plan for the  
7           Heritage Area required under section 5.

8           (4) MAP.—The term “map” means the map en-  
9           titled “Hawai’i Capital National Heritage Area Pro-  
10          posed Boundary”, numbered T17/90,000B, and  
11          dated January 2009.

12          (5) SECRETARY.—The term “Secretary” means  
13          the Secretary of the Interior.

14          (6) STATE.—The term “State” means the State  
15          of Hawai’i.

16 **SEC. 3. HAWAII CAPITAL NATIONAL HERITAGE AREA.**

17          (a) ESTABLISHMENT.—There is established in the  
18          State the Hawai’i Capital National Heritage Area.

19          (b) BOUNDARIES.—The Heritage Area shall consist  
20          of portions of Honolulu and the Honolulu Ahupua’a, as  
21          depicted on the map.

22          (c) AVAILABILITY OF MAP.—The map shall be on file  
23          and available for public inspection in the appropriate of-  
24          fices of the National Park Service and the Hawai’i Capital  
25          Cultural Coalition.

1 (d) LOCAL COORDINATING ENTITY.—The Hawai'i  
 2 Capital Cultural Coalition shall be the local coordinating  
 3 entity for the Heritage Area.

4 **SEC. 4. DUTIES AND AUTHORITIES OF THE LOCAL COORDI-**  
 5 **NATING ENTITY.**

6 (a) DUTIES OF THE LOCAL COORDINATING ENTI-  
 7 TY.—To further the purposes of the Heritage Area, the  
 8 local coordinating entity shall—

9 (1) prepare and submit a management plan for  
 10 the Heritage Area to the Secretary in accordance  
 11 with section 5;

12 (2) assist units of local government, regional  
 13 planning organizations, and nonprofit organizations  
 14 in implementing the approved management plan  
 15 by—

16 (A) carrying out programs and projects  
 17 that recognize, protect, and enhance important  
 18 resource values in the Heritage Area;

19 (B) establishing and maintaining interpre-  
 20 tive exhibits and programs within the Heritage  
 21 Area;

22 (C) developing recreational and educational  
 23 opportunities in the Heritage Area;

1 (D) increasing public awareness of, and  
2 appreciation for, natural, historic, scenic, and  
3 cultural resources of the Heritage Area;

4 (E) protecting and restoring historic sites  
5 and buildings in the Heritage Area that are  
6 consistent with the themes of the Heritage  
7 Area;

8 (F) ensuring that signs identifying points  
9 of public access and sites of interest are posted  
10 throughout the Heritage Area; and

11 (G) promoting a wide range of partner-  
12 ships among governments, organizations, and  
13 individuals to further the purposes of the Herit-  
14 age Area;

15 (3) consider the interests of diverse units of  
16 government, businesses, organizations, and individ-  
17 uals in the Heritage Area in the preparation and im-  
18 plementation of the management plan;

19 (4) conduct meetings open to the public at least  
20 semiannually regarding the development and imple-  
21 mentation of the management plan;

22 (5) for any fiscal year for which the local co-  
23 ordinating entity receives Federal funds under this  
24 Act—

1 (A) submit to the Secretary an annual re-  
2 port that describes, for the fiscal year—

3 (i) the accomplishments, expenses, in-  
4 come, amounts, and sources of matching  
5 funds;

6 (ii) the amounts leveraged with Fed-  
7 eral funds and sources of the leveraged  
8 funds; and

9 (iii) grants made to any other entities;

10 (B) make available to the Secretary for  
11 audit all information relating to the expenditure  
12 of Federal funds and any matching funds for  
13 the fiscal year; and

14 (C) require, in all agreements authorizing  
15 the expenditure of Federal funds by other orga-  
16 nizations, that the organizations receiving the  
17 Federal funds make available to the Secretary  
18 for audit all records and other information re-  
19 lating to the expenditure of the funds; and

20 (6) encourage, by appropriate means, economic  
21 development that is consistent with the purposes of  
22 the Heritage Area.

23 (b) AUTHORITIES.—The local coordinating entity  
24 may, subject to the prior approval of the Secretary, for  
25 the purposes of preparing and implementing the manage-

1 ment plan for the Heritage Area, use Federal funds made  
2 available under this Act to—

3 (1) make grants to the State or a political sub-  
4 division of the State, nonprofit organizations, and  
5 other persons;

6 (2) enter into cooperative agreements with, or  
7 provide technical assistance to, the State or a polit-  
8 ical subdivision of the State, nonprofit organizations,  
9 Federal agencies, and other interested parties;

10 (3) hire and compensate staff;

11 (4) obtain money or services from any source,  
12 including under any other Federal law or program;

13 (5) contract for goods or services; and

14 (6) support activities of partners and any other  
15 activities that—

16 (A) further the purposes of the Heritage  
17 Area; and

18 (B) are consistent with the approved man-  
19 agement plan.

20 (c) PROHIBITION ON THE ACQUISITION OF REAL  
21 PROPERTY.—The local coordinating entity shall not use  
22 Federal funds made available under this Act to acquire  
23 real property or any interest in real property.

1 **SEC. 5. MANAGEMENT PLAN.**

2 (a) IN GENERAL.—Not later than 3 years after the  
3 date on which funds are made available to carry out this  
4 Act, the local coordinating entity shall submit to the Sec-  
5 retary for approval a management plan for the Heritage  
6 Area.

7 (b) REQUIREMENTS.—The management plan shall—

8 (1) describe comprehensive policies, goals, strat-  
9 egies, and recommendations for—

10 (A) conveying the heritage of the region;

11 and

12 (B) encouraging long-term resource protec-  
13 tion, enhancement, interpretation, funding,  
14 management, and development of the Heritage  
15 Area;

16 (2) take into consideration existing State, coun-  
17 ty, and local plans in the development and imple-  
18 mentation of the management plan;

19 (3) include a description of actions and commit-  
20 ments that governments, private organizations, and  
21 individuals have agreed to take to protect, enhance,  
22 and interpret the natural, historic, scenic, and cul-  
23 tural resources of the Heritage Area;

24 (4) specify existing and potential sources of  
25 funding or economic development strategies to pro-

1 tect, enhance, interpret, fund, manage, and develop  
2 the Heritage Area;

3 (5) include an inventory of the natural, historic,  
4 cultural, educational, scenic, and recreational re-  
5 sources of the Heritage Area related to the stories  
6 and themes of the region that should be protected,  
7 enhanced, managed, or developed;

8 (6) recommend policies and strategies for re-  
9 source management, including the development of  
10 intergovernmental and interagency agreements to  
11 protect the natural, historic, cultural, educational,  
12 scenic, and recreational resources of the Heritage  
13 Area;

14 (7) describe a program of implementation for  
15 the management plan, including—

16 (A) performance goals;

17 (B) plans for resource protection, enhance-  
18 ment, and interpretation; and

19 (C) specific commitments for implementa-  
20 tion of the management plan that have been  
21 made by the local coordinating entity or any  
22 government, organization, business, or indi-  
23 vidual;

24 (8) include an analysis of, and recommenda-  
25 tions for, ways in which Federal, tribal, State, and

1 local programs may best be coordinated to carry out  
2 the purposes of this Act, including recommendations  
3 for the role of the National Park Service and other  
4 Federal agencies associated with the Heritage Area;

5 (9) include an interpretive plan for the Heritage  
6 Area; and

7 (10) include a business plan that—

8 (A) describes the role, operation, financing,  
9 and functions of—

10 (i) the local coordinating entity; and

11 (ii) each of the major activities con-  
12 tained in the management plan; and

13 (B) provides adequate assurances that the  
14 local coordinating entity has the partnerships  
15 and financial and other resources necessary to  
16 implement the management plan for the Herit-  
17 age Area.

18 (c) TERMINATION OF FUNDING.—If the management  
19 plan is not submitted to the Secretary in accordance with  
20 this Act, the local coordinating entity shall be ineligible  
21 to receive additional funding under this Act until the date  
22 on which the Secretary approves the management plan.

23 (d) APPROVAL OF MANAGEMENT PLAN.—

24 (1) IN GENERAL.—Not later than 180 days  
25 after the date of receipt of the management plan

1 under subsection (a), the Secretary, in consultation  
2 with the Governor of the State and any applicable  
3 tribal government, shall approve or disapprove the  
4 management plan.

5 (2) CRITERIA FOR APPROVAL.—In determining  
6 whether to approve the management plan, the Sec-  
7 retary shall consider whether—

8 (A) the local coordinating entity represents  
9 the diverse interests of the Heritage Area, in-  
10 cluding governments, natural and historical re-  
11 source protection organizations, educational in-  
12 stitutions, businesses, community residents, and  
13 recreational organizations;

14 (B) the local coordinating entity has af-  
15 farded adequate opportunity for public and gov-  
16 ernmental involvement, including workshops  
17 and public meetings, in the preparation of the  
18 management plan;

19 (C) the resource protection and interpreta-  
20 tion strategies contained in the management  
21 plan, if implemented, would adequately protect  
22 the natural, historic, and cultural resources of  
23 the Heritage Area;

24 (D) the management plan would not ad-  
25 versely affect any activities authorized on Fed-

1           eral or tribal land under applicable laws or land  
2           use plans;

3           (E) the Secretary has received adequate  
4           assurances from the appropriate State, tribal,  
5           and local officials, the support of which is nec-  
6           essary to ensure the effective implementation of  
7           the State, tribal, and local aspects of the man-  
8           agement plan; and

9           (F) the local coordinating entity has dem-  
10          onstrated the financial capability, in partner-  
11          ship with others, to carry out the plan.

12          (3) ACTION FOLLOWING DISAPPROVAL.—If the  
13          Secretary disapproves the management plan under  
14          paragraph (1), the Secretary—

15                (A) shall advise the local coordinating enti-  
16                ty in writing of the reasons for the disapproval;

17                (B) may make recommendations to the  
18                local coordinating entity for revisions to the  
19                management plan; and

20                (C) not later than 180 days after the re-  
21                ceipt of any proposed revision of the manage-  
22                ment plan from the local coordinating entity,  
23                shall approve or disapprove the proposed re-  
24                vised management plan.

1           (4) AMENDMENTS.—The Secretary shall ap-  
 2           prove or disapprove each amendment to the manage-  
 3           ment plan that the Secretary determines would  
 4           make a substantial change to the management plan  
 5           in accordance with this subsection.

6           (5) USE OF FUNDS.—The local coordinating en-  
 7           tity shall not use Federal funds authorized by this  
 8           Act to carry out any amendments to the manage-  
 9           ment plan until the Secretary has approved the  
 10          amendments.

11 **SEC. 6. DUTIES AND AUTHORITIES OF THE SECRETARY.**

12          (a) TECHNICAL AND FINANCIAL ASSISTANCE.—

13           (1) IN GENERAL.—On the request of the local  
 14           coordinating entity, the Secretary may provide to the  
 15           local coordinating entity technical and financial as-  
 16           sistance on a reimbursable or nonreimbursable basis,  
 17           as determined by the Secretary, to develop and im-  
 18           plement the management plan.

19           (2) PRIORITY ACTIONS.—In providing assist-  
 20           ance under this subsection, the Secretary shall give  
 21           priority to actions that assist in—

22                   (A) conserving the significant natural, his-  
 23                   toric, cultural, and scenic resources of the Her-  
 24                   itage Area; and

1 (B) providing educational, interpretive, and  
2 recreational opportunities consistent with the  
3 purposes of the Heritage Area.

4 (3) COOPERATIVE AGREEMENTS.—The Sec-  
5 retary may enter into cooperative agreements with  
6 the local coordinating entity and other public or pri-  
7 vate entities for the purposes of carrying out this  
8 subsection.

9 (b) EVALUATION.—

10 (1) IN GENERAL.—Not later than 3 years be-  
11 fore the date on which authority for Federal funding  
12 terminates for the Heritage Area under section 10,  
13 the Secretary shall—

14 (A) conduct an evaluation of the accom-  
15 plishments of the Heritage Area; and

16 (B) prepare a report with recommenda-  
17 tions for the future role of the National Park  
18 Service, if any, with respect to the Heritage  
19 Area.

20 (2) EVALUATION COMPONENTS.—An evaluation  
21 conducted under paragraph (1)(A) shall—

22 (A) assess the progress of the local coordi-  
23 nating entity with respect to—

24 (i) accomplishing the purposes of this  
25 Act for the Heritage Area; and

1 (ii) achieving the goals and objectives  
2 of the approved management plan for the  
3 Heritage Area;

4 (B) analyze the Federal, State, local, and  
5 private investments in the Heritage Area to de-  
6 termine the leverage and impact of the invest-  
7 ments; and

8 (C) review the management structure,  
9 partnership relationships, and funding of the  
10 Heritage Area for purposes of identifying the  
11 critical components for sustainability of the  
12 Heritage Area.

13 (3) REPORT.—

14 (A) IN GENERAL.—Based on the evalua-  
15 tion conducted under paragraph (1)(A), the  
16 Secretary shall prepare a report with rec-  
17 ommendations for the future role of the Na-  
18 tional Park Service, if any, with respect to the  
19 Heritage Area.

20 (B) REQUIRED ANALYSIS.—If the report  
21 prepared under subparagraph (A) recommends  
22 that Federal funding for the Heritage Area be  
23 reauthorized, the report shall include an anal-  
24 ysis of—

1 (i) ways in which Federal funding for  
2 the Heritage Area may be reduced or  
3 eliminated; and

4 (ii) the appropriate time period nec-  
5 essary to achieve the recommended reduc-  
6 tion or elimination.

7 (C) SUBMISSION TO CONGRESS.—On com-  
8 pletion of the report, the Secretary shall submit  
9 the report to—

10 (i) the Committee on Energy and  
11 Natural Resources of the Senate; and

12 (ii) the Committee on Natural Re-  
13 sources of the House of Representatives.

14 **SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

15 (a) IN GENERAL.—Nothing in this Act affects the au-  
16 thority of a Federal agency to provide technical or finan-  
17 cial assistance under any other law.

18 (b) CONSULTATION AND COORDINATION.—To the  
19 maximum extent practicable, the head of any Federal  
20 agency planning to conduct activities that may have an  
21 impact on the Heritage Area is encouraged to consult and  
22 coordinate the activities with the Secretary and the local  
23 coordinating entity.

24 (c) OTHER FEDERAL AGENCIES.—Nothing in this  
25 Act—



1           (4) alters any land use regulation, approved  
2 land use plan, or other regulatory authority of any  
3 Federal, tribal, State, or local agency;

4           (5) conveys any land use or other regulatory  
5 authority to the local coordinating entity;

6           (6) authorizes or implies the reservation or ap-  
7 propriation of water or water rights;

8           (7) diminishes the authority of the State to  
9 manage fish and wildlife, including the regulation of  
10 fishing and hunting within the Heritage Area; or

11           (8) creates any liability, or affects any liability  
12 under any other law, of any private property owner  
13 with respect to any person injured on the private  
14 property.

15 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

16           (a) IN GENERAL.—There is authorized to be appro-  
17 priated to carry out this Act \$10,000,000, of which not  
18 more than \$1,000,000 may be made available for any fis-  
19 cal year.

20           (b) COST-SHARING REQUIREMENT.—

21           (1) IN GENERAL.—The Federal share of the  
22 cost of any activity provided assistance or a grant  
23 under this Act shall not exceed 50 percent of the  
24 total cost of the activity.

1           (2) FORM OF NON-FEDERAL SHARE.—The non-  
2       Federal share—

3                   (A) shall be from non-Federal sources; and

4                   (B) may be in the form of in-kind con-  
5       tributions of goods and services fairly valued.

6 **SEC. 10. TERMINATION OF AUTHORITY.**

7       The authority of the Secretary to provide financial  
8       assistance under this Act terminates on the date that is  
9       15 years after the date of enactment of this Act.

○