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NIAGARA FALLS NATIONAL HERITAGE AREA STUDY ACT

JUNE 26, 2002.—Ordered to be printed

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

R E P O R T

[To accompany S. 1227]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1227) to authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Niagara Falls National Heritage Area in the State of New York, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, lines 3 through 12, amended paragraph (2) to read as follows:

“(2) STUDY AREA.—The term ‘study area’ means lands in Niagara County, New York, along and in the vicinity of the Niagara River.”.

2. On page 2, line 13, strike “RIVER” and insert “FALLS”.

3. On page 5, strike lines 1 through 3 and insert the following:

“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated \$300,000 to carry out this Act.”

PURPOSE

The purpose of S. 1227 is to authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Niagara Falls National Heritage Area in the State of New York.

BACKGROUND AND NEED

The Niagara River Corridor includes the internationally renowned Niagara Falls, the 6-mile long Niagara Gorge, and the city of Niagara Falls. Besides its scenic gorge geology, the region includes National Landmarks such as the Niagara Reservation State Park, a Frederick Law Olmsted-designed resource which the National Park Service now lists as threatened/damaged, chiefly due to visual intrusions on the Canadian side of the river.

The National Park Service conducted a reconnaissance survey of the Niagara River Corridor between March 19 and 20, 2001, and the agency is now in the process of preparing a report on the results of its survey. A July 26, 2001 Draft Report examined possibilities for National Park Service involvement in the area.

The Draft Report preliminarily considered three possibilities for National Park Service involvement in the region. The first option proposed using existing authorities while the second considered designating the area as a unit of the National Park System. Neither option was recommended.

The third option proposed a study of the suitability and feasibility of establishing a Niagara Falls Heritage Area. Such a heritage area could lend Park Service assistance to restoring Olmsted's Niagara Reservation, providing cohesive planning to the state parks in the area, and helping the city of Niagara Falls develop pedestrian access to the river and otherwise rejuvenate itself based on the surrounding natural splendors. The Draft Report tentatively concluded that "[s]hould there be demonstrated local support for a partnership with the National Park Service in the region, Congress should authorize the Secretary of the Interior to undertake a National Heritage Area Feasibility Study."

LEGISLATIVE HISTORY

S. 1227 was introduced by Senators Schumer and Clinton on July 24, 2001. The House companion measure, H.R. 2609, was introduced by Representative John LaFalce on July 24, 2001. The Subcommittee on National Parks held a hearing on S. 1227 on July 31, 2001. The Committee on Energy and Natural Resources considered S. 1227 and adopted amendments to it at its business meeting on May 15, 2002. The Committee ordered the bill, as amended, favorably reported at its business meeting on June 5, 2002.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on June 5, 2002, by a voice vote of a quorum present, recommends that the Senate pass S. 1227, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 1227, Committee on Energy and Natural Resources recommended three amendments. Amendment #1 clarifies the definition of the study area of the proposed heritage area. Amendment #2 makes a conforming change to the section 3 heading. Finally, amendment #3 is a technical amendment redesignating the subsection authorizing appropriations for the study as a free-standing section.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the Act the “Niagara Falls National Heritage Area Study Act.”

Section 2 provides definitions.

Section 3 directs the Secretary of the Interior to conduct a suitability and feasibility study, sets forth requirements for conducting the study and consultation, and provides that a report on the findings, conclusions, and recommendations of the study be submitted to certain committees within 3 fiscal years from the date on which funds are made available.

Section 4 authorizes \$300,000 to carry out the Act.

COST AND BUDGETARY CONSIDERATIONS

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

S. 1227—Niagara Falls National Heritage Area Study Act

S. 1227 would direct the Secretary of the Interior to conduct a study of the feasibility of establishing a Niagra Falls National Heritage Area in the state of New York. The study would identify cultural and other resources in the area and would determine if there is a suitable entity to manage it. The bill would authorize the appropriation of \$300,000 to conduct the study, and it would require the Secretary to report on its findings and recommendations within three years of receiving funds.

Assuming appropriation of the authorized amount, CBO estimates that implementing S. 1227 would cost the Federal Government \$300,000 over the next three years to complete the required study and report. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 1227 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.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Robert A. Sunshine, 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. 1227. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant 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. 1227.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR,
DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 1227, a bill to authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Niagara Falls National Heritage Area in the State of New York. The bill authorizes \$300,000 to carry out this study. The Department supports enactment of this bill with one recommended amendment.

Although the Department supports enactment of this piece of legislation, we will not request funding for this study in this or the next fiscal year, so as to focus available time and resources on completing previously authorized studies. As of now, there are 42 authorized studies that are pending, and we only expect to complete a few of those this year. We caution that our support of this legislation authorizing a study does not necessarily mean that the Department will support designation of this heritage area. The study would be undertaken with the full involvement of representatives of the State of New York, the City of Niagara Falls, other communities along the Niagara River, and interested organizations and citizens in the region.

At the request of Representative John J. LaFalce and Senator Charles E. Schumer, representatives of the National Park Service undertook reconnaissance visits to Niagara Falls this year and met with state and local officials and representatives of interested organizations. These preliminary findings indicate that a national heritage area feasibility study could be justified.

The Niagara River flows for 35 miles between Lake Erie and Lake Ontario and includes the rapids, Niagara Falls, and the Niagara River Gorge. Eight parks operated by the State of New York are located along the river and within the gorge. The river forms a boundary between the United States and Canada.

Niagara Falls is an internationally significant natural resource that attracts between 8 to 10 million visitors a year. It is one of the most well-known destination attractions in the United States and Canada. The Niagara River Gorge is an exceptionally scenic corridor, carved by the movement of the falls from its original location near Lewiston, New York (10,000 to 15,000 years ago) to its present location 10 miles upstream at the City of Niagara Falls. Besides its scenic values, the gorge has been cited as a world-class location of fossils from the Upper Ordovician and Silurian periods.

The Niagara River region contains a wide variety of flora and fauna. Recent inventories completed for the Canadian Niagara Escarpment Commission identified 1,623 plant species including unique miniature old growth eastern white cedars. The commission's fauna inventories also

include 50 mammal species, 17 amphibian species, 99 fish species, and 17 species of reptiles. Bird inventories identify 342 species including 19 separate species of gulls. One-day counts of gull populations have reached over 100,000 individuals. In recognition of this critical habitat, the National Audubon Society has designated the Niagara River as a Globally Important Bird Area.

The region is also rich in cultural resources related to the history of the United States and Canada. It has significant associations with Native American habitation and early European contact, the French and Indian War, the American Revolution, and the War of 1812. It was also a major link in the Underground Railroad for African Americans escaping slavery to enter Canada. The existence of ample water made it an early site for hydroelectric power, and it remains an important source to this day.

There is well-known national interest in the resources of the region. Three National Historic Landmarks have been designated along the Niagara River. The Adams Power Transformer House, built in 1895, is the only surviving structure of a hydroelectric facility that has been called, "the birthplace of the modern hydroelectric power station." The Niagara Reservation, which includes the American Falls, was the first state park in the nation created under eminent domain, and originally designed by Frederick Law Olmsted. The Colonial Niagara Historic District, within the communities of Lewiston and Youngstown, was a key portage route linking interior North America and the Atlantic seaboard until the late 1700s. It also contains extant resources associated with Native American occupation and early European contact. Historic Fort Niagara on the shore of Lake Ontario is an important component of the district. Within the City of Niagara Falls and the communities of Lewiston and Youngstown there are 14 sites listed on the National Register of Historic Places.

The National Park Service has defined a national heritage area as a place designated by Congress where natural, cultural, historic and scenic resources combine to form a cohesive, nationally distinctive landscape arising from patterns of human activity shaped by geography. It is not the role of the National Park Service to manage or regulate a national heritage area, but to assist the variety of local partners and landowners who work together to achieve the common goal of protecting and interpreting important places where people live and work.

Despite the richness of the natural and cultural resources in the area, there is widespread belief that the United States side of the falls has never fully achieved its tremendous potential for visitors and for the local communities. A heritage partnership framework has been advocated as a way for the many important partners in the region to further the contribution of the Niagara Falls region to the United States and to the people of New York. We have found considerable support for this idea. The study would permit us to consider the opportunity further, and

determine if a partnership framework is the best way to protect natural and cultural resources in the region.

We would recommend one amendment to the bill to provide maximum flexibility with regard to the study area. Currently, Section 2(2) unnecessarily defines the study area as the segment of the Niagara River in Niagara County, New York that extends from Niagara Falls to the mouth of the Niagara River at Lake Ontario. The National Park Service study process provides for developing a focused study area addressing the full assemblage of resources relating to the potential heritage area themes, and including the strongest range of capable and enthusiastic partners. This approach permits an area to be focused enough to be manageable, but broad enough to include the key partners and resources necessary. We recommend that Section 2(2) be amended to avoid a specific study area boundary at this time to allow us to focus on all resources specifically related to the Niagara Falls theme and area.

Mr. Chairman, the Administration supports this bill with the recommended amendment. It provides an opportunity to investigate the feasibility of establishing a national heritage area associated with one of the nation's most important and best-known natural resources. We look forward to working in close partnership with the State of New York, the City of Niagara Falls, and the communities and organizations within the Niagara Falls region to explore the possibility of national heritage area designation.

Thank you for the opportunity to comment. This concludes my prepared remarks. I would be glad to answer any questions that you or the members of the committee 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 S. 1227, as ordered reported.