

Calendar No. 611

108TH CONGRESS }
2d Session }

SENATE

{ REPORT
108-292

NATIONAL AVIATION HERITAGE AREA ACT

JULY 7, 2004.—Ordered to be printed

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

R E P O R T

[To accompany S. 180]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 180) to establish the National Aviation Heritage Area, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—NATIONAL AVIATION HERITAGE AREA

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. National Aviation Heritage Area.
Sec. 104. Management plan.
Sec. 105. Administration.
Sec. 106. Technical and financial assistance; other Federal agencies.
Sec. 107. Authorization of appropriations.
Sec. 108. termination of authority.

TITLE II—WRIGHT COMPANY FACTORY STUDY

Sec. 201. Definitions.
Sec. 202. Study.
Sec. 203. Report.

TITLE I—NATIONAL AVIATION HERITAGE AREA

SEC. 101. SHORT TITLE.

This title may be cited as the “National Aviation Heritage Area Act”.

SEC. 102. DEFINITIONS.

In this title:

29-010

(1) **HERITAGE AREA.**—The term “Heritage Area” means the National Aviation Heritage Area established by section 103(a).

(2) **MANAGEMENT ENTITY.**—The term “management entity” means the Aviation Heritage Foundation, Incorporated, a nonprofit corporation established under the laws of the State of Ohio.

(3) **MANAGEMENT PLAN.**—The term “management plan” means the management plan for the Heritage Area developed under section 104.

(4) **PARTNER.**—The term “partner” means—

(A) a Federal, State, or local governmental entity; or

(B) an organization, private industry, or person involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.

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

SEC. 103. NATIONAL AVIATION HERITAGE AREA.

(a) **ESTABLISHMENT.**—There is established in the States of Ohio and Indiana the National Aviation Heritage Area.

(b) **BOUNDARIES.**—

(1) **IN GENERAL.**—The Heritage Area shall include—

(A) a core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, Shelby, Auglaize, and Champaign Counties in the State of Ohio;

(B) the Neil Armstrong Air & Space Museum, Wapakoneta, Ohio;

(C) the Wilbur Wright Birthplace and Museum, Millville, Indiana; and

(D) any sites, buildings, and districts within the core area described in subparagraph (A) that are recommended for inclusion in the Heritage Area in the management plan.

(2) **MAP.**—

(A) **IN GENERAL.**—The Secretary shall prepare a map of the Heritage Area for inclusion in the management plan.

(B) **AVAILABILITY.**—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 104. MANAGEMENT PLAN.

(a) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a management plan for the Heritage Area.

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

(1) incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area;

(2) take into consideration Federal, State, and local plans;

(3) involve residents, public agencies, and private organizations in the Heritage Area;

(4) include—

(A) an assessment of cultural landscapes in the Heritage Area;

(B) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area that are consistent with the purposes of this title;

(C) an interpretation plan for the Heritage Area;

(D) a program for the implementation of the management plan by the management entity that includes—

(i) provisions for facilitating ongoing collaboration among the partners to—

(I) promote heritage tourism; and

(II) develop educational and cultural programs for the public;

(ii) provisions for assisting partners in plans for restoration and construction of the Heritage Area; and

(iii) to the maximum extent practicable, specific commitments from partners for the first 5 years of operation of the Heritage Area; and

(E) an inventory of the resources contained in the core area of the Heritage Area, including—

(i) the Dayton Aviation Heritage Historical Park;

(ii) the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419); and

(iii) any other property that—

(I) is related to the themes of the Heritage Area; and

- (II) should be preserved, restored, managed, or maintained because of the significance of the property;
- (5) identify sources of funding for the implementation of the management plan; and
- (6) describe and evaluate the management entity, including a description and evaluation of—
 - (A) the membership of the management entity; and
 - (B) the organizational structure of the management entity.
- (c) FAILURE TO SUBMIT.—If the management entity fails to submit the management plan by the date described in subsection (a), the Secretary shall not provide any additional funding under this title to the management entity until the date on which the management entity submits a management plan to the Secretary.
- (d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLANS.—
 - (1) IN GENERAL.—Not later than 90 days after the date of the receipt of the management plan under subsection (a), the Secretary, in consultation with the State of Ohio, shall approve or disapprove the plan.
 - (2) DISAPPROVAL AND REVISION.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—
 - (A) advise the management entity in writing of the reasons for the disapproval;
 - (B) make recommendations for revisions to the management plan; and
 - (C) not later than 90 days after the receipt of any proposed revision of the management plan from the management entity, approve or disapprove the proposed revision.
- (e) AMENDMENTS.—
 - (1) IN GENERAL.—The Secretary shall review each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.
 - (2) USE OF FUNDS.—Funds made available under this title shall not be expended to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

SEC. 105. ADMINISTRATION.

- (a) IN GENERAL.—The management entity shall administer the Heritage Area in accordance with this title.
- (b) AUTHORITIES.—The management entity may, for purposes of implementing the management plan, use Federal funds made available under this title to—
 - (1) make grants to, and enter into cooperative agreements with—
 - (A) the State of Ohio (including a political subdivision of the State);
 - (B) a private organization; or
 - (C) any person;
 - (2) hire and compensate staff;
 - (3) contract for goods and services; and
 - (4) obtain funds from any source (including a program that has a cost-sharing requirement).
- (c) DUTIES OF MANAGEMENT ENTITY.—In addition to developing the management plan under section 104, in carrying out this title, the management entity shall—
 - (1) give priority to the implementation of actions set forth in the management plan, including—
 - (A) assisting units of government and nonprofit organizations in preserving the resources of the Heritage Area; and
 - (B) encouraging local governments to adopt land use policies that are consistent with—
 - (i) the management of the Heritage Area; and
 - (ii) the goals of the management plan;
 - (2) in developing and implementing the management plan, consider the interests of diverse governmental, business, and nonprofit organizations in the Heritage Area;
 - (3) maintain a collaboration among the partners to promote heritage tourism;
 - (4) assist partners in developing educational and cultural programs for the public;
 - (5) encourage economic viability in the Heritage Area in accordance with the goals of the management plan;
 - (6) assist units of government and nonprofit organizations in—
 - (A) establishing and maintaining interpretive exhibits in the Heritage Area;
 - (B) developing recreational resources in the Heritage Area;
 - (C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites of the Heritage Area;

(D) installing throughout the Heritage Area, clear, consistent, and environmentally appropriate signs that identify access points and sites of interest; and

(E) restoring historic buildings that relate to the purposes of the Heritage Area;

(7) conduct public meetings at least quarterly regarding the implementation of the management plan;

(8) submit to the Secretary for approval substantial amendments to the management plan; and

(9) for any fiscal year for which Federal funds are made available to carry out this Act under section 107—

(A) submit to the Secretary a report that describes, for the fiscal year—

(i) any activities conducted by the management entity with respect to the Heritage Area; and

(ii) any expenses incurred by the management entity in carrying out this title;

(B) make available to the Secretary for audit all records relating to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing the expenditure of Federal funds by any entity, that the receiving entity make available to the Secretary for audit all records relating to the expenditure of the funds.

(d) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—

(1) USE OF FEDERAL FUNDS.—The management entity shall not use Federal funds made available under this title to acquire real property or any interest in real property.

(2) FUNDS FROM OTHER SOURCES.—The management entity may acquire real property or an interest in real property using non-Federal funds.

SEC. 106. TECHNICAL AND FINANCIAL ASSISTANCE, OTHER FEDERAL AGENCIES

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the management entity, the Secretary may provide to the Heritage Area technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance for use in the development and implementation of the management plan.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with the management entity or other public or private organizations for purposes of providing technical or financial assistance under paragraph (1).

(3) PRIORITY FOR ASSISTANCE.—In providing technical or financial assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant historical, cultural, and natural resources of the Heritage Area; and

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

(b) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Secretary may provide to public or private organizations in the Heritage Area such operational assistance as is appropriate to support the implementation of the management plan.

(c) DUTIES OF OTHER FEDERAL AGENCIES.—A Federal agency conducting or supporting any activity directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to the activity;

(2) cooperate with the Secretary and the management entity in carrying out the duties of the Secretary and the management entity under this title;

(3) to the maximum extent practicable, coordinate the activity with the duties of the Secretary and the management entity under this title; and

(4) conduct or support the activity in manner that, to the maximum extent practicable, will not have an adverse effect on the Heritage Area, as determined by the management entity.

(d) COORDINATION BETWEEN THE SECRETARY, THE SECRETARY OF DEFENSE, AND THE ADMINISTRATOR OF NASA.—Any decision relating to the application of this title to properties under the jurisdiction of the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration shall be made by the Secretary of Defense or the Administrator, respectively, in consultation with the Secretary.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title \$10,000,000, of which not more than \$1,000,000 may be made available for any fiscal year.

(b) **FEDERAL SHARE.**—The Federal share of the total cost of any activity assisted under this title shall be not more than 50 percent.

SEC. 108. TERMINATION OF AUTHORITY.

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

TITLE II—WRIGHT COMPANY FACTORY STUDY

SEC. 201. DEFINITIONS.

In this title:

- (1) **FACTORY.**—The term “Factory” means the Wright Company factory in Dayton, Ohio.
- (2) **PARK.**—The term “park” means the Dayton Aviation Heritage National Historical Park in the State of Ohio.
- (3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 202. STUDY.

- (a) **IN GENERAL.**—The Secretary shall conduct a special resource study that—
 - (1) updates the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419); and
 - (2) describes alternatives for incorporating the Factory as a unit of the Park.
- (b) **CONTENTS.**—The study shall include an analysis of the alternatives described under subsection (a)(2), including an analysis of management and development options and costs.
- (c) **CONSULTATION.**—In conducting the study, the Secretary shall consult with—
 - (1) the Delphi Corporation;
 - (2) the Aviation Heritage Foundation;
 - (3) State and local agencies; and
 - (4) other interested parties in the area in which the Factory is located.

SEC. 203. REPORT.

Not later than 3 years after the date on which funds are first made available to carry out this title, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the results of the study conducted under this title.

PURPOSE OF THE MEASURE

The purpose of S. 180 is to establish the National Aviation Heritage Area in the States of Ohio, and Indiana and to authorize the Secretary of the Interior to conduct a special resource study to assess the appropriateness of designating the Wright Company factory in Dayton, Ohio, as a unit of the Dayton Aviation Heritage National Historical Park.

BACKGROUND AND NEED

S. 180 would promote heritage tourism and develop educational and cultural awareness programs associated with the nationally significant cultural and industrial legacy of the aviation and aerospace industry in the States of Ohio and Indiana. The National Aviation Heritage Area (Heritage Area) would include sites that span the development of aviation, including the homes of the Wright brothers and the first man who walked on the moon, Neil Armstrong. The Heritage Area would span six counties in Ohio and include the Neil Armstrong Air & Space Museum in Wapakoneta, Ohio and the Wilbur Wright Birthplace and Museum in Millville, Indiana. Buildings associated with the aerospace industry including the first commercial airplane factory, a space-related manufacturing facility, the Wright-Patterson Air Force Base and other sites associated with important events in the history of flight are also to be included in the Heritage Area.

S. 180 is consistent with the recommendations of the Dayton Aviation Heritage Commission, which was charged under section 202(b)(4) of Public Law 102-419 to “to propose a management strategy for a permanent organizational structure to enhance and coordinate such resources, and aviation-related properties, and institutions.” In 2002, the Dayton Aviation Heritage Commission completed the Concept Study for the Development of a National Aviation Heritage Area (2002). This study, which included public hearings in Cleveland, Columbus, and Dayton, Ohio, identified more than 300 sites, resources, and stories from Ohio that have had a significant impact on the development of aviation in the United States.

Aviation related businesses, organizations and agencies in southwestern Ohio have a long history of coordination regarding the aviation-related historical sites. This legislation would allow Federal partners, including the National Park Service, the United States Air Force, the National Aeronautics and Space Administration and State and local groups to participate in the management of the major facilities and resources within the Heritage Area.

LEGISLATIVE HISTORY

S. 180 was introduced by Senators DeWine and Voinovich on January 16, 2003. The Committee on Energy and Natural Resources ordered S. 180, as amended, favorably reported on June 16, 2004.

H.R. 280, a companion bill, was introduced by Representative Hobson and others on January 8, 2003. The House Subcommittee on National Parks, Recreation and Public Lands held a hearing on October 16, 2003 (H. Hrg. 108-55). H.R. 280 was favorably reported (H. Rept. 108-370), as amended, and passed by the House of Representatives on November 18, 2003.

A similar bill (S. 2744) was introduced by Senators DeWine and Voinovich on July 17, 2002. The bill was ordered favorably reported on October 4, 2002. The text of S. 2899 was adopted as part of a substitute amendment to H.R. 695, legislation authorizing numerous heritage areas. H.R. 695, as amended passed the Senate by unanimous consent on November 19, 2002, but was not considered prior to the sine die adjournment of the 107th Congress.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on June 16, 2004, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 180, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 180, the Committee adopted an amendment in the nature of a substitute. The substitute amendment makes several technical and clarifying changes and removes the statement of purpose and findings originally contained in section 102. The amendment is described in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the table of contents.

TITLE I—NATIONAL AVIATION HERITAGE AREA

Section 101 entitles this title the “National Aviation Heritage Act.”

Section 102 defines terms used in this title.

Section 103(a) establishes the National Aviation Heritage Area (Heritage Area) in the States of Ohio and Indiana.

Subsection (b)(1) describes the core areas and sites to be included in the Heritage Area.

Paragraph (2) requires that a map of these areas be included in the management plan and be placed on file in the appropriate offices of the National Park Service.

Section 104(d) describes the requirements of the management plan and outlines the process to be used for revising, amending, approving or disapproving the plan. This section requires that the management plan be completed no later than 3 years after the date of enactment. If the management entity fails to complete the plan within this time frame no additional funding will be authorized by the Secretary of Interior (Secretary) until the plan is submitted. The Secretary is also required to review and approve any substantial changes to the original management plan. Appropriated funds may not be used to implement changes without the Secretary’s approval.

Section 105 describes the administrative requirements and duties of the management entity. This section also provides the management entity with the authority to use funds for preparing updating and implementing the management plan. The funds may be used for making grants, entering into cooperative agreements, hiring and compensating staff and undertaking initiatives that advance the Heritage Area. The management entity is prohibited from using any federal funds received under this title to acquire real property or an interest in real property, however the management entity may acquire real property with non-Federal funds.

Section 106 states that the Secretary may provide financial, technical and operational assistance to develop and implement the management plan upon request by the management entity. This section also sets forth the duties of other Federal entities involved in activities affecting the Heritage Area. Decisions that affect both the Heritage Area and properties under the control of the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration (NASA) will be made by the Secretary or Administrator having jurisdiction, in consultation with the Secretary of the Interior.

Section 106(a) requires the management entity to submit a proposed management plan to the Secretary for approval within three years after the enactment of this title. The plan shall involve residents, public agencies, and private organizations and consider State and local plans.

Section 107 authorizes to be appropriated \$10,000,000 to carry out this Act, with not more than \$1,000,000 appropriated for any given fiscal year. The Federal share may not exceed 50 percent of the total cost of any activity.

Section 108 terminates the authority of the Secretary to provide assistance to the Heritage Area fifteen years from the date of enactment.

TITLE II—WRIGHT COMPANY FACTORY STUDY

Section 201 defines key terms used in this title.

Section 202 requires the Secretary to conduct an updated special resource study detailing alternatives for incorporating the Wright Company factory as a unit of the Dayton Aviation Heritage National Historical Park.

Subsection (b) describes the required contents of the study.

Subsection (c) lists the parties to be consulted by the Secretary.

Section 203 requires the Secretary to submit a report to the Committee on Resources of the House of Representatives and the Senate Committee on Energy and Natural Resources describing the results of the study not later than three years after funds are first made available for this title.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 22, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 180, the National Aviation Heritage Area Act.

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

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 180—National Aviation Heritage Area Act

S. 180 would establish the National Aviation Heritage Area (NHA) in Ohio. The bill would designate the Aviation Heritage Foundation as the management entity for the proposed NHA. Under the bill, the foundation would develop a management plan to provide for the protection, development, and management of cultural and other resources of the NHA. The Department of the Interior (DOI) would provide technical and financial assistance to the foundation for developing and implementing that plan. For these purposes, the legislation would authorize the appropriation of \$10 million, not to exceed \$1 million annually. Finally, S. 180 would require DOI to complete a special resource study on alternatives for incorporating the Wright Company factory within the Dayton Aviation Heritage National Historical Park in Ohio.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 180 would cost \$10 million over the

next 10 to 15 years. Such amounts would be used to cover a portion of the costs of planning, establishing, operating, and interpreting the heritage area. Additionally, we estimate that conducting the special resource study on the Wright Company factory would cost less than \$200,000 over the next three years, assuming the availability of appropriated funds. Enacting S. 180 would have no effect on revenues or direct spending.

S. 180 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 November 10, 2003, CBO transmitted a cost estimate for H.R. 280, the National Aviation Heritage Area Act, as ordered reported by the House Committee on Resources on October 29, 2003. The two versions of the legislation are very similar, and their estimated costs are identical.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, 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 S. 180. The bill 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 S. 180, as ordered reported.

EXECUTIVE COMMUNICATIONS

On May 19, 2004 the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 180. These reports had not been received at the time the report on S. 180 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

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. 180 as ordered reported.