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### NATIONAL HERITAGE PARTNERSHIP ACT

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AUGUST 25, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of July 22, 2004

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

### R E P O R T

[To accompany S. 2543]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2543) to establish a program and criteria for National Heritage Areas in the United States, 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. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “National Heritage Partnership Act”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. National Heritage Areas program.
- Sec. 4. Studies.
- Sec. 5. Management plans.
- Sec. 6. Local coordinating entities.
- Sec. 7. Relationship to other Federal agencies.
- Sec. 8. Private property and regulatory protections.
- Sec. 9. Authorization of appropriations.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **LOCAL COORDINATING ENTITY.**—The term “local coordinating entity” means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) **MANAGEMENT PLAN.**—The term “management plan” means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

(3) **NATIONAL HERITAGE AREA.**—The term “National Heritage Area” means an area designated by Congress that is nationally significant to the heritage of the United States and meets the criteria established under section 4(a).

(4) **NATIONAL IMPORTANCE.**—The term “national importance” means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) **PROGRAM.**—The term “program” means the National Heritage Areas program established under section 3(a).

(6) **PROPOSED NATIONAL HERITAGE AREA.**—The term “proposed National Heritage Area” means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

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

(8) **STUDY.**—The term “study” means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

### **SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.**

(a) **IN GENERAL.**—The Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

(b) **DUTIES.**—Under the program, the Secretary shall—

(1)(A) conduct studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on studies undertaken by other parties to make such assessment;

(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

### **SEC. 4. STUDIES.**

(a) **CRITERIA.**—In conducting or reviewing a study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(c) TRANSMITTAL.—On completion or receipt of a study for a National Heritage Area, the Secretary shall—

(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (c)(3) a description of the reasons for the determination.

(e) DESIGNATION.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

#### SEC. 5. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

- (A) performance goals;
  - (B) plans for resource protection, enhancement, interpretation, funding, management, and development; and
  - (C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;
- (7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and
- (8) include a business plan that—
- (A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and
  - (B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

- (i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and
- (ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

- (i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

**SEC. 6. LOCAL COORDINATING ENTITIES.**

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

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

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating committee;

(B) the expenses and income of the local coordinating committee;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

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

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

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

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

**SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.**

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

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

(a) **STUDIES.**—There is authorized to be appropriated to conduct and review studies under section 4 \$750,000 for each fiscal year, of which not more than \$250,000 for any fiscal year may be used for any individual study for a proposed National Heritage Area.

(b) **LOCAL COORDINATING ENTITIES.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to carry out section 6 \$15,000,000 for each fiscal year, of which not more than—

(A) \$1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of \$10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) **TERMINATION DATE.**—

(A) **IN GENERAL.**—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

(B) **DESIGNATION.**—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) **ADMINISTRATION.**—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) **MATCHING FUNDS.**—

(1) **IN GENERAL.**—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) **ADMINISTRATION.**—The recipient matching funds—

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

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

**PURPOSE OF THE MEASURE**

The purpose of S. 2543 is to establish a program and criteria for National Heritage Areas in the United States.

**BACKGROUND AND NEED**

The National Park Service has defined a Natural Heritage Area as a “place designated by the United States Congress where natural, cultural, historic and recreational resources combine to form a cohesive nationally distinctive landscape arising from patterns of human activity shaped by geography.” They are established to com-

memorate, conserve and promote important areas that include natural, scenic, historic, cultural or recreational resources. Unlike areas that are under the sole jurisdiction of the National Park Service, such as national parks or monuments, heritage areas typically remain in non-Federal ownership and are managed by local communities and partners. To date, Congress has designated 24 National Heritage Areas.

National Heritage Areas receive financial and technical assistance through cooperative agreements with the National Park Service. They also receive funds from other agencies and non-Federal sources. Most heritage areas are authorized to receive appropriations of up to \$1 million each year, with a maximum total appropriation of \$10 to \$15 million. Generally, the authorizing legislation for each heritage area includes a requirement that Federal funds must be matched equally by non-Federal funds. For fiscal years 1997 through 2002 National Heritage Areas received \$310 million in funding. Of this total, approximately \$154 million came from State and local governments and private sources and \$156 million came from the Federal Government.

Although the National Park Service has developed suggested criteria for assessing whether an area may qualify as a National Heritage Area, there are currently no statutory criteria, no systematic process for identifying or evaluating potential heritage areas and no formal program for managing them. Of the 24 existing heritage areas, ten have been designated by Congress without a thorough National Park Service review. Of those ten, six, a quarter of the existing heritage areas, were designated by Congress despite the agency's recommendation that designation be deferred. Not surprisingly, the opportunity for Federal funding has resulted in an increase in proposals for new heritage areas, with more than 30 heritage area proposals currently pending in the 108th Congress. The sizable number of new proposals before Congress has raised some concern regarding the most effective means to manage the program in the future.

The Government Accountability Office (GAO) recently published a report that examined heritage areas and suggested ways to improve their accountability (GAO04-593T, March 30, 2004). The report recommends that standardized criteria be adopted for evaluating potential National Heritage Areas. The GAO report also suggests, given the magnitude of funds appropriated, that certain key management controls be instituted to ensure accountability and program consistency. S. 2543 will establish program requirements and criteria for evaluating potential National Heritage Areas as well as place limitations on Federal funding for the program.

#### LEGISLATIVE HISTORY

Senators Thomas and Burns introduced S. 2543 on June 17, 2004. The Senate Subcommittee on National Parks held a hearing on S. 2543 on June 21, 2004. The Committee on Energy and Natural Resources ordered S. 2543, as amended, favorably reported on July 14, 2004.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in an open business session on July 14, 2004, by a unanimous voice vote of a

quorum present, recommends that the Senate pass S. 2543, if amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of S. 2543, the Committee adopted an amendment in the nature of a substitute. In addition to making several clarifying and conforming changes. The amendment changed the reference for the standard by which potential heritage areas are to be evaluated from one of “national significance” to “national importance” consistent with the Administration’s recommendations. The amendment also deleted a provision in section 4(d) which would have allowed the Secretary of the Interior to recommend against designation of an area in the study of the area, notwithstanding that the proposed area met the criteria for designation. The purpose of the study is to provide Congress with an analysis of the merits of the proposed area, which may differ from an Administration’s ultimate recommendation whether to support legislation establishing any particular area. The amendment is described in detail in the section-by-section analysis below.

#### SECTION-BY-SECTION ANALYSIS

Section 1(a) entitles this Act the “National Heritage Partnership Act”.

Subsection (b) contains the table of contents for this Act.

Section 2 contains definitions of key terms used in the Act. This section was amended to define the term “national importance” in place of “national significance”.

Section 3 directs the Secretary of the Interior (Secretary) to establish a National Heritage Area (NHA) program and to provide technical and financial assistance to local coordinating entities.

Subsection (b) describes the duties of the Secretary under the program.

Section 4(a) describes the criteria to be used by the Secretary to determine the feasibility and suitability of a proposed NHA. This section also describes the administrative process for the transmittal, approval and disapproval of the feasibility study. Designation of NHA’s shall be contingent upon the completion of the feasibility study and approval of that study by the Secretary.

Section 5 describes the requirements for a heritage area’s management plan. This section also includes procedural requirements for the submission, approval, disapproval and amendment of the plan.

Section 6 describes the duties and responsibilities of the local coordinating entity for a heritage area. This section also describes the purposes under which the coordinating entity is authorized to expend Federal funds and prohibits the entity from using Federal funds to acquire real property.

Section 7 states that nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance to a NHA. Other Federal agencies are encouraged to consult with the Secretary on issues concerning the NHA to the extent practicable. Nothing in this Act limits, modifies, alters or amends any authorized use of Federal land.

Section 8 contains several savings provisions.

Paragraph (1) states that nothing in this Act shall affect the rights of any private property owner.

Paragraph (2) states that nothing in this Act requires a private property owner to permit public access.

Paragraph (3) states that nothing in this Act affects any existing land use regulation or alters any land use or provides regulatory authority to the coordinating entity.

Paragraph (4) states that nothing in this Act authorizes or implies the reservation or appropriation of water, or water rights.

Paragraph (5) provides that nothing in this Act diminishes the authority of a State to manage fish and wildlife.

Paragraph (6) states that nothing in this Act shall affect the liability of any private property owner.

Section 9(a) authorizes the appropriation of \$750,000, for each fiscal year, to conduct and review feasibility studies for potential heritage areas. Not more than \$250,000 is authorized for any individual study for any given fiscal year.

Subsection (b) authorizes and limits annual appropriations for heritage areas to \$15,000,000 with not more than \$1,000,000 annually for any individual heritage area. A total appropriation of \$10,000,000 may be made for an individual heritage area over all fiscal years. The Secretary's authority to provide technical and financial assistance to each heritage area is limited to 15 years, but the area is authorized to retain the designation of National Heritage Area after Federal funding has terminated. The Secretary may extend up to five percent of the annual authorized appropriation of \$15,000,000 for the purposes of technical assistance and oversight and administration of the program.

Subsection (c) requires the recipient of any grant made under this Act to provide, through non-Federal sources, an amount equal to the Federal grant. The non-Federal contribution may include in-kind contributions of goods and services.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measures has been provided by the Congressional Budget Office.

##### *S. 2543—National Heritage Partnership Act*

S. 2543 would provide a framework for establishing new national heritage areas (NHAs). NHAs are cultural or historical areas managed locally in cooperation with the National Park Service (NPS) but are not units of the National Park System. CBO estimates that enacting S. 2543—by itself—would have no effect on the federal budget because none of the activities authorized by the bill could occur without further authorizing legislation. The bill, however, would establish a new procedure that could affect how many and how quickly new NHAs could be established using future appropriations. Enacting S. 2543 would not affect direct spending or revenues.

This legislation 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.

S. 2543 would establish criteria and mechanisms for assessing, planning, designating, and developing new national heritage areas. For each proposed new NHA, Congressional action would be re-

quired to authorize both the first step, a feasibility study, and the final step, a formal NHA designation.

Under the bill, once a feasibility study of a potential NHA has been authorized by the Congress, the NPS would either conduct the study itself or allow one to be undertaken by an interested local entity. Completed and assessed studies would then be submitted to the Congress. If legislation to designate the NHA is enacted and funds are made available, the chosen local coordinating entity for the area would have three years to submit a general management plan to the Secretary of the Interior for approval.

The bill would authorize the appropriation of up to \$250,000 annually for individual feasibility studies (up to a total of \$750,000 a year). Finally, the bill would authorize the appropriation of up to \$1 million per NHA per year (up to a total of \$15 million annually) for financial and technical assistance to local coordinating entities. Such funds (up to a 15-year total of \$10 million per NHA) would be used to develop and implement management plans and administer the area.

Because the authority to appropriate funds provided in S. 2543 would depend on subsequent acts of Congress to authorize feasibility studies and designate new NHAs, CBO estimates that enacting this legislation alone would have no effect on the federal budget.

The CBO staff contact for this estimate is Deborah Reis. The estimate was reviewed 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. 2543.

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. 2543.

#### EXECUTIVE COMMUNICATIONS

On June 24, 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 agency recommendations on S. 2543. These reports had not been received when this report was filed. The testimony provided by the Department of the Interior and the Government Accountability Office at the Subcommittee hearing on S. 2543 follows:

STATEMENT OF A. DURAND JONES, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, it is my pleasure to appear before you today to testify on behalf of the Department of the Interior on S. 2543, the National

Heritage Partnership Act. The Department strongly supports this bill, but has a few concerns about some of the provisions.

The Department strongly supports legislation to establish a national heritage areas program. We would like to thank Chairman Thomas for his leadership over the last year in evaluating programmatic issues, identifying areas for legislative action, and introducing this bill based on the Administration's legislative proposal. This legislation was developed through a year-long process of Congressional oversight hearings, outside evaluations of the program (such as the March 2004 report by the General Accounting Office) and meetings among many of the groups interested in this issue.

S. 2543 provides a much-needed framework for evaluating proposed national heritage area designations, offers guidelines for successful planning, clarifies the roles and responsibilities of all parties, and standardizes timeframes and funding for designated areas.

The Department supports the national heritage areas approach to resource conservation through partnerships with communities. National heritage areas are intended to preserve nationally important natural, cultural, historic, and recreational resources through the creation of partnerships among Federal, State and local entities. National heritage areas are locally driven, initiated and managed by the people who live there and do not impose Federal zoning, land use controls nor do they require land acquisition. At its best, the collaborative approach of this program embodies Secretary of the Interior Gale Norton's "Four Cs"—Communication, Consultation and Cooperation, all in the service of Conservation.

S. 2543 supports a conservative strategy that recognizes that the people who live in a heritage area are uniquely qualified to preserve it. Being designated as a national heritage area can benefit visitors, community residents, existing National Park units located in the area, and other federal lands by expanding the opportunity to interpret and protect resources over a larger landscape and by telling our shared national story.

There are three provisions in S. 2543 that we wish to discuss in more detail and to offer suggestions for improvements.

#### CRITERIA FOR EVALUATION

The standards for evaluating areas proposed for national designation are an essential element in establishing a national heritage areas program. While many places in this nation have special meaning to the people that live there, for many places designation as a State or local heritage area may be most appropriate. The National Park Service should be the lead partner only when the resource within a proposed heritage area are of national importance.

The Department has some concerns about the use of the term "national significance" and the definition provided in

S. 2543. We recommend replacing the term “national significance” with the term “national importance” to avoid confusion. The National Park Service specifically uses the term “national significance” in suitability and feasibility studies for new National Park System units. For this reason, the term “national importance” has been informally used by the National Park Service to describe the assessment of national heritage area resources.

In addition, having a concise, appropriate, and practical definition for “national significance” or “national importance” is critical. We would suggest a revised definition as applied in practice to existing and proposed national heritage areas:

“The term ‘National Importance’ is ascribed to a proposed heritage area that illustrates major historic, cultural, natural or social themes important to the history of the United States and contains resources that are outstanding examples of natural and cultural features that contribute to the theme, and which possess a high degree of integrity, and are compatible with continued community development, public enjoyment, and use.”

#### SUITABILITY/FEASIBILITY STUDY

The Department believes that a study should be required for every proposed national heritage area and the study should be evaluated against legislatively established criteria before designation. S. 2543 requires that such a study be prepared that demonstrates evidence of place-based resources that tell a nationally significant story, which has the support and involvement of the local community. This requirement has been field-tested and has been shown to increase the future success of the heritage area.

The Department recommends a modification to the terminology used for studies. In order to be consistent with terminology used in past study and designation bills for national heritage areas, we recommend that the studies be called “feasibility studies” instead of “suitability/feasibility studies.” This would also lessen any confusion with studies for new units of the National Park System that are called suitability and feasibility studies. We recommend that this change in terminology be used throughout the bill when referring to these studies.

#### FUNDING AND TIMEFRAMES

When the first national heritage corridors were designated twenty years ago, a Federal commission provided management for the areas and the National Park Service provided most of the staff. The national heritage corridor or area was conceived as a less expensive alternative to the acquisition and operation costs of creating a new unit of the National Park System. These areas were originally authorized for five years with a five-year extension; over time, the corridors have been reauthorized for additional periods.

For the 18 national heritage areas established after 1995, the National Park Service encouraged management with greater involvement by local entities as a more cost-effective use of Federal resources. Most of these newer areas are managed by a non-profit entity or a State government and include a funding formula of not more than \$10 million Federal dollars over a fifteen-year period. Our legislative proposal recommends codifying this approach and for the first time requires that a business plan be developed as part of the management planning for proposed new areas. This would ensure that from the beginning, national heritage areas are working towards and have an established plan for self-sufficiency. So far, no existing areas has “graduated” from the program, even after 20 years and in some cases, and nearly \$100 million invested overall. For this reason, we recognize the need to work with existing areas to assist them in a transition strategy as they reach the end of their funding authorization. As areas become self-sufficient, available resources could be reallocated to newly designated areas or other priorities.

The Department is concerned with the new provision in section 9 of S. 2543 that caps the heritage areas program at \$15 million per year. The Administration did not propose a cap on the program because we believe it is more appropriate to cap the amount of appropriations each area is authorized to receive, and to limit the authorized period for appropriations. Currently, there are 15 new national heritage areas pending for designation in Congress. In addition, there are 24 designated national heritage areas, many of which are authorized to receive appropriations of \$1 million per year. However, we would expect to allocate funding among these areas within the levels of funds appropriated, which might require providing less than the individual authorized ceilings in some instances.

#### CONCLUSION

Recent studies and our own experiences have shown that the national heritage area approach links people and place, nature and culture, and the present with the past. National heritage areas capitalize on the unique role local communities play in preserving their heritage and telling their stories. S. 2543 respects these principles. It assigns the appropriate roles and responsibilities to the key partners that must work together to make the program successful. It also recognizes the need to target our assistance to those areas where there is a national interest and where the local partners meet established criteria for success. We look forward to working with the committee to enact this important legislation.

United States General Accounting Office

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**GAO**

Testimony  
Before the Subcommittee on National  
Parks, Committee on Energy and Natural  
Resources, U.S. Senate

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## NATIONAL PARK SERVICE

### Comments on Provisions of S. 2543, a Bill to Establish a Federal Program and Criteria for National Heritage Areas

Statement of Barry T. Hill, Director  
Natural Resources and Environment



June 24, 2004



Highlights of GAO-04-914T, testimony before the Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate

## NATIONAL PARK SERVICE

### Comments on Provisions of S. 2543, a Bill to Establish a Federal Program and Criteria for National Heritage Areas

#### Why GAO Did This Study

The Congress has established, or "designated," 24 national heritage areas to recognize the value of their local traditions, history, and resources to the nation's heritage. These areas, including public and private lands, receive funds and assistance through cooperative agreements with the National Park Service, which has no formal program for them. They also receive funds from other agencies and nonfederal sources, and are managed by local entities. Growing interest in new areas has raised concerns about rising federal costs and the risk of limits on private land use.

GAO was asked to comment on how provisions of S. 2543 might affect issues identified in GAO's March 2004 testimony addressing the process for (1) designating heritage areas, (2) determining the amount of federal funding to these areas, (3) overseeing areas' activities and use of federal funds, and (4) determining the effects, if any, they have on private property rights.

#### What GAO Recommends

The Congress may wish to consider amending S. 2543 to direct the Secretary of the Interior to (1) review areas' financial audit reports and (2) develop results-oriented goals and measures for the Park Service's overall heritage area program.

[www.gao.gov/cgi-bin/gettrpt?GAO-04-914T](http://www.gao.gov/cgi-bin/gettrpt?GAO-04-914T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Barry T. Hill at (202) 512-3841 or [hillbt@gao.gov](mailto:hillbt@gao.gov).

#### What GAO Found

Provisions of S. 2543 would establish a systematic process for identifying and designating national heritage areas, addressing many of the concerns identified in GAO's March 2004 testimony. At that time, GAO reported that no such systematic process exists, noting that the Congress has, in some instances, designated heritage areas before the Park Service has fully evaluated them. S. 2543 contains provisions that would require that a suitability study be completed and the Park Service determine the area meets certain criteria before the Congress designates a heritage area. While the bill defines heritage areas more specifically in terms of their national significance, the criteria outlined in S. 2543 will benefit from guidance that the Park Service has recently developed to guide the application of the criteria. This guidance will improve the designation process.

Provisions of S. 2543 would limit the amount of federal funds that can be provided to heritage areas through the Park Service's budget. In March 2004, GAO testified that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. Specifically, for 22 of the 24 heritage areas where data were available, \$156 million of the areas' \$310 million in total funding came from the federal government. Of this, over \$50 million came from Park Service funds dedicated for this purpose, \$44 million from other Park Service programs, and about \$61 million from 11 other federal sources. S. 2543 would restrict annual dedicated Park Service funding for heritage areas to \$15 million. Individual areas may not receive more than \$1 million in a given fiscal year and \$10 million over 15 years.

Furthermore, S. 2543 includes provisions that could enhance the Park Service's ability to hold heritage areas accountable for their use of federal funds. In this regard, S. 2543 (1) establishes a program that would provide the Park Service with the direction and funding needed to manage the agency's and the heritage areas' activities; (2) establishes a schedule and criteria for reviewing and approving heritage areas' management plans; (3) identifies criteria for use in reviewing areas' plans; (4) requires that the plans include information on, among other things, performance goals and the roles and functions of partners; and (5) requires areas to submit annual reports specifying, among other things, performance goals and accomplishments, expenses and income, and amounts and sources of funds. GAO has identified potential amendments to S. 2543 that would further enhance areas' accountability.

S. 2543 includes provisions that address some of the concerns GAO identified in March with regard to heritage areas' potential restrictions on property owners' rights and land use. For example, S. 2543 allows property owners to refrain from participating in any planned project or activity within the heritage area. Furthermore, the bill does not require any owner to permit public access to property and does not alter any existing land use regulation, approved land use plan, or other regulatory authority.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss provisions of S. 2543, the National Heritage Partnership Act, which proposes, among other things, to establish a federal program and criteria for designating national heritage areas. Over the past two decades, the Congress has established, or "designated," 24 national heritage areas and provided them with millions of dollars in financial assistance through the National Park Service. Furthermore, the number of bills introduced to study or designate new areas has grown considerably in recent years. In the 108<sup>th</sup> Congress alone, as of early March 2004, over 30 bills had been introduced to either study or designate new areas. This growing interest in creating new heritage areas has raised concerns that their numbers may expand rapidly and significantly increase the amount of federal funds supporting them. In addition, private property rights advocates are concerned that heritage area designations could increase the risk that federal controls or other limits will be placed on private land use.

Currently, heritage areas receive funding through the National Park Service's budget, although the agency has no formal heritage area program. The Park Service provides technical assistance to the areas through cooperative agreements, and the Congress appropriates to the agency limited funds for these activities.<sup>1</sup> Funds provided to heritage areas are considered to be "seed" money to assist them in becoming sufficiently established to develop partnerships with state and local governments, businesses, and other nonfederal organizations as their principal funding sources. Heritage areas also receive funds from other federal agencies through a variety of programs, primarily the Department of Transportation for road and infrastructure improvements. On March 30, 2004, my testimony before this Subcommittee identified a number of issues that need to be addressed to improve the effectiveness of the heritage area initiative.<sup>2</sup>

Through several provisions of S. 2543, the Congress is now considering whether it should establish a permanent program that would provide direction and funding for the Park Service's heritage area activities. Central to the debate is the absence of a systematic process and specific criteria for identifying and designating national heritage areas that would ensure that only the most qualified sites become heritage areas and the implications for the federal budget. In this regard, my testimony today focuses on how S. 2543's provisions may affect the process for (1) designating heritage areas, (2) determining the amount of federal funding to these areas, (3) overseeing areas' activities and use of federal funds, and (4) determining the effects, if any, they have on private property rights.

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<sup>1</sup>Although no heritage area program exists within the Park Service, the Congress has provided the Park Service an annual appropriation for administering its heritage area activities. The agency has allocated these amounts to fund a national coordinator position in the Park Service's headquarters, which directs and monitors the agency's heritage area activities.

<sup>2</sup>U.S. General Accounting Office, *National Park Service: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Their Accountability Are Needed*, GAO-04-593T, (Washington, D.C.: March 30, 2004).

My testimony today is based on the work conducted for our March testimony, which was performed in accordance with generally accepted government auditing standards.

In summary:

- S. 2543 contains provisions that would establish a systematic process for determining the suitability of proposed sites as national heritage areas and for designating those areas found to be qualified. In our March 2004 testimony, we stated that no such systematic process currently exists. In this regard, we noted that, while the Congress generally has made designation decisions with the advice of the Park Service, it has, in some instances, designated heritage areas before the agency has fully evaluated them. S. 2543, however, would require that a suitability-feasibility study be completed and that the Secretary determine the area meets certain criteria before the Congress designates a heritage area. While the bill defines heritage areas more specifically in terms of their national significance, the criteria outlined in S. 2543 for determining an area's qualifications as a heritage area are similar to those currently used by the Park Service and would benefit from supplementary implementing guidance. The Park Service has recently developed guidance for applying its criteria, which will supplement the criteria identified in S. 2543 and improve the process for identifying and designating heritage areas.
- Provisions of S. 2543 would limit the amount of federal funds that can be provided to national heritage areas through the National Park Service's budget. In our March 2004 testimony, we stated that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. According to data from 22 of the 24 heritage areas, the areas received about \$310 million in total funding. Of this total, about \$154 million came from state and local governments and private sources and another \$156 million came from the federal government. Over \$50 million was dedicated heritage area funds provided through the Park Service, with another \$44 million coming from other Park Service programs and about \$61 million from 11 other federal sources. S. 2543 would restrict the funding for heritage areas that is allocated through the Park Service's budget to \$15 million for each fiscal year. Of this amount, an individual area could receive not more than \$1 million in a given fiscal year and not more than \$10 million over 15 years. While this provision would restrict the amount of federal funds passing from the Park Service—the largest provider of federal funds—to the heritage areas, these areas can obtain funding from other federal agencies as well.
- S. 2543 includes a number of provisions that could enhance the Park Service's ability to hold national heritage areas accountable for their use of federal funds. In March, we stated that the agency had not always reviewed areas' financial audit reports, developed consistent standards for reviewing areas' management plans, and developed results-oriented goals and measures for the agency's heritage area activities, or required the areas to adopt a similar approach. Park Service officials said that the agency has not taken these actions because, without a program, it

lacks adequate direction and funding. In this regard, provisions of S. 2543 (1) establish a program that would provide the Park Service with the direction and funding agency officials believe they need to more effectively manage their own and the heritage areas' activities; (2) establish a schedule and criteria for reviewing and approving or disapproving heritage areas' management plans; (3) identify criteria for determining whether to approve an area's plan; (4) require that the plans include information on, among other things, performance goals, the roles and functions of partners, and specific commitments by the partners to accomplish the activities outlined in the plan; and (5) require each area to submit an annual report specifying, among other things, performance goals and accomplishments, expenses and income, amounts and sources of matching funds and leveraged federal funds, and grants made to any other entity. The Congress may wish to consider specific amendments to S. 2543 that would further enhance the Park Service's ability to hold areas accountable.

- S. 2543 includes provisions that address some of the concerns we identified in March with regard to potential restrictions that the national heritage areas may place on property owners' rights and land use. Among other assurances, S. 2543 provides property owners the right to refrain from participating in any planned project or activity conducted within the national heritage area. Furthermore, it does not require any property owner to permit public access or modify public access under any other federal, state, or local law. It also does not alter any adopted land use regulation, approved land use plan, or other regulatory authority of any federal, state, or local authority.

We believe that several of the provisions of S. 2543 would represent positive steps towards addressing the concerns we raised in March, in particular with regard to the need for a more systematic approach for establishing heritage areas and greater accountability.

### **Background**

To date, the Congress has designated 24 national heritage areas, primarily in the eastern half of the country. Generally, national heritage areas focus on local efforts to preserve and interpret the role that certain sites, events, and resources have played in local history and their significance in the broader national context. Heritage areas share many similarities—such as recreational resources and historic sites—with national parks and other park system units but lack the stature and national significance to qualify them as these units.

The process of becoming a national heritage area usually begins when local residents, businesses, and governments ask the Park Service, within the Department of the Interior, or the Congress for help in preserving their local heritage and resources. In response, although the Park Service currently has no program governing these activities, the agency provides technical assistance, such as conducting or reviewing studies to determine an area's eligibility for heritage area status. The Congress then may designate the site as a national heritage area and set up a management entity for it. This entity

could be a state or local governmental agency, an independent federal commission, or a private nonprofit corporation. Usually within 3 years of designation, the area is required to develop a management plan, which is to detail, among other things, the area's goals and its plans for achieving those goals. The Park Service then reviews these plans, which must be approved by the Secretary of the Interior.

After the Congress designates a heritage area, the Park Service enters into a cooperative agreement with the area's management entity to assist the local community in organizing and planning the area. Each area can receive funding—generally limited to not more than \$1 million a year for 10 or 15 years—through the Park Service's budget. The agency allocates the funds to the area through the cooperative agreement.

**S. 2543 Would Establish a Systematic Process for Identifying and Designating Proposed National Heritage Areas**

As proposed, S. 2543 would establish a systematic process for determining the suitability of proposed sites as national heritage areas and for designating those areas found to be qualified. In our March 2004 testimony, we stated that no systematic process exists for identifying qualified candidate sites and designating them as national heritage areas. We noted that, while the Congress generally has made designation decisions with the advice of the Park Service, it has, in some instances, designated heritage areas before the agency has fully evaluated them. Specifically, the Congress designated 10 of the 24 existing heritage areas without a thorough Park Service review of their qualifications and, in 6 of the 10 cases, the agency had recommended deferring action. S. 2543, however, would create a more systematic process that would make the Congress' designation of a heritage area contingent on the prior completion of a suitability-feasibility study and the Secretary's determination that the area meets certain criteria. In addition, under S. 2543, the Secretary could recommend against designation of a proposed heritage area based on the potential budgetary impact of the designation or other factors.

Provisions in S. 2543 identify a number of criteria for the Secretary to use in determining a site's suitability and feasibility as a national heritage area, including its national significance to the nation's heritage and whether it provides outstanding recreational or educational opportunities. S. 2543 defines a heritage area as an area designated by the Congress that is nationally significant to the heritage of the United States and meets the other criteria specified in the bill. Further, S. 2543 defines national significance as possessing unique natural, historical, and other resources of exceptional value or quality and a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States. Despite these very specific definitions, however, the criteria outlined in S. 2543 for determining an area's suitability are very similar to those currently used by the Park Service. Our March 2004 testimony pointed out that these criteria are not specific enough to determine areas' suitability. For example, one criterion states that a proposed area should reflect "traditions, customs, beliefs, and folk life that are a valuable part of the national story." These criteria are open to interpretation and, using them, the agency has eliminated few sites as prospective heritage areas. As we stated in March, officials in the Park Service's

Northeast region, for example, believe the criteria are inadequate for screening purposes. The Park Service's heritage area national coordinator believes, however, that the criteria are valuable but that the regions need additional guidance to apply them more consistently. The Park Service has recently developed guidance for applying these criteria, which will help to clarify how both the existing criteria and the criteria proposed in S. 2543 could be applied to better determine the suitability of a prospective heritage area.

**Provisions in S. 2543 Would Limit the Amount of Federal Funds Dedicated to National Heritage Areas**

S. 2543 would impose some limits on the amount of federal funds that can be provided to national heritage areas through the National Park Service's budget. In our March 2004 testimony, we stated that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. According to data from 22 of the 24 heritage areas, the areas received about \$310 million in total funding. Of this total, about \$154 million came from state and local governments and private sources and another \$156 million came from the federal government. Over \$50 million was dedicated heritage area funds provided through the Park Service, with another \$44 million coming from other Park Service programs and about \$61 million from 11 other federal sources. We also pointed out that the federal government's total funding to these heritage areas increased from about \$14 million in fiscal year 1997 to about \$28 million in fiscal year 2002, peaking at over \$34 million in fiscal year 2000. Table 1 shows the areas' funding sources from fiscal years 1997 through 2002.

Table 1: National Heritage Area Funding from All Sources, Fiscal Years 1997-2002.

Source	Amount	Percentage
<b>Total Park Service funds</b>	<b>\$95,393,506</b>	<b>30.8</b>
Dedicated heritage area funds <sup>a</sup>	50,922,562	16.5
Other Park Service support funds <sup>b</sup>	44,470,944	14.3
<b>Total other federal funds</b>	<b>\$60,545,816</b>	<b>19.5</b>
Department of Transportation	55,852,269	18.0
Department of Education	2,000,000	0.6
Department of Agriculture	547,009	0.2
Department of Housing and Urban Development	420,183	0.1
Environmental Protection Agency	400,000	0.1
Army Corps of Engineers	266,000	0.1
Department of Commerce	96,555	0.0
National Railroad Passenger Corporation	23,800	0.0
National Endowment for the Arts	5,000	0.0
Federal earmarks and awards <sup>c</sup>	935,000	0.3
<b>Total nonfederal funds</b>	<b>\$154,078,203</b>	<b>49.7</b>
State governments	61,404,323	19.8
Local governments	46,612,624	15.0
Nonprofit organizations	7,255,416	2.3
Private foundations	14,515,996	4.7
Corporate sponsors	2,126,870	0.7
Other nonfederal funding sources	22,163,473	7.2
<b>Total</b>	<b>\$310,017,525</b>	<b>100.0</b>

Source: GAO analysis of data obtained from 22 of the 24 heritage areas.

<sup>a</sup>These funds were provided through the Park Service's Heritage Partnership Program and Statutory and Contractual Aid budget line items. The Heritage Partnership Program promotes the conservation of natural, historic, scenic, and cultural resources. Statutory and Contractual Aid provides financial assistance in the planning, development, or operation of natural, historical, cultural, or recreation areas that are not managed by the Park Service.

<sup>b</sup>These funds are from other Park Service budget line items—including the Land and Water Conservation Fund, Operation of the National Park Service and the Construction Fund—that are not typically reported as part of heritage area funding but include funding for specific projects undertaken by heritage areas.

<sup>c</sup>These funds earmarked for Federal Government Pass-Through Awards (\$610,000) and Hugh Moore Historical Park & Museums, Inc. (\$325,000).

S. 2543 restricts the funding for heritage areas that is allocated through the Park Service's budget to \$15 million for each fiscal year. Of this amount, not more than \$1 million may be provided to an individual area in a given fiscal year and not more than \$10 million over 15 years. For any fiscal year, the costs for oversight and administrative purposes cannot exceed more than 5 percent of the total funds. While this provision restricts the amount of federal funds passing from the Park Service—the largest provider of federal funds—to the heritage areas, these areas can obtain funding from other federal agencies as well.

In March, we also pointed out that, generally, each area's designating legislation imposes sunset provisions to limit the amount of federal funds provided to each heritage area. However, since 1984, five areas that reached their sunset dates had their funding extended. S. 2543 establishes a fixed time frame after which no additional funding,

except for technical assistance and administrative oversight, will be provided. Specifically, it states that the Secretary of the Interior can no longer provide financial assistance after 15 years from the date that the local coordinating, or management, entity first received assistance.

**S. 2543 Includes a Number of Provisions to Enhance the Park Service's Ability to Hold National Heritage Areas Accountable for Their Use of Federal Funds**

S. 2543 includes a number of provisions that could enhance the Park Service's ability to hold national heritage areas accountable for their use of federal funds. In March, we stated that the Park Service oversees heritage areas' activities by monitoring their implementation of the terms set forth in cooperative agreements. These terms, however, did not include several key management controls. That is, the agency had not (1) always reviewed areas' financial audit reports, (2) developed consistent standards for reviewing areas' management plans, and (3) developed results-oriented goals and measures for the agency's heritage area activities, or required the areas to adopt a similar approach. Park Service officials said that the agency has not taken these actions because, without a program, it lacks adequate direction and funding. We recommended that, in the absence of a formal heritage area program within the Park Service, the Secretary of the Interior direct the Park Service to develop well-defined, consistent standards and processes for regional staff to use in reviewing and approving heritage areas' management plans; require regional heritage area managers to regularly and consistently review heritage areas' annual financial reports to ensure that the agency has a full accounting of their use of funds from all federal sources; develop results-oriented performance goals and measures for the agency's heritage area activities, and require, in the cooperative agreements, that heritage areas adopt such a results-oriented management approach as well.

S. 2543 takes several steps that will enhance accountability. In this regard, S. 2543 establishes a formal program for national heritage areas to be administered by the Secretary of the Interior. By establishing this program, the bill would provide the Park Service with the direction and funding that agency officials believe they need to impose management controls on their own and heritage areas' activities. Furthermore, S. 2543 includes a number of provisions that address the concerns we raised in March. First, the bill establishes a schedule and criteria for reviewing and approving or disapproving heritage areas' management plans. The Secretary must approve or disapprove the management plan within 180 days of receiving it. If disapproved, the Secretary must advise the local coordinating entity in writing of the reason for disapproval and may make recommendations for revision. After receiving a revised management plan, the Secretary must approve or disapprove the revised plan within 180 days. In addition, the bill identifies criteria that the Secretary is to use in determining whether to approve an area's plan. This is a positive step towards establishing the well-defined, consistent standards and processes for reviewing and approving areas' management plans that we recommended in March.

S. 2543 also requires that the management plans include information on, among others, performance goals, the roles and functions of partners, and specific commitments by the

partners to accomplish the activities outlined in the management plan. Furthermore, to ensure better accountability, the local coordinating entity must submit an annual report to the Secretary for each fiscal year for which the entity receives federal funds. This report must specify, among other things, the local coordinating entity's performance goals and accomplishments, expenses and income, amount and sources of matching funds, amounts and sources of leveraged federal funds, and grants made to any other entity during the fiscal year.

While provisions contained in S. 2543 address some of the issues we raised in our March testimony, they do not require that the Park Service consistently review areas' financial audit reports or develop results-oriented goals and measures for the agency's heritage area activities as we recommended in March. We continue to believe that these are important management controls that are necessary to ensure effective oversight and accountability.

**S. 2543 Provides Some Measures for Ensuring That Owners' Use of Their Property Is Not Restricted by the Establishment of Heritage Areas**

S. 2543 includes provisions to ensure that property owners' rights and land use are not restricted by the establishment of national heritage areas. In our March testimony, we stated that national heritage areas do not appear to have affected property owners' rights. In fact, the designating legislation of 13 areas and the management plans of at least 6 provide assurances that such rights will be protected. However, property rights advocates are concerned about the effects of provisions in some management plans that encourage local governments to implement land use policies that are consistent with the heritage areas' plans. Some advocates are concerned that these provisions may allow the heritage areas to indirectly influence zoning and land use planning in ways that could restrict owners' use of their property.

S. 2543 provides property owners the right to refrain from participating in any planned project or activity conducted within the national heritage area. Furthermore, it does not require any property owner to permit public access, nor does it modify public access under any other federal, state, or local law. It also does not alter any adopted land use regulation, approved land use plan, or other regulatory authority of any federal, state, or local authority.

**Conclusions**

The growing interest in creating new heritage areas has raised concerns that their numbers may expand rapidly and significantly increase the amount of federal funds supporting them. A significant increase in new areas would put increasing pressure on the Park Service's resources. Therefore, it is important to ensure that only those sites that are most qualified are designated as heritage areas. However, as we noted in March, no systematic process for designating these areas exists, and the Park Service does not have well-defined criteria for assessing sites' qualifications or provide effective oversight of the areas' use of federal funds and adherence to their management plans. As a result, the Congress and the public cannot be assured that future sites will have the necessary

resources and local support needed to be viable or that federal funds supporting them will be well spent. Park Service officials pointed to the absence of a formal program as a significant obstacle to effective management of the agency's heritage area efforts and oversight of the areas' activities. As a result, the Park Service is constrained in its ability to determine both the agency's and areas' accomplishments, whether the agency's resources are being employed efficiently and effectively, and if federal funds could be better utilized to accomplish its goals.

Several of the provisions in S. 2543 represent positive steps towards addressing the concerns we raised in March. In particular, by establishing a formal program, the bill would remove the obstacle to effective management and oversight identified by agency officials. Furthermore, by establishing a more systematic process for designating heritage areas, S. 2543's provisions can help to ensure that only the most qualified sites become heritage areas. In addition, by placing a \$15 million per year cap on funding to the heritage areas through the Park Service, the bill limits the federal government's funding commitment to these areas. Finally, provisions in S. 2543 would enhance the Park Service's ability to oversee and hold areas accountable for their use of federal funds by establishing criteria for reviewing and approving areas' management plans and by requiring heritage areas to annually report on performance goals and accomplishments.

#### **Matters for Congressional Consideration**

To ensure greater accountability for the use of federal funds, the Congress may wish to consider amending S. 2543 by adding provisions directing the Secretary to (1) review heritage areas' annual financial reports to ensure that the agency has a full accounting of heritage area funds from all federal sources, and (2) develop results-oriented performance goals and measures for the Park Service's overall heritage area program.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or other Members of the Subcommittee may have.

#### **Contacts and Acknowledgements**

For more information on this testimony, please contact Barry T. Hill at (202) 512-3841. Individuals making key contributions to this testimony included Preston S. Heard, Roy K. Judy, and Vincent P. Price.

(360498)

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. 2543 as ordered reported.

