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REPORT
106–443

# DAYTON AVIATION HERITAGE PRESERVATION AMENDMENTS ACT OF 2000

SEPTEMBER 29, 2000.—Ordered to be printed

Filed under authority of the order of the Senate of September 28 (legislative day, September 22), 2000

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

## REPORT

[To accompany S. 2959]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2959) to amend the Dayton Aviation Heritage Preservation Act of 1992, 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:

On page 2, line 9, strike "numbered and dated :" and insert in lieu thereof "numbered 362–80,010 and dated September 1, 2000:".

### PURPOSE OF THE MEASURE

The purpose of S. 2959 is to amend the enabling Act for Dayton Aviation Heritage National Historical Park in the State of Ohio to include additional property within the park's boundary, and to remove the ceiling on funds that may be appropriated for operation, development or restoration of non-Federally owned properties within the boundaries of the park.

### BACKGROUND AND NEED

Dayton Aviation Heritage National Historical Park was established in 1992 (Public Law 102–419; 16 U.S.C. 410ww) to preserve, enhance, and interpret historic and cultural structures and districts associated with the Wright brothers and the invention and

development of aviation, as well as the life and works of the Wright brothers' friend Paul Laurence Dunbar. The Act encouraged the creation of partnerships among Federal, State, and local governments and the private sector necessary to protect park resources.

The park is currently preparing for the Centennial of Flight Celebration in 2003 and major construction and rehabilitation projects are planned for each of the park's four units. The ongoing planning and development efforts have highlighted issues that were not anticipated when the park was initially authorized, but which are critical for the protection, preservation, and management of the park's resources.

S. 2959 authorizes the inclusion within the park's boundaries of two residential properties immediately adjacent to the Wright Cycle Company building that are important to the integrity of the cultural landscape. In addition, inclusion of the properties within the park's boundary will enable the National Park Service to address the long-term protection and fire suppression needs of all the structures, which are in physical contact.

The legislation also includes a provision to include within the park's boundaries a property owned by Aviation Trail, Inc. The NPS and Aviation Trail, Inc. have agreed to combine the concurrent rehabilitation projects of the Wright Brothers' Print Shop Building and the adjoining Aviation Trail Building into a single NPS-managed project. The NPS has already revised the park boundary, as provided for under section 7(c) of the Land and Water Conservation Act of 1965, to include the Aviation Trail Building within the park. The boundary revision is necessary to permit the NPS to enter into a cooperative agreement with Aviation Trail, Inc., which will facilitate preservation of the Wright Brothers' Print Shop Building and reduce the costs of the renovation projects. Inclusion of this provision in S. 2959 will update the park's legislation to match existing conditions.

S. 2959 also removes a provision in the park's original authorizing legislation that established a $200,000 ceiling on the use of appropriated funds for the operation, development, and rehabilitation of non-Federal properties within the park's boundary. The cap creates a number of impediments in the development of the park and the partnerships that the National Park Service must foster and support. The most immediate issue with respect to the cap is that it is preventing the Park Service from beginning contract work on the interpretive center and creating a risk that it will not be ready in time for the Centennial of Flight celebration.

## LEGISLATIVE HISTORY

S. 2959 was introduced by Senator DeWine on July 27, 2000. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 2959 on September 14, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered S. 2959, as amended, favorably reported.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on September 20, 2000, by a unanimous voice vote of

a quorum present, recommends that the Senate pass S. 2959, if amended as described herein.

## COMMITTEE AMENDMENT

During the consideration of S. 2959, the Committee adopted an amendment to include the identification number and date of the map referenced in the bill.

## SECTION-BY-SECTION ANALYSIS

Section 1 designates the bill's short title and references the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419; 16 U.S.C. 410ww) as the Act that is amended by this bill.

Section 2(a) amends section 101(b) of Public Law 102–419 (16 U.S.C. 410ww(b)) by including additional properties within the park's boundary and clarifying the descriptions of properties within the park's boundaries.

Subsection (b) is a technical amendment to section 107 of Public Law 102–419 (16 U.S.C. 410ww–6), correcting the term "Secretary of Interior" to "Secretary of the Interior."

Subsection (c) amends section 109 of Public Law 102–419 (16 U.S.C. 410ww–8) by eliminating the $200,000 ceiling on funds which may be appropriated for operation, development or restoration of non-Federally owned properties within the boundaries of the park.

## COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office cost estimate report had not been received at the time the report was filed. When the report becomes available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate.

## 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. 2959. 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. 2959, as ordered reported.

## EXECUTIVE COMMUNICATIONS

On September 15, 2000, 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. 2959. These reports had not been received at the time the report on S. 2959 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. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF DONALD J. HELLMANN, DEPUTY ASSISTANT DIRECTOR, LEGISLATIVE AND CONGRESSIONAL AFFAIRS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before the subcommittee to present the views of the Department of the Interior on S. 2959, a bill to clarify the areas included in the Dayton Aviation Heritage National Historical Park, Ohio, and to authorize appropriations for that park.

S. 2959 would expand the authorized boundaries of the Dayton Aviation Heritage National Historical Park through the inclusion of three properties adjacent to the park's core unit and the inclusion of the expanded Wright Hall complex at Carillon Historical Park; and, it would remove the ceiling on the use of the appropriated funds for the operation, development, or restoration of non-federally owned properties within the boundaries of the park.

The Department of the Interior supports enactment of this legislation. This position is consistent with the legislated purpose of the park, the November 1997 general management plan, and the June 2000 land protection plan; and is supported by all affected park partners and property owners. The total acreage of all four tracts is 0.7 acres. Of these tracts, the two owned by the City of Dayton would be donated to the National Park Service, the tract owned by Aviation Trail, Inc. would continue to be owned by Aviation Trail, Inc. with acquisition by the National Park Service a future possibility on a willing buyer-willing seller arrangement, and the tract owned by Carillon Historical Park would continue to be owned by that organization.

The removal of the ceiling on the use of appropriated funds on non-federally owned properties within the boundaries of the park would eliminate a significant impediment in the development of the park and the partnerships that the park has been mandated to foster and support. In most cases, we do not support the use of limited NPS maintenance or construction funding for non-Federal facilities, because those funds are needed to address the most important needs identified in the five-year priority lists. We do not object to this authorization, however, because the proposed improvements to non-Federal facilities within the park unit's boundaries would provide a distinct benefit to the park. Funding for land acquisition and construction is subject to the availability of appropriations and the needs identified in the NPS priority lists.

Dayton Aviation Heritage National Historical Park was authorized in 1992 as a multi-unit partnership park to commemorate the legacy of the Wright brothers and poet and author Paul Laurence Dunbar and their association with the Dayton region. The Wright brothers, through their invention of powered flight, achieved one of the single most important advances of the 20th Century. Paul Laurence Dunbar, a childhood friend of the Wright broth-

ers, rose from a poor childhood in Dayton to international acclaim as a writer and as an effective voice for equality and justice and contributing to a growing social consciousness and cultural identity for African-Americans in the United States.

Operation of the part is a partnership that involved four legislatively mandated partners (National Park Service, Wright-Patterson Air Force Base, the Ohio Historical Society, and Carillon Historical Park, a private non-profit organization), a Federal commission, other government agencies, and 40 partner organizations.

Dayton Aviation Heritage National Historical Park is currently undergoing rapid change as it is developed in preparation for the Centennial of Flight Celebration in 2003. Detailed planning and design is being completed and preparations are underway for the initiation of major construction/rehabilitation projects at each of the four units with a goal to have the park ready and fully accessible to the public by December 17, 2002, the start of the Centennial Celebration. This ongoing planning and development has highlighted issues that were not anticipated when the park was initially authorized, but which today, are critical for the protection, preservation, and management of these significant national resources.

The West Street [National Register] Historic District incorporates The Wright Cycle Company building (22 South Williams Street) and two adjacent historic residential properties (26 and 30 South Williams Street). This historic district is significant because it is where the Wright brother had their printing, bicycle, and airplane businesses. The two adjacent turn-of-the-century residential structures are a critically important component of cultural landscape providing historic integrity for The Wright Cycle Company building, the only structure representing the Wright brothers bicycle business that remains at its original location and original form. Also significant is the fact that the roof of the small, wood-frame house located at 26 South Williams Street touches the roof of the Wright Cycle Company structure and represents a potential threat by fire to the long-term protection and preservation of the Wright cycle company building. Inclusion of these properties would allow the NPS to consider fire suppression of all the buildings and will ensure the long-term protection and preservation of the Wright Cycle Company building.

The NPS and Aviation Trail, Inc. are proposing to partner in the development of the Hoover Block and the Aviation Trail building to create a single interpretive center facility that would occupy the two structures. The combined development of the two structures will preserve historic resources associated with the Hoover Block by centralizing facility utility systems, reducing overall project costs, facilitating improved visitor flow through the structures providing for a higher quality visitor experience, and providing additional space for exhibits and displays. Through administrative action (Federal Register, July 3, 2000) the

NPS has incorporated the Aviation Trail, Inc. property within the park boundaries. Inclusion of this provision within the legislation will update the legislation to match existing conditions and removal of the ceiling will allow the partnership project to proceed.

When the park was authorized in 1992, Wright Hall was a separate, stand-alone structure. As a part of the private development of that unit of the park, Wright Hall has been expanded with constructed additions and an attached structure, that is now known collectively as the John W. Berry, Sr. Wright Brothers Aviation Center. To facilitate consistent and clear management of Wright Hall as a unit of the NPS, the entire facility should incorporated within the boundaries of the park.

Since the date the bill was introduced, we have received the final map referenced in section 2. The map is numbered 362–80,010 and dated September 1, 2000. We suggest the bill be amended to include the number and date.

This concludes my testimony. I would be happy to answer any questions that you or members of the subcommittee may have.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2959, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## Public Law 102–419

AN ACT To establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Dayton Aviation Heritage Preservation Act of 1992".

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## TITLE I—DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

**SEC. 101. ESTABLISHMENT OF THE DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK.**

(a) * * *

[(b) AREA INCLUDED.—The park shall consist of the following sites, as generally depicted on a map entitled "Proposed Dayton Aviation Heritage National Historical Park", numbered NHP–DAH 80,000 and dated February 1992:

[(1) A core parcel in Dayton, Ohio, which shall consist of the Wright Cycle Company Building, Hoover Block, and lands between.

[(2) Huffman Prairie Flying Field, Wright-Patterson Air Force Base, Ohio.

[(3) The Wright 1905 Flyer and Wright Hall, Dayton, Ohio.

[(4) The Paul Laurence Dunbar home, Dayton, Ohio.]

*(b) AREA INCLUDED.—The park shall consist of the following sites, as generally depicted on the map entitled "Dayton Aviation Heritage National Historical Park", numbered 362–80,010 and dated September 1, 2000:*

*(1) A core parcel in Dayton, Ohio, which shall consist of the Wright Cycle Company building, Hoover Block, and lands between.*

*(2) The Setzer building property (also known as the Aviation Trail building property) Dayton, Ohio.*

*(3) The residential properties at 26 South Williams Street and at 30 South Williams Street, Dayton, Ohio.*

*(4) Huffman Prairie Flying Field, Wright-Patterson Air Force Base, Ohio.*

*(5) The Wright 1905 Flyer III and Wright Hall, including constructed additions and attached structures, known collectively as the John W. Berry, Sr. Wright Brothers Aviation Center, Dayton, Ohio.*

*(6) The Paul Laurence Dunbar State Memorial, Dayton, Ohio.*

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**SEC. 107. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE.**

The decisions concerning the execution of this Act as it applies to properties under control of the Secretary of Defense shall be made by such Secretary, in consultation with the [Secretary of Interior.] *Secretary of the Interior.*

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**SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to carry out this title[: *Provided*, That the amount to be appropriated for the operation, development or restoration of non-federally owned properties within the boundaries of the park shall not exceed $200,000].

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