

## Calendar No. 228

110TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
110-98

### STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL ACT

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JUNE 26, 2007.—Ordered to be printed

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

### R E P O R T

[To accompany S. 797]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 797) to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass. The amendments are as follows:

1. On page 2, strike lines 7 through 12 and insert the following:

“(A) IN GENERAL.—The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles extending from Tangier Island, Virginia, through southern Maryland, the District of Columbia, and northern Virginia in the Chesapeake Bay, Patuxent River, Potomac River, and north to the Patapsco River and Baltimore, Maryland,

2. Beginning on page 3, strike line 20 and all that follows through page 4, line 4, and insert the following:

“(F) INTERPRETATION AND ASSISTANCE.—Subject to the availability of appropriations, the Secretary of the Interior may provide to State and local governments and nonprofit organizations interpretive programs and services and technical assistance for use in—

- “(i) carrying out preservation and development of the trail; and
- “(ii) providing education relating to the War of 1812 along the trail.”.

#### PURPOSE OF THE MEASURE

The purpose of S. 797 is to designate the Star-Spangled Banner Trail in Maryland, Virginia, and the District of Columbia as a National Historic Trail.

#### BACKGROUND AND NEED

S. 797 would designate an approximately 290-mile land and water trail extending from southern Maryland along the Chesapeake Bay and continuing into the District of Columbia and Virginia, to commemorate the events leading up to the writing of “The Star Spangled Banner” during the War of 1812. National Historic Trails, which are components of the National Trails System, commemorate major routes of historic travel and mark major events that have shaped our American history. To date, 17 National Historic Trails have been established. To be designated as a National Historic Trail, a trail must meet three basic criteria: it must be nationally significant, have a documented route through maps or journals, and provide recreational opportunities.

Presently there is little recognition of the events that made up the War of 1812 outside of Fort McHenry. The sites along the Star Spangled Banner National Historic Trail would mark some of the most important events of the War of 1812. The trail, commemorating the only combined naval and land attack on the United States, begins with the June 1814 battles between the British Navy and the American Chesapeake Flotilla in St. Leonard’s Creek in Calvert County, Maryland, and ends at Fort McHenry in Baltimore, site of the composition of “The Star Spangled Banner” by Francis Scott Key (originally entitled the “Defence of Fort McHenry”) and the ultimate defeat of the British forces.

A continuous trail connecting these important sites would provide the public with a thematically consistent account of the events that made up the War of 1812.

#### LEGISLATIVE HISTORY

S. 797 was introduced by Senators Cardin, Mikulski, Warner, Webb, and Kennedy on March 7, 2007. During the 109th Congress, the Committee considered similar legislation, S. 958, sponsored by Senators Sarbanes and Mikulski. The Subcommittee on National Parks held a hearing on S. 958 on July 28, 2005 (S. Hrg. 109–201. The Committee ordered S. 958 reported, with amendments, on September 28, 2005 (S. Rept. 109–150) and the bill passed the Senate by unanimous consent on November 16, 2005. No further action occurred in the House of Representatives prior to the sine die adjournment of the 109th Congress.

At its business meeting on May 23, 2007, the Committee ordered S. 797 favorably reported, with amendments.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on May 23, 2007, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 797, if amended as described herein.

## COMMITTEE AMENDMENTS

During the consideration of S. 797, the Committee adopted two amendments to clarify that the trail includes water routes and to authorize the Secretary of the Interior to provide technical and interpretive assistance to State and local governments and non-profit organizations.

## SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the “Star-Spangled Banner National Historic Trail Act.”

*Section 2* amends section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) to designate 290 miles of water and overland routes as the “Star-Spangled Banner National Historic Trail” as depicted on the referenced map. The trail is to be administered by the Secretary of the Interior. The United States is prohibited from acquiring lands or interests in land outside of the exterior boundaries of any federally-administered area without the consent of the landowner. The section also directs the Secretary to encourage public participation in the planning, development, and maintenance of the trail, and to consult with affected landowners and appropriate governmental agencies in the administration of the trail. Finally, the section authorizes the Secretary to provide technical assistance and interpretive services to State and local governments and non-profit organizations.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

MAY 31, 2007.

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 797, the Star-Spangled Banner National Historic Trail Act.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

*S. 797 Star-Spangled Banner National Historic Trail Act*

S. 797 would amend the National Trails System Act to designate the Star-Spangled Banner Trail as a National Historic Trail. The trail of almost 300 miles would cover parts of Maryland, Virginia, and the District of Columbia. The National Park Service (NPS)

would administer the trail and coordinate the efforts of public and private entities on trail administration, planning, development, and maintenance.

Based on information provided by the NPS and assuming the availability of appropriated funds, CBO estimates that establishing, developing, and administering the proposed historic trail would cost about \$2 million over the 2008–2012 period. Of this amount, we estimate that the NPS would spend about \$300,000 over the next two years to prepare a comprehensive management plan for the trail. We estimate that the remaining \$1.7 million would be spent over the following three years for archeological surveys, development of access sites, and interpretive materials.

S. 797 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by 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. 797. 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. 797, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

Because S. 797 is similar to legislation passed by the Senate in the 109th Congress, the Committee did not request Executive Agency views on S. 797. The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 958 in the 109th Congress follows:

STATEMENT OF STEPHEN P. MARTIN, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 958, a bill to amend the National Trails System Act to designate the Star-Spangled Banner Trail as a National Historic Trail.

The Department supports S. 958, which would designate an approximately 290-mile land and water trail extending from southern Maryland through the District of Columbia and Virginia along the Chesapeake Bay. The land routes would follow existing public roads, along which British and American troops traveled. The bill would require the Secretary to encourage public participation and consult with landowners, Federal, State, and local agencies on the ad-

ministration of the trail. The bill would prohibit land or interest in land outside the exterior boundaries of any federally administered area from being acquired for the trail without the consent of the owner.

The proposed National Historic Trail would commemorate the events leading up to the writing of “The Star-Spangled Banner” during the Chesapeake Campaign of the War of 1812. These events include the British invasion of Maryland, the Battle of Bladensburg, the burning of the White House and the Capitol, the burning of the Washington Navy Yard, and the Battle for Baltimore in the summer of 1814. The route of the invasion is known and documented, and the proposed trail would follow it as closely as practical.

The War of 1812 and the Chesapeake Campaign of 1814 had long-lasting and far-reaching effects on the United States and American culture. It represented the first major test of our infant democracy, contributed to the formation of a national identity, and demonstrated the importance of a strong military and the need for coastal defenses. During the campaign, other events occurred that are significant to our nation’s heritage, particularly the writing of the poem commemorating a key battle—the Battle for Baltimore. Francis Scott Key’s poem, the words of which comprise our National Anthem, celebrated the resiliency of the young nation and the flag he described as “The Star-Spangled Banner” during the successful defense of Fort McHenry. The events provide important testimony, too, about the roles of the enslaved and civilians in the early defense of the nation.

Should S. 958 be enacted, the National Park Service, subject to availability of funds, would prepare a comprehensive management plan with widespread public participation to identify the goals and objectives for trail preservation, research, interpretation, public use, trail marking, and cooperative management. The bill recognizes the advantages offered by the regional nature of the trail and the many organizations interested in and associated with the history of the Chesapeake Campaign. Several key trail-related resources, such as Fort McHenry and the White House, are owned by the Federal government. We anticipate that other trail-related resources such as structures within Old Town Alexandria in Virginia or Jefferson Patterson Park and Museum in Maryland will primarily remain in local or private ownership.

In 1999, the Star-Spangled Banner National Historic Trail Study Act (Public Law 106–135) was enacted authorizing the Secretary of the Interior to study the potential route of a Star-Spangled Banner National Historic Trail. The history, background, integrity, and national significance of the trail were researched and analyzed. The criteria for national trails, set forth in the National Trails Systems Act, were applied, and five of the eight trail study segments were found to meet the necessary criteria. The

proposed 290-mile trail would only include these five segments.

Providing conservation and enjoyment of, public access to, and interpretation of the historic route and its resources has been a growing focus of both public and private initiatives in recent years as the Bicentennial of the War of 1812 approaches. In Maryland, a grassroots initiative was undertaken to raise public awareness of the important events that occurred in the Chesapeake region in the summer of 1814 during the War of 1812. Historians and regional groups recognized the untold stories and legacy of the events of the Chesapeake Campaign and the need for protection and interpretation of related historical resources.

The proposed trail represents an opportunity for an effective partnership among Federal, State, and local governments, a dedicated trail organization, and the many public and private site managers to administer and maintain a federally designated commemorative trail along the historic routes of the Chesapeake Campaign. Because of its emphasis on partnerships, this approach provides the greatest flexibility for resource protection while creating a framework for interpretation and visitor experience.

Mr. Chairman, that concludes my remarks and I would be happy to respond to any questions that you and the committee 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 S. 797, 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 90-543—Oct. 2, 1968

(16 U.S.C. 1241 et seq.)

AN ACT To establish a national trails system, 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 “National Trails System Act”.

\* \* \* \* \*

#### SEC. 5. NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS.

(a) National Scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

\* \* \* \* \*

(26) *STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.*—

(A) *IN GENERAL.*—*The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles extending from Tangier Island, Virginia, through southern Maryland, the District of Columbia, and northern Virginia in the Chesapeake Bay, Patuxent River, Potomac River, and north to the Patapsco River and Baltimore, Maryland, commemorating the Chesapeake Campaign of the War of 1812 (including the British invasion of Washington, District of Columbia, and its associated feints and the Battle of Baltimore in summer 1814), as generally depicted on the maps contained in the report entitled ‘Star-Spangled Banner National Historic Trail Feasibility Study and Environmental Impact Statement’, and dated March 2004.*

(B) *MAP.*—*A map generally depicting the trail shall be maintained on file and available for public inspection in the appropriate offices of the National Park Service.*

(C) *ADMINISTRATION.*—*Subject to subparagraph (E)(ii), the trail shall be administered by the Secretary of the Interior.*

(D) *LAND ACQUISITION.*—*No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.*

(E) *PUBLIC PARTICIPATION.*—*The Secretary of the Interior shall—*

*(i) encourage communities, owners of land along the trail, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and*

*(ii) consult with other affected landowners and Federal, State, and local agencies in the administration of the trail.*

(F) *INTERPRETATION AND ASSISTANCE.*—*Subject to the availability of appropriations, the Secretary of the Interior may provide to State and local governments and nonprofit organizations interpretive programs and services and technical assistance for use in—*

*(i) carrying out preservation and development of the trail; and*

*(ii) providing education relating to the War of 1812 along the trail.*

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