

HJR

66

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 5/1/96

FURTHER:

DATE TURNED INTO OFFICE: 5-3-96

The Resources Committee considered HOUSE JOINT RESOLUTION NO. 86 am
 Relating to opposing the American Heritage Areas Program.

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
 - same title
 - new title
- House Bill:
 - same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Keace</i>	✓	<i>W. H. Taylor</i>	✓		
		<i>Rich Halford</i>	✓		
		<i>Dr. [Signature]</i>	✓		
CHAIR: <i>Steven D. Herman</i>		CHAIR: _____			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
(4) STA	4/14/96	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HOUSE JOINT RESOLUTION NO. 66 am
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Amended: 4/26/96
 Introduced: 4/19/96

A RESOLUTION

1 Relating to opposing the American Heritage Areas Program.

2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 WHEREAS the federal government is proposing to authorize an American Heritage
 4 Areas Program that would designate areas of the country and make those areas subject to
 5 legislation as part of the National Park System; and

6 WHEREAS federal proposals labeling private property invite, and are intended to
 7 invite, the destruction of private property rights, particularly when used by federal agencies
 8 in conjunction with other or subsequent legislation, and

9 WHEREAS provisions should be made under the American Heritage Areas Program
 10 in federal legislation to allow private property owners to reject or withdraw their property
 11 from such labeling without penalty, and to allow private property owners to avoid such
 12 labeling entirely, and

13 WHEREAS the National Park Service has devised the label "eligible but not
 14 designated" that creates the false impression that private property owners can avoid the
 15 consequences of being designated under the program despite the fact that this "eligible" label
 16 amounts to a de facto designation under the program because the government may treat
 17 eligible property the same as designated property under language such as, "This Act applies

1 to and properties eligible to be so designated"; and

2 WHEREAS the power to plan or zone private land is a power reserved to the states
3 and the people of the states; and

4 WHEREAS, despite claims to the contrary, the clear intent and effect of the proposal
5 would be to, de facto, involve the federal government in planning and zoning activities; and

6 WHEREAS it would be imprudent to tolerate or favor constitutionally questionable
7 land designations and labels for which the consequences cannot be fully specified in advance
8 but which appear likely to be injurious to private property rights; and

9 WHEREAS giving the American Heritage Areas Program a basis in legislation would
10 greatly facilitate and increase the intrusive designation and labeling by government of private
11 land; and

12 WHEREAS the enormity of some of the proposed areas (Rocky Mountain Heritage
13 Corridor, Mississippi River Valley Heritage Corridor, and others) demonstrates an inexcusable
14 and unacceptable federal arrogance;

15 BE IT RESOLVED that the Alaska State Legislature opposes the authorization of an
16 American Heritage Areas Program and urges the members of Alaska's Congressional
17 delegation to oppose the authorization and work to abolish the American Heritage Areas
18 Program.

19 COPIES of this resolution shall be sent to the Honorable Ted Stevens and the
20 Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
21 Representative, members of the Alaska delegation in Congress.

SENATE JOINT RESOLUTION NO. 41
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Introduced: 4/19/96

Referred: Resources

A RESOLUTION

1 Relating to opposing the American Heritage Areas Program.

2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 WHEREAS the federal government is proposing to authorize an American Heritage
 4 Areas Program that would designate areas of the country and make those areas subject to
 5 legislation as part of the National Park System; and

6 WHEREAS federal proposals labeling private property invite, and are intended to
 7 invite, the destruction of private property rights, particularly when used by federal agencies
 8 in conjunction with other or subsequent legislation; and

9 WHEREAS the National Park Service has a record of insensitivity to private property
 10 rights, as evidenced by 26 years of misconduct under the National Natural Landmark Program
 11 and by the current proposal, the American Heritage Areas Program, in which no provision has
 12 been made to allow private property owners to reject or withdraw their property from such
 13 labeling without penalty or to shield private property owners from the likely and severe
 14 adverse effects of such labeling; and

15 WHEREAS the National Park Service has devised the label "eligible but not
 16 designated" that creates the false impression that private property owners can avoid the
 17 consequences of being designated under the program despite the fact that this "eligible" label

1 amounts to a de facto designation under the program because the government may treat
2 eligible property the same as designated property under language such as, "This Act applies
3 to. . . . and properties eligible to be so designated"; and

4 WHEREAS the power to plan or zone private land is a power reserved to the states
5 and the people of the states; and

6 WHEREAS, despite claims to the contrary, the clear intent and effect of the proposal
7 would be to, de facto, involve the federal government in planning and zoning activities; and

8 WHEREAS it would be imprudent to tolerate or favor constitutionally questionable
9 land designations and labels for which the consequences cannot be fully specified in advance
10 but which appear likely to be injurious to private property rights; and

11 WHEREAS giving the American Heritage Areas Program a basis in legislation would
12 greatly facilitate and increase the intrusive designation and labeling by government of private
13 land; and

14 WHEREAS the enormity of some of the proposed areas (Rocky Mountain Heritage
15 Corridor, Mississippi River Valley Heritage Corridor, and others) demonstrates an inexcusable
16 and unacceptable federal arrogance;

17 BE IT RESOLVED that the Alaska State Legislature opposes the authorization of an
18 American Heritage Areas Program and urges the members of Alaska's Congressional
19 delegation to oppose the authorization and work to abolish the American Heritage Areas
20 Program.

21 COPIES of this resolution shall be sent to the Honorable Ted Stevens and the
22 Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
23 Representative, members of the Alaska delegation in Congress.

Alaska State Legislature



Official Business
Penalty for Private Use \$300

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

Sponsor Statement

for

HJR 66 Opposed to American Heritage Area

This resolution is a priority for all Western States. It opposes a federal bill which would directly affect the rights of Western States to govern their land.

The American Heritage Areas Program is a federal bill in the House Resources Committee. The bill provides the means to recognize natural, historic, scenic and cultural resources and recreational opportunities of the United States. Enactment of this proposed legislation would authorize the Secretary of the Interior to provide technical assistance to State and local governments and private nonprofit organizations to study and promote the potential for conserving and interpreting these areas. Further, it would establish within the Department of the Interior a body to assist the Secretary in carrying out this Act.

While there is merit in the preservation of Heritage Areas, their creation and governance should be state sponsored. The American Heritage Areas Program would dramatically amplify the role of the Park Service in the West, giving authority to yet another arm of the Department of the Interior with jurisdiction over Western lands. The endorsement of new Federal power continually erodes the authority of local government over local land issues.

The American Heritage Areas Program threatens the future value, ownership, and management of private lands by the de facto designation of "eligible" lands. The government may treat eligible property the same as designated property by applying language which refers to "properties eligible to be so designated". This bill must be amended to explicitly protect private lands before further consideration.

This resolution opposes the authorization of an American Heritage Areas Program as currently proposed.

Alaska State Legislature

Representative Brian S. Porter

CHAIRMAN
HOUSE JUDICIARY COMMITTEE

MEMBER
HOUSE LAND & COMMERCE COMMITTEE
HOUSE STATE AFFAIRS COMMITTEE
INTERNATIONAL TRADE & TOURISM
COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
DEPARTMENT OF LAW
DEPARTMENT OF EDUCATION
COURTS



DISTRICT 20

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Introduced by Representative Brian Porter

page 1, lines 9-14
delete all materials

page 1, line 9

add the following:

"WHEREAS provisions should be made under the American Heritage Areas Program in federal legislation to allow private property owners to reject or withdraw their property from such labeling without penalty, and to allow private property owners to avoid such labeling entirely; and "



ASSOCIATED GENERAL CONTRACTORS of ALASKA

401 B STREET • ANCHORAGE, ALASKA 99503
P.O. BOX 240609 • ANCHORAGE, ALASKA 99524-0609
TELEPHONE (907) 561-5354 • FAX (907) 562-6118

APR 26 1996

April 23, 1996

Honorable Loren Leman
Chairman, Senate Resources Committee
Alaska State Senate
Capitol Building
Juneau, AK 99801

Fax 465-3870

Re: SJR-41, Opposing American Heritage Areas Programs

Dear Senator Leman:

We are in support of Senate Joint Resolution 41 which opposes the authorization of an American Heritage Areas Program and urges the members of the Alaska Congressional Delegation to oppose any such program.

Alaska has already paid more than its fair share of land into special restricted use set-asides and no legislation should be allowed that will further restrict the lands in our state.

We urge that SJR-41 be passed at the earliest possible date.

Sincerely,

ASSOCIATED GENERAL CONTRACTORS
OF ALASKA


Heinrich Springer
Executive Director

cc: Members, Senate Resources Committee

Public lands - vital part of Western, Midwestern life

States	Acres federal public lands	% of state
Alaska	247,802,244	68%
Arizona	31,491,365	43%
California	61,042,578	61%
Colorado	22,647,838	34%
Idaho	33,121,959	63%
Missouri	2,030,505	5%
Montana	25,862,496	28%
Nevada	57,803,208	82%
New Mexico	25,747,308	33%
Oregon	29,668,753	48%
Utah	33,611,396	64%
Washington	12,373,150	29%
Wyoming	30,407,259	49%

Dear People for the West!

The following is a letter that I sent to Bruce Babbitt. I may send copies to my congressman also:

(Excerpt:) There seems to be an effort in this country to eliminate the mining industry, a cornerstone of this nation's

Federal Wilderness in Alaska



If Alaska's 57 million acres of designated Wilderness were made into one state, it would be the 11th largest state in America or larger than the combination of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware and Maryland.

Comparative state acreage:

10. Oregon	62 million acres
11. Alaska designated Wilderness	57
12. Utah	54
13. Minnesota	54
14. Idaho	53
15. Kansas	52

Federal Lands in Alaska



The 220 million acres of federal lands within Alaska alone would comprise the second largest state in the Union. This acreage, a large portion of which severely restricts or prohibits economic development and public access, is comparable in size to the following combination of 15 eastern states or more than three West Coast states as shown above.

(millions of acres)

Maine (21.2)	Pennsylvania (28.9)
New Hampshire (5.9)	Ohio (26.4)
Vermont (6.1)	Delaware (1.3)
Massachusetts (5.3)	Maryland (6.7)
Rhode Island (1.7)	Virginia (26.1)
Connecticut (3.2)	North Carolina (33.7)
New York (31.4)	South Carolina (19.9)
New Jersey (4.9)	

Federal Land Withdrawals

(closed to mineral entry)

Pre-1971



Post-1980



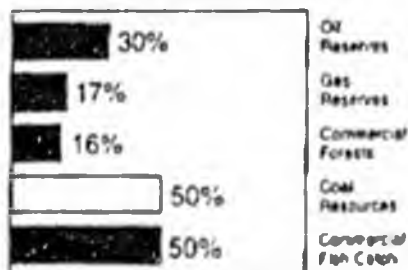
Alaska

The 49th star of America is a challenging land, for beneath all its vast climatic and geologic diversity lies much of the future wealth and security of the United States. With its vast resources, Alaska has the means — and the raw materials — to be a vital contributor to the security and economic well-being of America.

Yet Alaska, which has barely scratched the surface of its resource potential, may see many future economic opportunities vanish under relatively new government policies affecting land use in general and federal Wilderness in particular. These policies have led to the continuing withdrawal of giant amounts of land from many productive multiple-uses, leaving striking implications for resource development, utilities, recreation, local governments and tourism.

In 1980, when Congress passed the Alaska National Interest Lands Conservation Act, a staggering 104 million acres of the public domain was withdrawn into conservation system units. Overall, 158 million acres in Alaska have been set aside into federal conservation units. These units, which nearly equal the combined size of California and Oregon, comprise 70% of America's national park lands and 90% of its wildlife refuges. These withdrawals may very well embrace many valuable resources needed by Alaska to develop flourishing industries to support itself and its people.

Alaska's percentages of total U.S. resources



Wilderness

The average citizen is likely to define wilderness as land in which one can enjoy pristine natural conditions and leave the concerns of city life behind. Small wonder this concept of wilderness is popular with Americans. However, few are aware of the stark differences between designated Wilderness, or in lay terms, big "W" versus small "w" wilderness.

When land managers think of big "W" Wilderness, they mean those areas under federal regulation where most human activity is virtually eliminated. Wilderness with a small "w," on the other hand, includes those wild places still easily accessible and useable by the general public.

Designated Wilderness is an environment where man is alien. It is not user friendly:

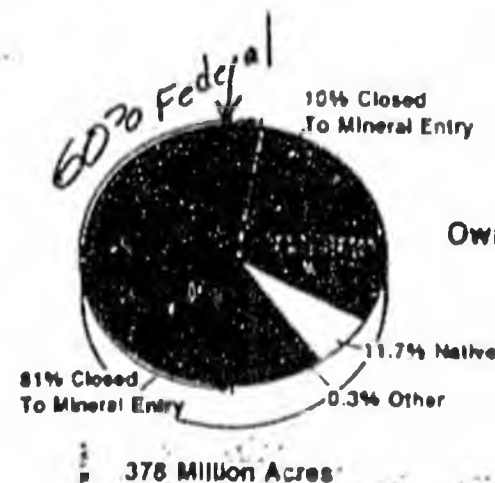
- It not only bans all types of resource development, including commercial fishing, it prohibits the construction of public and private recreation facilities. Small backcountry lodges, ski resorts, visitor centers and motor tours are not allowed in federal Wilderness.
- With few exceptions, roads, as well as new access trails and cabins are banned.

The facts show Alaska has given more than its fair share of designated Wilderness:

- Alaska contains 57 million acres of designated Wilderness — 82% of all federal Wilderness in the United States. Millions of additional acres in Alaska are under Wilderness consideration.

Throughout Alaska a cumulative overlay of federal and state land withdrawals restricts or prohibits development. With the exception of the narrow Trans-Alaska pipeline corridor, it is impossible to cross the vast mainland of Alaska without entering at least one restrictive conservation unit. Despite provisions within ANILCA to accommodate traditional access, there are endless complaints about agencies eliminating or severely impairing access.

More big "W" Wilderness in Alaska will mean fewer resource development and recreational opportunities. It won't even lead to significant improvements in environmental protection since non-designated Wilderness areas of our parks and refuges are already managed to very high standards.



Wilderness and Energy

The nation's increasing dependency on foreign oil makes it more vulnerable to petroleum price increases and oil supply disruptions. The inherent risks will only grow larger with the continued withdrawal of hundreds of millions of acres of federal lands from petroleum exploration and development.

America's oil industry is struggling to replace the petroleum now being produced from domestic oil and gas fields. Most of these fields are in a declining state of production and require new technology to enhance recovery. Land withdrawals are permitting new operations to areas that have already been heavily worked by.

Along with conservation, the best opportunity for reversing the nation's increasing reliance on foreign crude is finding more domestic oil. But only a fraction of federal lands are being leased while millions of acres are being withdrawn into federal designations prohibiting development.

The energy industry is not seeking to open designated Wilderness areas to oil and gas exploration and development. However, it is deeply concerned with proposals to add millions more acres of federal lands across Alaska into the wilderness system.

Alaska State Legislature

Senator Drue Pearce
President of the Senate

during interim:
716 West 4th Avenue, Suite 500
voice: (907) 258-8185
fax: (907) 258-0226

during session:
Juneau, AK 99801-1182
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fax: (907) 465-3872



Representative Gail Phillips
Speaker of the House

during session:
Juneau, AK 99801-1182
voice: (907) 465-2689
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during interim:
716 West 4th Avenue, Suite 620
voice: (907) 258-8164
fax: (907) 258-1642

April 24, 1996

Honorable Don Young
Chairman, Committee on Resources
House of Representatives
2331 Rayburn House Office Building
Washington, D.C. 20515-0201

VIA FAX (202) 225-5929
ATTN: Duane Gibson

Dear Don,

The Alaska Legislative Leadership is opposed to the authorization of an American Heritage Areas Program as currently proposed.

We have drafted a House Joint Resolution echoing the opposition of the Western States in the further withdrawal of land from local governance, and the increased authority this would offer the Department of the Interior.

While there is merit in the preservation of Heritate Areas, their creation and governance should be state sponsored. The American Heritage Areas Program appears to threaten the future value, ownership, and management of private lands by the de facto designation of "eligible" lands. The bill must be ammended to explicitly protect private lands before further consideration.

We expect this Resolution to pass a House vote very soon. We urge that you ammend this bill to reflect the value of local decision-making and private propeerty rights.

Sincerely,

A handwritten signature of Drue Pearce, enclosed in a circular scribble.

Drue Pearce

SENATE PRESIDENT

GP:mfn

Sincerely,

A handwritten signature of Gail Phillips.

Gail Phillips
SPEAKER OF THE HOUSE

104TH CONGRESS
1ST SESSION

H. R. 1280

To establish guidelines for the designation of National Heritage Areas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1995

Mr. HEFLKY (for himself and Mr. TORRILDBEN) introduced the following bill; which was referred to the Committee on Resources

A BILL

To establish guidelines for the designation of National Heritage Areas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Technical Assistance
5 Act of 1995".

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) certain areas of the United States represent
9 the diversity of the national character through the
10 interaction of natural processes, distinctive land-

1 scapes, cultural traditions, and economic and social
2 forces that have combined to create a particular pat-
3 tern of human settlement and activity;

4 (2) in these areas, natural, historic, or cultural
5 resources, or some combination thereof, combine to
6 form a cohesive, nationally distinctive landscape aris-
7 ing from patterns of human activity shaped by geog-
8 raphy;

9 (3) these areas represent the national experi-
10 ence through the physical features that remain and
11 the traditions that have evolved in the areas;

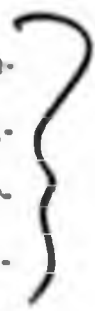
12 (4) continued use and adaptive reuses of the
13 natural and cultural fabric within these areas by
14 people whose traditions helped to shape the land-
15 scapes enhance the significance of the areas; and

16 (5) the complexity and character of these areas
17 distinguish them and call for a distinctive system of
18 recognition and management.

19 **SEC. 2. STATEMENT OF PURPOSE.**

20 The purposes of this Act are—

21 (1) to recognize that the natural, historic, sce-
22 nic, and cultural resources and recreational opportu-
23 nities of the United States represent and are impor-
24 tant to the great and diverse character of the Na-
25 tion, and that these resources and opportunities



1 must be wisely managed so they may be passed on
2 to future generations;

3 (2) to recognize that combinations of such re-
4 sources and opportunities, as they are geographically
5 assembled and thematically related, form areas that
6 provide unique frameworks for understanding the
7 historical, cultural, and natural development of com-
8 munities and their surroundings;

9 (3) to encourage appropriate partnerships
10 among Federal agencies, State and local govern-
11 ments, nonprofit organizations, and the private sec-
12 tor, or combinations thereof, to conserve and man-
13 age those resources and opportunities;

14 (4) to encourage within these areas a broad
15 range of economic opportunities which enhance the
16 quality of life for present and future generations;

17 (5) to authorize the Secretary of the Interior to
18 provide technical assistance to State and local gov-
19 ernments and private nonprofit organizations, or
20 combinations thereof, to study and promote the po-
21 tential for conserving and interpreting these areas;
22 and

23 (6) to prescribe the process by which areas may
24 be designated as National Heritage Areas and the

1 standards according to which areas may be assessed
2 for eligibility for such designation.

3 **SEC. 4. DEFINITIONS.**

4 For purposes of this Act:

5 (1) **COMPACT.**—The term "compact" means a
6 compact described in section 6(a)(2).

7 (2) **FEASIBILITY STUDY.**—The term "feasibility
8 study" means a study described in section 6(a)(1).

9 (3) **INDIAN TRIBE.**—The term "Indian tribe"
10 means any Indian tribe, band, nation, pueblo, or
11 other organized group or community, including any
12 Alaska Native village or regional corporation as de-
13 fined in or established pursuant to the Alaska Na-
14 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),
15 which is recognized as eligible for the special pro-
16 grams and services provided by the United States to
17 Indians because of their status as Indians.

18 (4) **MANAGEMENT PLAN.**—The term "manago-
19 ment plan" means a plan described in section
20 6(a)(3).

21 (5) **NATIONAL HERITAGE AREA.**—The term
22 "National Heritage Area" means a place designated
23 by the Congress where natural, cultural, and historic
24 resources combine to form a cohesive, nationally dis-
25 tinctive landscape arising from patterns of human

1 activity shaped by geography. These patterns make
 2 National Heritage Areas representative of the na-
 3 tional experience through the physical features that
 4 remain and the traditions that have evolved in the
 5 areas. Continued use of National Heritage areas by
 6 people whose traditions helped to shape the land-
 7 scapes enhances their significance.

8 (6) SECRETARY.—The term "Secretary" means
 9 the Secretary of the Interior.

10 (7) TECHNICAL ASSISTANCE.—The term "tech-
 11 nical assistance" includes preparation of plans, com-
 12 pacts, resource inventories, and feasibility studies
 13 and professional guidance provided by the Secretary.

14 (8) UNIT OF GOVERNMENT.—The term "unit of
 15 government" means the government of a State or
 16 Commonwealth, a political subdivision of a State or
 17 Commonwealth, or an Indian tribe.

18 SEC. 6. NATIONAL HERITAGE AREAS PARTNERSHIP PRO-
 19 GRAM.

20 (a) ESTABLISHMENT.—In order to conserve nation-
 21 ally distinctive natural, historic, scenic, and cultural re-
 22 sources, and to provide opportunities for conservation,
 23 education, and recreation through recognition of and as-
 24 sistance to areas containing such resources, there is here-
 25 by established within the Department of the Interior a Na-

1 **National Heritage Areas Partnership Program**, which shall
 2 assist the Secretary in carrying out this Act.

3 (b) **GENERAL AUTHORITY OF SECRETARY.**—In ac-
 4 cordance with the purposes of this Act, the Secretary is
 5 authorized—

6 (1) to evaluate, in accordance with the criteria
 7 established in subsection (c), areas nominated under
 8 this Act for designation as National Heritage Areas;
 9 and

10 (2) to advise State and local governments, non-
 11 profit organizations, and other appropriate entities
 12 regarding suitable methods of recognizing and con-
 13 serving thematically and geographically linked natu-
 14 ral, historic, and cultural resources and recreational
 15 opportunities.

16 (c) **CRITERIA.**—To be eligible for designation as a
 17 National Heritage Area, an area shall meet each of the
 18 following criteria:

19 (1) **ASSEMBLAGE OF RESOURCES.**—The area
 20 shall be an assemblage of natural, historic, or cul-
 21 tural resources that—

22 (A) together represent distinctive aspects
 23 of American heritage worthy of recognition,
 24 conservation, interpretation, and continuing
 25 use; and

1 (B) are best managed as such an assem-
2 blage, through partnerships among public and
3 private entities.

4 (2) TRADITIONS, CUSTOMS, BELIEFS, OR
5 FOLKLIFE.—The area shall reflect traditions, cus-
6 toms, beliefs, or folklife, or some combination there-
7 of, that are a valuable part of the story of the Na-
8 tion.

9 (3) CONSERVATION OF NATURAL, CULTURAL,
10 OR HISTORIC FEATURES.—The area shall provide
11 outstanding opportunities to conserve natural, cul-
12 tural, or historic features, or some combination
13 thereof.

14 (4) RECREATIONAL AND EDUCATIONAL OPPOR-
15 TUNITIES.—The area shall provide outstanding rec-
16 reational and educational opportunities.

17 (5) THEMES AND INTEGRITY OF RESOURCES.—
18 The area shall have an identifiable theme or themes,
19 and resources important to the theme or themes
20 shall retain integrity capable of supporting interpre-
21 tation.

22 (6) SUPPORT.—Residents, nonprofit organiza-
23 tions, other private entities, and governments within
24 the proposed area shall demonstrate support for des-

1 ignation of the area and for management of the area
2 as appropriate for such designation.

3 (7) AGREEMENTS.—The principal organization
4 and units of government supporting the designation
5 shall be willing to commit to agreements to work in
6 partnership to implement the compact for the area.

7 (8) CONSISTENCY WITH ECONOMIC VIABIL-
8 ITY.—The compact shall be consistent with contin-
9 ued economic viability in the affected communities.

10 (9) CONSENT OF LOCAL GOVERNMENTS.—No
11 privately owned property shall be included within the
12 boundaries of the area unless the government of the
13 county, city, or town in which the property is located
14 agrees to be so included and submits notification of
15 such agreement to the Secretary.

16 (d) CONDITIONS FOR DESIGNATION.—An area may
17 be designated as a National Heritage Area only by an Act
18 of Congress. The Congress may designate an area as a
19 National Heritage Area only after each of the following
20 conditions is met:

21 (1) SUBMISSION OF STUDY, COMPACT, AND
22 STATEMENT OF APPROVAL TO SECRETARY.—An en-
23 tity requesting National Heritage Area designation
24 for the area submits to the Secretary—

25 (A) a feasibility study and compact; and

1 (B) a statement, from the Governor of
2 each State in which the proposed National Her-
3 itage Area lies, that such Governor approves of
4 the requested National Heritage Area designa-
5 tion.

6 (2) APPROVAL AND SUBMISSION BY SEC-
7 RETARY.—The Secretary approves, pursuant to sec-
8 tion 6(b), the compact referred to in paragraph (1)
9 and submits the feasibility study for the area and
10 the compact to the Congress together with any com-
11 ments that the Secretary deems appropriate regard-
12 ing a preferred action.

13 **SEC. 8. FEASIBILITY STUDIES, COMPACTS, AND MANAGE-**
14 **MENT PLANS.**

15 (a) CONTENTS AND REQUIREMENTS.—

16 (1) FEASIBILITY STUDIES.—Each feasibility
17 study submitted under this Act shall include suffi-
18 cient information to determine whether an area has
19 the potential to meet the criteria referred to in sec-
20 tion 5(c). Each such feasibility study shall be pre-
21 pared with public participation. Each such feasibility
22 study shall include, but need not be limited to, each
23 of the following:

24 (A) A description of the natural, historic,
25 and cultural resources and recreational opportu-

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(ii) A discussion of the goals and objectives of the proposed National Heritage Area, including an explanation of the approach, proposed by the partners referred to in clause (iv), to conservation and interpretation of resources.

(iii) An identification and description of the management entity that will administer the proposed National Heritage Area.

(iv) A list of the initial partners to be involved in developing and implementing the management plan for the proposed National Heritage Area, and a statement of the financial commitment of the partners.

(v) A description of the role of the State or States in which the proposed National Heritage Area is located.

(B) PREPARATION OF AND ACTIONS CALLED FOR IN COMPACT.—

(i) PREPARATION.—The compact shall be prepared with public participation.

(ii) ACTIONS.—Actions called for in the compact shall be likely to be initiated within a reasonable time after designation of the proposed National Heritage Area

1 and shall ensure effective implementation
2 of the State and local aspects of the com-
3 pact.

4 (3) MANAGEMENT PLANS.—A management
5 plan submitted under this Act for a National Herit-
6 age Area shall present comprehensive recommenda-
7 tions for the conservation, funding, management,
8 and development of the area. The plan shall be pre-
9 pared with public participation. The plan shall take
10 into consideration existing Federal, State, county,
11 and local plans and involve residents, public agen-
12 cies, and private organizations in the area. The plan
13 shall include a description of actions that units of
14 government and private organizations are rec-
15 ommended to take to protect the resources of the
16 area. The plan shall specify existing and potential
17 sources of funding for the conservation, manage-
18 ment, and development of the area. The plan also
19 shall include the following, as appropriate:

20 (A) An inventory of the resources con-
21 tained in the National Heritage Area, including
22 a list of property in the area that should be
23 conserved, restored, managed, developed, or
24 maintained because of the natural, cultural, or

1 historic significance of the property as it relates
2 to the themes of the area.

3 (B) A recommendation of policies for re-
4 source management that consider and detail the
5 application of appropriate land and water man-
6 agement techniques, including (but not limited
7 to) the development of intergovernmental coop-
8 erative agreements to manage the historical,
9 cultural, and natural resources and the rec-
10 reational opportunities of the area in a manner
11 consistent with the support of appropriate and
12 compatible economic viability.

13 (C) A program, including plans for res-
14 toration and construction, for implementation
15 of the management plan by the management
16 entity specified in the compact for the area and
17 specific commitments, for the first 5 years of
18 operation of the plan, by the partners identified
19 in the compact.

20 (D) An analysis of means by which Fed-
21 eral, State, and local programs may best be co-
22 ordinated to promote the purposes of this Act.

23 (E) An interpretive plan for the National
24 Heritage Area.

25 (b) APPROVAL AND DISAPPROVAL OF COMPACTS.—

1 (1) IN GENERAL.—The Secretary, in consulta-
2 tion with the Governors of each State in which the
3 relevant National Heritage Area, or proposed area,
4 is located, shall approve or disapprove every compact
5 submitted under this Act not later than 90 days
6 after receiving such compact.

7 (2) DISAPPROVAL AND REVISIONS.—If the Sec-
8 retary disapproves a compact submitted under this
9 Act, the Secretary shall advise the submitter, in
10 writing, of the reasons for the disapproval and shall
11 make recommendations for revisions of the compact.
12 The Secretary shall approve or disapprove a pro-
13 posed revision to such a compact within 90 days
14 after the date on which the revision is submitted to
15 the Secretary.

16 **SEC. 7. MANAGEMENT ENTITIES.**

17 (a) DUTIES OF MANAGEMENT ENTITY.—The man-
18 agement entity for a National Heritage Area shall do each
19 of the following:

20 (1) MANAGEMENT PLAN.—The management
21 entity shall develop and submit to the Secretary a
22 management plan not later than 3 years after the
23 date of the designation of the area as a National
24 Heritage Area.

1 (2) PRIORITIES.—The management entity shall
2 give priority to the implementation of actions, goals,
3 and policies set forth in the compact and manage-
4 ment plan for the area, including—

5 (A) assisting units of government, regional
6 planning organizations, and nonprofit organiza-
7 tions—

8 (i) in conserving the National Herit-
9 age Area;

10 (ii) in establishing and maintaining
11 interpretive exhibits in the area;

12 (iii) in developing recreational oppor-
13 tunities in the area;

14 (iv) in increasing public awareness of
15 and appreciation for the natural, historical,
16 and cultural resources of the area;

17 (v) in the restoration of historic build-
18 ings that are located within the boundaries
19 of the area and relate to the themes of the
20 area; and

21 (vi) in ensuring that clear, consistent,
22 and environmentally appropriate signs
23 identifying access points and sites of inter-
24 est are put in place throughout the area;
25 and

1 (B) consistent with the goals of the man-
2 agement plan, encouraging economic viability in
3 the affected communities by appropriate means.

4 (3) CONSIDERATION OF INTERESTS OF LOCAL
5 GROUPS.—The management entity shall, in develop-
6 ing and implementing the management plan for the
7 area, consider the interests of diverse units of gov-
8 ernment, businesses, private property owners, and
9 nonprofit groups within the geographic area.

10 (4) PUBLIC MEETINGS.—The management en-
11 tity shall conduct public meetings at least quarterly
12 regarding the implementation of the management
13 plan for the area.

14 (b) DISQUALIFICATION FOR FEDERAL FUNDING.—If
15 a management plan regarding a National Heritage Area
16 is not submitted to the Secretary as required under sub-
17 section (a)(1) within the time specified in such subsection,
18 the National Heritage Area shall cease to be eligible for
19 technical assistance under this Act until such a plan re-
20 garding the National Heritage Area is submitted to the
21 Secretary.

22 (c) PROHIBITION OF ACQUISITION OF REAL PROP-
23 erty.—A management entity for a National Heritage
24 Area may not use Federal funds received under this Act
25 to acquire real property or any interest in real property.

1 (d) DURATION OF ELIGIBILITY FOR TECHNICAL AS-
 2 SISTANCE.—A management entity for a National Heritage
 3 Area shall be eligible to receive technical assistance from
 4 funds appropriated pursuant to this Act for a 13-year pe-
 5 riod beginning on the day on which the National Heritage
 6 Area is designated.

7 SEC. 8. WITHDRAWAL OF DESIGNATION.

8 (a) IN GENERAL.—The National Heritage Area des-
 9 ignation of an area shall continue unless—

10 (1) the Secretary determines that—

11 (A) the National Heritage Area no longer
 12 meets the criteria referred to in section 5(c);

13 (B) the parties to the compact approved in
 14 relation to the area under section 6(b) are not
 15 in compliance with the terms of the compact;

16 (C) the management entity of the area has
 17 not made reasonable and appropriate progress
 18 in developing or implementing the management
 19 plan for the area; or

20 (D) the use, condition, or development of
 21 the area is incompatible with the criteria re-
 22 ferred to in section 5(c) or with the compact
 23 approved in relation to the area under section
 24 6(b); and

1 (2) after making a determination referred to in
2 paragraph (1), the Secretary submits to the Con-
3 gress notification that the National Heritage Area
4 designation of the area should be withdrawn.

5 (b) PUBLIC HEARING.—Before the Secretary makes
6 a determination referred to in subsection (a)(1) regarding
7 a National Heritage Area, the Secretary or a designee
8 shall hold a public hearing within the area.

9 (c) TIME OF WITHDRAWAL OF DESIGNATION.— .

10 (1) IN GENERAL.—The withdrawal of the Na-
11 tional Heritage Area designation of an area shall be-
12 come final 90 legislative days after the Secretary
13 submits to the Congress the notification referred to
14 in subsection (a)(2) regarding the area.

15 (2) LEGISLATIVE DAY.—For purposes of this
16 subsection, the term “legislative day” means any
17 calendar day on which both Houses of the Congress
18 are in session.

19 **SEC. 9. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.**

20 (a) DUTIES AND AUTHORITIES OF SECRETARY.—

21 (1) TECHNICAL ASSISTANCE.—

22 (A) IN GENERAL.—The Secretary may
23 provide technical assistance to units of govern-
24 ment and private nonprofit organizations re-
25 garding feasibility studies and compacts and,

1 upon request of the management entity for the
2 relevant National Heritage Area, regarding
3 management plans and their implementation.

4 (B) PROHIBITION OF CERTAIN REQUIRE-
5 MENTS.—The Secretary may not, as a condition
6 of the award of technical assistance under this
7 section, require any recipient of such technical
8 assistance to enact or modify land use restric-
9 tions.

10 (2) DETERMINATIONS REGARDING ASSIST-
11 ANCE.—The Secretary shall decide which National
12 Heritage Areas shall be awarded technical assistance
13 and the amount of the assistance. Such decisions
14 shall be based on the relative degree to which each
15 National Heritage Area effectively fulfills the objec-
16 tives contained in the management plan for the area
17 and achieves the purposes of this Act. Such deci-
18 sions shall give consideration to projects which pro-
19 vide a greater leverage of Federal funds.

20 (3) OVERSIGHT OF HERITAGE AREAS WITH EX-
21 PIRED ELIGIBILITY.—The Secretary shall inves-
22 tigate, study, and monitor the welfare of all National
23 Heritage Areas whose eligibility for technical assist-
24 ance under this title has expired and shall report to

1 the Congress periodically regarding the condition of
 2 such National Heritage Areas.

3 (4) PROVISION OF INFORMATION.—In coopera-
 4 tion with other Federal agencies, the Secretary shall
 5 provide the general public with information regard-
 6 ing the location and character of National Heritage
 7 Areas.

8 (b) DUTIES OF OTHER FEDERAL AGENCIES.—Any
 9 Federal entity conducting any activity directly affecting
 10 any National Heritage area shall consider the potential ef-
 11 fect of the activity on the management plan for the area
 12 and shall consult with the Governor of the State or Com-
 13 monwealth containing the area with respect to the activity
 14 to minimize the adverse effects of the activity on the area.

15 SEC. 10. LACK OF EFFECT ON LAND USE REGULATION.

16 (a) LACK OF EFFECT ON AUTHORITY OF GOVERN-
 17 MENTS.—Nothing in this Act shall be construed to modify,
 18 enlarge, or diminish any authority of Federal, State, or
 19 local governments to regulate any use of land as provided
 20 for by law or regulation.

21 (b) LACK OF ZONING OR LAND USE POWERS OF EN-
 22 TITY.—Nothing in this Act shall be construed to grant
 23 powers of zoning or land use to any management entity
 24 for a National Heritage Area.

1 **SEC. 11. FISHING AND HUNTING SAVINGS CLAUSE.**

2 (a) **NO DIMINISHMENT OF STATE AUTHORITY.**—The
3 designation of a National Heritage Area shall not diminish
4 the authority of the affected State or Commonwealth to
5 manage fish and wildlife, including the regulation of fish-
6 ing and hunting within such Area.

7 (b) **NO CONDITIONING OF APPROVAL AND ASSIST-**
8 **ANCE.**— The Secretary may not make limitations on fish-
9 ing, hunting, or trapping a condition for the approval of
10 a compact or the determination of eligibility for technical
11 assistance under this Act, and neither the Secretary nor
12 any other Federal agency may make such limitations a
13 condition for the receipt, in connection with the National
14 Heritage Area status of an area, of any other form of as-
15 sistance from the Secretary or such agencies.

16 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) **IN GENERAL.**—There is hereby authorized to be
18 appropriated for technical assistance pursuant to section
19 9(a), and the administration of such assistance, annually
20 not more than \$8,000,000, to remain available until ex-
21 pended.

22 (b) **PERCENT OF COST.**—Technical assistance under
23 this Act for a feasibility study, compact, or management
24 plan may not exceed 75 percent of the cost for such study,
25 compact, or plan.

1 (c) LIMITATION ON TOTAL FUNDING FOR EACH
2 AREA.—Not more than a total of \$1,000,000 may be
3 made available under this section to each National Herit-
4 age Area.

5 (d) LIMITATION ON ANNUAL FUNDING.—The
6 amount of Federal funding made available under this sec-
7 tion for a National Heritage Area for a fiscal year may
8 not exceed \$150,000.

9 **SEC. 13. EXPIRATION OF AUTHORITIES.**

10 The authorities contained in this Act shall expire on
11 September 30 of the 15th fiscal year beginning after the
12 date of the enactment of this Act.

13 **SEC. 14. REPORT.**

14 The Secretary shall submit to the Congress, every 5
15 years while the authorities contained in this Act remain
16 in force, a report on the status and accomplishments of
17 the National Heritage Areas Partnership Program as a
18 whole.

19 **SEC. 15. SAVINGS PROVISION.**

20 Nothing in this Act shall be construed to expand or
21 diminish any authorities contained in any law that des-
22 ignates an individual National Heritage Area or Corridor
23 before the date of the enactment of this Act.

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○

STATE OF COLORADO

BY REPRESENTATIVES Entz, Acquafresca, Taylor, Young, George, and Pankey;
also SENATOR Wattenberg.

HOUSE JOINT RESOLUTION 96-1019

1 WHEREAS, The federal government is proposing to authorize
2 an American Heritage Areas Program which would put designated
3 areas in the National Park System, forcing these areas to be
4 subject to legislation as such; and

5 WHEREAS, Federal proposals labeling private property
6 invite, and are intended to invite, the destruction of private
7 property rights, particularly when used by federal agencies in
8 conjunction with other or subsequent legislation; and

9 WHEREAS, The National Park Service has a record of
10 insensitivity to private property rights, as evidenced by
11 twenty-eight years of misconduct by the National Natural
12 Landmark Program and, more recently, by the American Heritage
13 Areas Program, in which no provision has been made that would
14 allow private owners to reject or withdraw their property from
15 such labeling without penalty or shield private property owners
16 from the likely and severe adverse effects of such labeling; and

17 WHEREAS, The National Park Service has devised the de
18 facto label "eligible but not designated" which creates the
19 false impression that private property owners can avoid the
20 consequences of being designated despite the fact that the
21 government may treat eligible properties the same as designated
22 properties under language such as "This Act applies to . . . and
23 properties eligible to be so designated"; and

24 WHEREAS, The power to plan or zone private land is a power
25 reserved to the states and the people thereof; and

26 WHEREAS, Despite claims to the contrary, the clear intent
27 and effect of the subject proposal would be to, de facto,
28 involve the federal government in planning and zoning
29 activities; and

30 WHEREAS, It would be imprudent to tolerate or favor
31 constitutionally questionable labeling the consequences of which
32 cannot be fully specified in advance but which appear likely to
33 be injurious to private property rights; and

1 WHEREAS, Giving the American Heritage Areas Program a
2 basis in legislation would greatly facilitate and increase the
3 intrusive labeling of private lands; and

4 WHEREAS, The enormity of some of the proposed areas (Rocky
5 Mountain Heritage Corridor, Mississippi River Valley Heritage
6 Corridor, and others) demonstrates an inexcusable and
7 unacceptable federal arrogance; now, therefore,

8 *Be It Resolved by the House of Representatives of the*
9 *Sixtieth General Assembly of the State of Colorado, the Senate*
10 *concurring herein:*

11 That we oppose the authorization of an American Heritage
12 Areas Program and urge the members of Colorado's Congressional
13 delegation to oppose such authorization and work to abolish said
14 program.

15 *Be It Further Resolved, That copies of this resolution be*
16 *sent to each member of Colorado's Congressional delegation.*