

Calendar No. 440

108TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 108-230

FORT DONELSON NATIONAL BATTLEFIELD EXPANSION ACT OF 2003

MARCH 9, 2004.—Ordered to be printed

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

R E P O R T

[To accompany S. 524]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 524) to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, 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.

This Act may be cited as the “Fort Donelson National Battlefield Expansion Act of 2004”.

SEC. 2. FORT DONELSON NATIONAL BATTLEFIELD.

(a) DESIGNATION; PURPOSE.—There exists as a unit of the National Park System the Fort Donelson National Battlefield to commemorate—

(1) the Battle of Fort Donelson in February 1862; and

(2) the campaign conducted by General Ulysses S. Grant and Admiral Andrew H. Foote that resulted in the capture of Fort Donelson by Union forces.

(b) BOUNDARIES.—The boundary of the Fort Donelson National Battlefield is revised to include the site of Fort Donelson and associated land that has been acquired by the Secretary of the Interior for administration by the National Park Service, including Fort Donelson National Cemetery, in Stewart County, Tennessee and the site of Fort Heiman and associated land in Calloway County, Kentucky, as generally depicted on the map entitled “Fort Donelson National Battlefield Boundary Adjustment” numbered 328/80024, and dated September 2003. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) EXPANSION OF BOUNDARIES.—The Fort Donelson National Battlefield shall also include any land acquired pursuant to section 3.

SEC. 3 LAND ACQUISITION RELATED TO FORT DONELSON NATIONAL BATTLEFIELD.

(a) **ACQUISITION AUTHORITY.**—Subject to subsections (b) and (c), the Secretary of the Interior may acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield. Such land, interests in land, and improvements may be acquired by the Secretary only by purchase from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners.

(b) **LAND ELIGIBLE FOR ACQUISITION.**—The Secretary of the Interior may acquire land, interests in land, and improvements thereon under subsection (a)—

(1) within the boundaries of the Fort Donelson National Battlefield described in section 2(b); and

(2) outside such boundaries if the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson or if the Secretary otherwise determines that acquisition under subsection (a) will protect critical resources associated with the Battle of Fort Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

(c) **BOUNDARY REVISION.**—Upon acquisition of land or interests in land described in subsection (b)(2), the Secretary of the Interior shall revise the boundaries of the Fort Donelson National Battlefield to include the acquired property.

(d) **LIMITATION ON TOTAL ACREAGE OF PARK.**—The total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

SEC. 4. ADMINISTRATION OF FORT DONELSON NATIONAL BATTLEFIELD.

The Secretary of the Interior shall administer the Fort Donelson National Battlefield in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

SEC. 5. RELATION TO LAND BETWEEN THE LAKES NATIONAL RECREATION AREA.

The Secretary of Agriculture and the Secretary of the Interior shall enter into a memorandum of understanding to facilitate cooperatively protecting and interpreting the remaining vestige of Fort Henry and other remaining Civil War resources in the Land Between the Lakes National Recreation Area affiliated with the Fort Donelson campaign.

SEC. 6. CONFORMING AMENDMENT.

The first section of Public Law 86-738 (16 U.S.C. 428k) is amended by striking “Tennessee” and all that follows through the period at the end and inserting “Tennessee.”.

PURPOSE OF THE MEASURE

The purpose of S. 524 is to authorize the Secretary of the Interior to expand the boundaries of Fort Donelson National Battlefield in Tennessee to include the site of Fort Heiman and associated lands in Calloway County, Kentucky.

BACKGROUND AND NEED

The unconditional surrender of Fort Donelson was the Union’s first major victory of the Civil War, opening the way into the heart of the Confederacy. Days earlier, troops commanded by General Ulysses S. Grant had captured Forts Henry and Heiman, both located on the Tennessee River. Upon taking possession of the forts, the Union army then turned to nearby Fort Donelson, on the Cumberland River.

On February 14, 1862, Admiral Andrew Foote’s Union gunboats arrived at Fort Donelson and began exchanging fire with the Confederate heavy artillery. The gunboats suffered such damage that the decks became slippery with blood. The strong artillery bombardment from the Cumberland River bluff crippled the ironclads forcing them to retreat.

At daybreak the following morning, Southern forces launched a vigorous attack but failed to escape Grant's army. On February 16th, Confederate General Simon Bolivar Buckner felt compelled to accept Grant's ultimatum, "No terms except an unconditional and immediate surrender can be accepted." The gate was open for a Union invasion into the Confederate heartland.

Fort Donelson National Battlefield is located in Stewart County, Tennessee. The current acreage of the National Battlefield comprises approximately 20 percent of the principal fighting ground associated with the battle. Fort Donelson primarily protects Confederate earthworks and relates to Confederate military operations at Fort Donelson.

Although Fort Henry is currently under Federal ownership and managed by the Forest Service as part of the Land Between the Lakes National Recreation Area, increased collaborative and cooperative efforts between the National Park Service and the Forest Service are needed to enhance interpretation at Fort Henry as well as its interrelationship with Fort Donelson.

Fort Heiman, which is currently unprotected, is critical to the interpretation of Fort Donelson National Battlefield. Along with Forts Henry and Donelson, Fort Heiman includes resources that are associated with the struggle for control of the Tennessee and Cumberland rivers and tell the story of African-American involvement in the Union war effort. Fort Heiman's association with the Battle of Johnsonville and Forrest's Raid into West Tennessee in 1864 will provide an opportunity for interpreting the continuum of Civil War history in the area.

LEGISLATIVE HISTORY

S. 524 was introduced by Senator Bunning on March 5, 2003. A hearing on S. 524 was held by the National Parks Subcommittee on October 10, 2003. S. Hrg. 108-225. At the business meeting on February 11, 2004, the Committee on Energy and Natural Resources ordered S. 524 favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on February 11, 2004, by a unanimous vote of a quorum present, recommends that the Senate pass S. 524, if amended as described herein.

The rollcall vote on reporting the measure was 23 yeas, 0 nays, as follows:

YEAS

NAYS

Mr. Domenici
 Mr. Nickles
 Mr. Craig
 Mr. Campbell*
 Mr. Thomas
 Mr. Alexander
 Ms. Murkoswki
 Mr. Talent
 Mr. Burns
 Mr. Smith*
 Mr. Bunning
 Mr. Kyl*
 Mr. Bingaman
 Mr. Akaka
 Mr. Dorgan*
 Mr. Graham*
 Mr. Wyden*
 Mr. Johnson*
 Ms. Landrieu*
 Mr. Bayh*
 Mrs. Feinstein*
 Mr. Schumer*
 Ms. Cantwell

*Indicates voted by proxy.

COMMITTEE AMENDMENT

During consideration of S. 524, the Committee adopted an amendment in the nature of a substitute, to make general clarifying and conforming changes. The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles this bill the “Fort Donelson National Battlefield Act of 2004”.

Section 2 states that the boundary of Fort Donelson National Battlefield shall consist of the site of Fort Donelson and associated land acquired by the Secretary of the Interior (Secretary) and administered by the National Park Service, including Fort Donelson National Cemetery, the site of Fort Heiman and associated land, and any land acquired pursuant to section 3.

Section 3(a) authorizes the Secretary to acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield by purchase from willing sellers with appropriated or donated funds, donation, or by exchange with willing owners.

Subsection (b) states that the land eligible for acquisition must be inside the boundaries of the Fort Donelson National Battlefield as described in section 2(b), and outside such boundaries if the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson or if the Secretary otherwise determines that acquisition under subsection (a) will protect critical resources associated with the Battle of Fort

Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

Subsection (c) directs the Secretary to revise the boundaries of the Fort Donelson National Battlefield to include the property acquired as described in subsection (b)(2).

Subsection (d) states that the total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

Section 4 directs the Secretary to administer the Fort Donelson National Battlefield in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

Section 5 directs the Secretaries of the Interior and Agriculture to enter into a memorandum of understanding to facilitate cooperatively protecting and interpreting the remaining vestige of Fort Henry and other remaining Civil War resources in the Land Between the Lakes National Recreation Area affiliated with the Fort Donelson campaign.

Section 6 repeals obsolete provisions and makes conforming amendments.

COST AND BUDGET CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to 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. 524. 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. 524, as ordered reported.

EXECUTIVE COMMUNICATIONS

On February 11, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior, Department of Defense, Department of Energy, and the Office of Management and Budget setting forth Executive agency recommendations on S. 524. These reports had not been received at the time the report on S. 524 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 SUE MASICA, ASSOCIATE DIRECTOR, PARK
PLANNING, FACILITIES, AND LANDS, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 524, a bill to expand the boundaries of the Fort Donelson National Battlefield and to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862.

The Department of the Interior supports S. 524. Although the Administration's priority is to focus our resources on caring for existing areas within the National Park System, there are cases where an acquisition or expansion is needed to realize an existing park unit's mission and can be accomplished with reduced costs. This is such a case. This legislation would enable the National Park Service (NPS) to protect and interpret historical resources that are critical to the Civil War story concerning the surrender of Fort Donelson to Union forces.

Fort Donelson National Battlefield (Battlefield), currently consisting of 558 acres, is located in Stewart County, Tennessee. The battlefield includes the fort, the Dover Hotel (Surrender House), and Fort Donelson National Cemetery. S. 524 would allow the Secretary of the Interior (Secretary) to expand the boundaries of the battlefield and acquire additional lands as long as the total acreage included in the battlefield does not exceed 2,000 acres. New lands may be acquired by purchase from willing sellers or by donation or exchange. Lands that would be added would include a detached unit of the battlefield at Fort Heiman, in Calloway County, Kentucky and various historical resources in and around Dover, Tennessee. In addition, S. 524 would require the Secretary and the U.S. Forest Service to enter into a memorandum of understanding for the protection and interpretation of remaining vestiges of Fort Henry and other Civil War resources in the Land Between the Lakes National Recreation Area.

There will be no anticipated NPS land acquisition costs for the acquisition of Fort Heiman. West Kentucky Corporation and the Commonwealth of Kentucky have entered into a partnership to secure more than \$1,000,000 for land appraisals and purchase of approximately 300 acres at the Fort Heiman site. On September 23, 2003, Calloway County, Kentucky acquired approximately 200 acres of the site and intends to hold it in trust. The remaining 100 acres will also be purchased by this partnership. The intent is for the Fort Heiman site to then be donated to the NPS for inclusion into the battlefield once the boundary is adjusted through this legislation.

The U.S. Forest Service administers the lands on which the outer earthwork fortifications of Fort Henry remain—the fort itself is under Kentucky Lake. Thus, since the land is in current federal ownership, and would continue to be managed by the U.S. Forest Service, land acquisition

funds would not be required. However, visitor services, resource protection, and interpretation could be enhanced, and undetermined costs might result, based upon the memorandum of understanding between the Secretary and the U.S. Forest Service regarding the protection and interpretation of this land.

First year personnel costs associated with this proposal are estimated to be \$676,000, which would primarily be used to provide staffing for the detached unit that will be created at Fort Heiman. Additionally, a one-time development expenditure of about \$325,000 is anticipated to cover maintenance equipment, vehicles, and miscellaneous start up supplies. Operational costs for future years are estimated to be approximately \$850,000–\$900,000 annually. Since that is roughly equal to the battlefield's current funding, the expansion would require doubling the annual appropriation for this unit. Murray State University in Kentucky has approached the park with the offer of office space, telephones, computers, and other office equipment if it would be needed.

In addition to the lands at Fort Heiman that will be purchased by the West Kentucky Corporation and the Commonwealth of Kentucky, the Civil War Preservation Trust (Trust) has purchased about 100 acres near or contiguous to Fort Donelson National Battlefield and holds an option for the purchase of an additional 105 acres. These two parcels contain the portion of the battlefield where 70% of the Union casualties took place. These properties would be included within the expanded boundary and we look forward to the possibility of working with the Trust to preserve and interpret these important lands. The Trust and the State of Tennessee are working on a cooperative venture to purchase another critical site consisting of approximately 7 acres near the current visitor center. There are an additional four sites of historical relevance and integrity near Fort Donelson that could be purchased from willing sellers, should they become available. Together, these parcels consist of approximately 20–23 acres and are estimated to cost less than \$150,000.

The capture of the forts (Heiman, Henry and Donelson) that guarded the Tennessee and Cumberland Rivers constituted the first major Union victory in the Civil War. The outcome earned Brigadier General Ulysses S. Grant his promotion to Major General, the nickname "Unconditional Surrender Grant", and prominence that led to the Presidency of the United States.

The Confederate capitulation forced the evacuation of Nashville, Tennessee, virtually all of middle Tennessee, and much of western Tennessee. With the capture of the three forts the Tennessee and Cumberland Rivers became Union highways for the movement of men and material into the Deep South. The battles at Fort Henry and Fort Heiman were the first time in the Civil War where iron-clad gunboats were used and the surrender of the forts ensured that Kentucky would remain in the Union.

The American Battlefield Protection Program has classified the Fort Donelson National Battlefield area as a collection of Priority I sites implying a critical need for coordinated nationwide preservation action. Fort Henry and Fort Donelson are also designated as two of the principle battles of the Civil War and Fort Heiman, listed on the National Register of Historic Places, derives part of its significance from its direct association with them.

The NPS is currently conducting a boundary study of Fort Donelson. Public response has been overwhelming in support of preserving the three forts under an umbrella of federal protection. The draft study is currently under agency review and is expected to be finalized by the end of calendar year 2003.

We suggest some technical amendments to S. 524 that provide the map references that are missing from the bill and will provide overall clarification to the bill language. Our suggested amendments are attached to this testimony.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or other members of the subcommittee may have.

PROPOSED AMENDMENTS

Page 2, line 11, strike “The Fort Donelson National Battlefield shall consist of the site of” and insert “The boundary of the Fort Donelson National Battlefield is revised to include the site of”.

Page 2, line 18, strike “map entitled ‘_____’ numbered _____, and dated _____.” and insert “map entitled Fort Donelson National Battlefield Boundary Adjustment, numbered 328/80024, and dated September 2003.”

Page 5, line 5, strike “2 through 7” and insert “2 through 4, 6 through 8, and 10”.

Page 5, line 14, strike subparagraph A and insert, “(A) in section 5 (16 U.S.C. 428d), by striking ‘Provided’ and the last sentence.”

Page 6, line 19, strike paragraph 3 and insert:

“(3) 1960 LAW.—Public Law 86–738 is amended in section 1 (16 U.S.C. 428k) by striking ‘Fort Donelson National Military Park’ and inserting ‘Fort Donelson National Battlefield’ and by striking ‘, but the total area commemorating the battle of Fort Donelson shall not exceed 600 acres’; and

“(A) by striking section 3 (16 U.S.C. 428m).”

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. 524, 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 86-738

AN ACT To revise the boundaries and change the name of Fort Donelson National Military Park, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of the Act entitled "An Act to establish a national military park at the battlefield of Fort Donelson, [Tennessee", approved March 26, 1928 (16 U.S.C. 428 and the following), and to facilitate an appropriate observance of the one hundredth anniversary of the Battle of Fort Donelson, the Secretary of the Interior is authorized to designate for addition to the present Fort Donelson National Military Park such lands and interests in lands adjacent to said park as in his discretion are necessary to preserve and interpret this historic battle-ground, including the nearby historic Surrender House and the land upon which it is situated on Spring Street in the town of Dover, Tennessee, but the total area commemorating the battle of Fort Donelson shall not exceed 600 acres.] *Tennessee.*"

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