

115TH CONGRESS
1ST SESSION

S. 401

To establish the Appalachian Forest National Heritage Area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2017

Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. CARDIN, and Mr. VAN HOLLEN)
introduced the following bill; which was read twice and referred to the
Committee on Energy and Natural Resources

A BILL

To establish the Appalachian Forest National Heritage Area,
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 “Appalachian Forest
5 National Heritage Area Act”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the Heritage Area—

1 (A) is comprised of 18 counties that are lo-
2 cated in West Virginia and western Maryland;
3 and

4 (B) taken as a whole—

5 (i) possesses exceptional cultural, nat-
6 ural, and historical resources that form a
7 cohesive and nationally distinctive land-
8 scape;

9 (ii) demonstrates landscapes that
10 arose from patterns of human activity that
11 were shaped by the geography of the for-
12 ested central Appalachian Mountains; and

13 (iii) reflects both modern and histor-
14 ical uses by citizens who continue to affect,
15 and be affected by, the landscape of the
16 forest;

17 (2) there is a national interest in protecting,
18 conserving, restoring, promoting, and interpreting
19 the benefits of the Heritage Area for—

20 (A) the residents of the Heritage Area;
21 and

22 (B) visitors to the Heritage Area;

23 (3) nationally significant historical and cultural
24 resources located in the Heritage Area form a
25 unique aspect of the heritage of the United States;

1 (4) with respect to the economic development of
2 the United States—

3 (A) the timber harvesting activities in the
4 region helped fuel late 19th century and early
5 20th century industrial growth throughout the
6 United States; and

7 (B) prominent industrialists of the region
8 were also active in the national economy;

9 (5) workers who participated in the timber
10 boom of the region brought a blending of cultures of
11 European and African-American immigrants;

12 (6) the growth of each community located in
13 the region was impacted by the forested central Ap-
14 palachian Mountains;

15 (7) the rich culture of central Appalachia—

16 (A) includes folklife, music, dance, crafts,
17 and other culturally rich traditions; and

18 (B) is inextricably tied to the forest land
19 of the region;

20 (8) significant historical and cultural sites and
21 resources located in the Heritage Area include—

22 (A) historic sites from the logging era (in-
23 cluding the intact logging company town that is
24 located at the Cass Scenic Railroad State
25 Park);

1 (B) historic sites that evidence conserva-
 2 tion efforts (including structures constructed by
 3 the Civilian Conservation Corps);

4 (C) 5 national historic landmarks; and

5 (D) segments of 4 National Scenic Byways
 6 and 1 All-American Road;

7 (9) nationally significant natural and physical
 8 resources in the Heritage Area include spectacular
 9 natural, scenic, and recreational resources, featuring
 10 the core of the central hardwood forest of the United
 11 States, which—

12 (A) as a result of sound forest manage-
 13 ment and protection of public land, grew from
 14 the original cutting of the forest; and

15 (B) includes—

16 (i) the remnants of old growth forests;

17 (ii) protected wilderness areas;

18 (iii) 14 national natural landmarks;

19 (iv) Federal and State forest lands
 20 that were created to foster the regrowth of
 21 the forests of the United States, including
 22 the Monongahela National Forest, and 9
 23 State forests;

1 (v) experimental forests that dem-
2 onstrate the evolution of forestry manage-
3 ment;

4 (vi) forests managed by public and
5 private entities; and

6 (vii) a dynamic forest industry com-
7 prised of mills that demonstrate the ongo-
8 ing importance of the forest land and for-
9 est products to the region;

10 (10) local public and private partnerships that
11 are based on the visions of the community and re-
12 gion are working together to promote the steward-
13 ship, enhancement, and interpretation of the re-
14 sources of the Heritage Area;

15 (11) to promote the goals described in para-
16 graph (10), local residents, organizations, and gov-
17 ernments support the establishment of a national
18 heritage area; and

19 (12) involvement by the Federal Government
20 would enhance the efforts to promote the cultural,
21 natural, historical, and recreational resources of the
22 region that have been made by—

23 (A) the States of West Virginia and Mary-
24 land;

1 (B) political subdivisions of the States of
 2 West Virginia and Maryland;

3 (C) volunteer organizations; and

4 (D) private businesses.

5 (b) PURPOSES.—The purposes of this Act are—

6 (1) to provide a cooperative management frame-
 7 work to the States of West Virginia and Maryland,
 8 the political subdivisions of those States, and the
 9 citizens of those States to conserve, enhance, and in-
 10 terpret the significant features of the forest, land,
 11 water, and structures of the Heritage Area; and

12 (2) to foster a close working relationship with
 13 all levels of government, the private sector, and the
 14 local communities of the region to enable those com-
 15 munities—

16 (A) to conserve the heritage of those com-
 17 munities; and

18 (B) to continue to pursue economic oppor-
 19 tunities for those communities.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) HERITAGE AREA.—The term “Heritage
 23 Area” means the Appalachian Forest National Her-
 24 itage Area established by section 4(a).

1 (2) LOCAL COORDINATING ENTITY.—The term
2 “local coordinating entity” means the management
3 entity for the Heritage Area designated by section
4 4(d)(1).

5 (3) MANAGEMENT PLAN.—The term “manage-
6 ment plan” means the management plan for the
7 Heritage Area developed under section 5(a).

8 (4) MAP.—The term “map” means the map en-
9 titled “Appalachian Forest National Heritage Area”,
10 numbered T07/80,000, and dated October 2007.

11 (5) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (6) STATE.—The term “State” means each of
14 the States of—

15 (A) Maryland; and

16 (B) West Virginia.

17 **SEC. 4. APPALACHIAN FOREST NATIONAL HERITAGE AREA.**

18 (a) ESTABLISHMENT.—There is established the Ap-
19 palachian Forest National Heritage Area.

20 (b) BOUNDARIES.—The Heritage Area shall in-
21 clude—

22 (1) the Barbour, Braxton, Grant, Greenbrier,
23 Hampshire, Hardy, Mineral, Morgan, Nicholas, Pen-
24 dleton, Pocahontas, Preston, Randolph, Tucker,

1 Upshur, and Webster Counties of the State of West
2 Virginia; and

3 (2) the Allegany and Garrett Counties of the
4 State of Maryland.

5 (c) AVAILABILITY OF MAP.—A map of the Heritage
6 Area shall be on file and available for public inspection
7 in the appropriate offices of—

8 (1) the National Park Service; and

9 (2) the local coordinating entity.

10 (d) LOCAL COORDINATING ENTITY.—The Appa-
11 lachian Forest Heritage Area, Inc., shall—

12 (1) serve as the local coordinating entity for the
13 Heritage Area;

14 (2) oversee the development of a management
15 plan under section 5(a); and

16 (3) be governed by a board of directors that
17 shall—

18 (A) include members from a geographic
19 balance across the counties described in sub-
20 section (b) and the States;

21 (B) be composed of not fewer than 7, and
22 not more than 15, members elected by the
23 membership of the local coordinating entity;

24 (C) be selected to represent a balanced
25 group of diverse interests, including—

- 1 (i) the forest industry;
- 2 (ii) environmental interests;
- 3 (iii) cultural heritage interests;
- 4 (iv) tourism interests; and
- 5 (v) regional agency partners;

6 (D) exercise all corporate powers of the
7 local coordinating entity;

8 (E) manage the activities and affairs of
9 the local coordinating entity; and

10 (F) subject to any limitations in the arti-
11 cles and bylaws of the local coordinating entity,
12 this section, and any other applicable Federal
13 or State law, establish the policies of the local
14 coordinating entity.

15 **SEC. 5. MANAGEMENT PLAN.**

16 (a) IN GENERAL.—Not later than 3 years after the
17 date on which funds are first made available to carry out
18 this Act, the local coordinating entity shall develop and
19 submit to the Secretary for approval a management plan
20 for the Heritage Area.

21 (b) REQUIREMENTS.—The management plan shall—

22 (1) present comprehensive policies, goals, strat-
23 egies, and recommendations for—

24 (A) presenting to the citizens of the United
25 States the heritage of the region; and

1 (B) encouraging the long-term resource
2 conservation, enhancement, interpretation,
3 funding, management, and development of the
4 Heritage Area;

5 (2) take into consideration and coordinate Fed-
6 eral, State, and local plans to present a unified his-
7 toric preservation and interpretation plan;

8 (3) involve residents, public agencies, and pri-
9 vate organizations of the Heritage Area;

10 (4) describe actions that units of government,
11 private organizations, and citizens recommend for
12 the conservation, enhancement, interpretation, fund-
13 ing, management, and development of the resources
14 of the Heritage Area;

15 (5) identify—

16 (A) existing and potential sources of Fed-
17 eral and non-Federal funding for the conserva-
18 tion, enhancement, interpretation, funding,
19 management, and development of the resources
20 of the Heritage Area; and

21 (B) economic development strategies for
22 the conservation, enhancement, interpretation,
23 funding, management, and development of the
24 resources of the Heritage Area;

25 (6) include—

1 (A) an inventory of the cultural, natural,
2 historical, educational, scenic, and recreational
3 resources contained in the Heritage Area, in-
4 cluding a list of property that—

5 (i) is related to the themes of the
6 Heritage Area; and

7 (ii) should be conserved, enhanced,
8 managed, or developed;

9 (B) a recommendation of policies and
10 strategies for resource management and protec-
11 tion, including the development of intergovern-
12 mental cooperative agreements to manage and
13 conserve the cultural, natural, historical, edu-
14 cational, scenic, and recreational resources of
15 the Heritage Area;

16 (C) a program of strategies and actions to
17 implement the management plan that in-
18 cludes—

19 (i) performance goals;

20 (ii) resource conservation plans;

21 (iii) enhancement strategies;

22 (iv) interpretation strategies; and

23 (v) specific commitments for imple-
24 mentation that have been made by the

1 local coordinating entity or any govern-
2 ment, organization, business, or individual;

3 (D) an analysis of, and recommendations
4 for, means by which Federal, State, and local
5 programs may best be coordinated to further
6 the purposes of this Act, including an analysis
7 of the role of the National Park Service and
8 other Federal agencies associated with the Her-
9 itage Area;

10 (E) a business plan that—

11 (i) describes the role, operation, fi-
12 nancing, and functions of—

13 (I) the local coordinating entity;

14 and

15 (II) each of the major activities
16 included in the management plan; and

17 (ii) provides adequate assurances that
18 the local coordinating entity has the part-
19 nerships and financial and other resources
20 necessary to implement the management
21 plan; and

22 (F) an interpretive plan for the Heritage
23 Area; and

1 (7) list any revisions to the boundaries of the
2 Heritage Area proposed by the local coordinating en-
3 tity and requested by the affected local government.

4 (c) DEADLINE; TERMINATION OF FUNDING.—

5 (1) DEADLINE.—Not later than 3 years after
6 the date on which funds are made available under
7 section 11(a), the local coordinating entity shall sub-
8 mit the management plan to the Secretary for ap-
9 proval.

10 (2) TERMINATION OF FUNDING.—If the man-
11 agement plan is not submitted to the Secretary in
12 accordance with this section, the Secretary shall not
13 provide to the local coordinating entity any addi-
14 tional financial assistance under this Act until the
15 management plan is submitted to and approved by
16 the Secretary under subsection (d)(1).

17 (d) APPROVAL OF MANAGEMENT PLAN.—

18 (1) REVIEW.—Not later than 180 days after
19 the date of receipt of the management plan under
20 subsection (c)(1), the Secretary shall review and ap-
21 prove or disapprove the management plan.

22 (2) CRITERIA.—In determining whether to ap-
23 prove the management plan, the Secretary shall con-
24 sider whether—

1 (A) the management plan meets all re-
 2 quirements described in subsection (b); and

3 (B) the local coordinating entity has af-
 4 farded adequate opportunity, including public
 5 hearings, for public and governmental involve-
 6 ment in the preparation of the management
 7 plan.

8 (e) ACTION FOLLOWING DISAPPROVAL.—If the Sec-
 9 retary disapproves the management plan under subsection
 10 (d)(1), the Secretary shall—

11 (1) advise the local coordinating entity in writ-
 12 ing of the reasons for the disapproval;

13 (2) make recommendations for revisions to the
 14 management plan; and

15 (3) not later than 180 days after the date of re-
 16 ceipt of a proposed revision to the management plan,
 17 approve or disapprove the proposed revision.

18 (f) AMENDMENTS.—

19 (1) IN GENERAL.—The Secretary shall review
 20 and approve or disapprove each amendment to the
 21 management plan that the Secretary determines may
 22 substantially alter the purposes of the Heritage
 23 Area.

24 (2) USE OF FUNDS.—Funds made available
 25 under this Act shall not be expended by the local co-

1 ordinating entity to implement an amendment de-
 2 scribed in paragraph (1) until the Secretary ap-
 3 proves the amendment.

4 (g) EFFECT OF INACTION.—If the Secretary does not
 5 approve or disapprove a management plan, revision, or
 6 change within 180 days after it is submitted to the Sec-
 7 retary, then the management plan, revision, or change
 8 shall be deemed to have been approved by the Secretary.

9 **SEC. 6. AUTHORITIES, DUTIES, AND PROHIBITION OF THE**
 10 **LOCAL COORDINATING ENTITY.**

11 (a) AUTHORITIES.—To prepare and carry out the
 12 management plan, the local coordinating entity may use
 13 funds made available under this Act to—

14 (1) make grants to—

15 (A) political jurisdictions;

16 (B) nonprofit organizations; and

17 (C) other parties located in the Heritage
 18 Area;

19 (2) enter into cooperative agreements with, or
 20 provide technical assistance to—

21 (A) political jurisdictions;

22 (B) nonprofit organizations;

23 (C) Federal agencies; and

24 (D) other interested parties;

1 (3) hire and compensate staff who have dem-
2 onstrated expertise in the fields of—

3 (A) cultural, natural, and historical re-
4 sources conservation;

5 (B) economic and community development;

6 (C) forestry planning; or

7 (D) heritage planning;

8 (4) obtain funds from any source (including a
9 program that has a cost-sharing requirement);

10 (5) contract for goods or services; and

11 (6) support activities of partners, and any other
12 activities, that—

13 (A) further the purposes of the Heritage
14 Area; and

15 (B) are consistent with the management
16 plan approved under section 5(d)(1).

17 (b) DUTIES.—In addition to developing the manage-
18 ment plan, the local coordinating entity shall—

19 (1) for any fiscal year for which Federal funds
20 have been received by the local coordinating entity
21 under this Act—

22 (A) submit an annual report to the Sec-
23 retary that describes—

1 (i) the specific performance goals and
 2 accomplishments of the local coordinating
 3 entity;

4 (ii) the expenses and income of the
 5 local coordinating entity;

6 (iii) the amounts and sources of
 7 matching funds;

8 (iv) the amounts leveraged with Fed-
 9 eral funds and the sources of the
 10 leveraging; and

11 (v) any grants made to any other enti-
 12 ties during the fiscal year; and

13 (B) make available for audit by Congress,
 14 the Secretary, and appropriate units of govern-
 15 ment, all records pertaining to the expenditure
 16 of the funds and any matching funds; and

17 (2) encourage, by appropriate means and con-
 18 sistent with the purposes of the Heritage Area, the
 19 economic viability of the Heritage Area.

20 (c) PROHIBITION ON THE ACQUISITION OF REAL
 21 PROPERTY.—The local coordinating entity shall not use
 22 Federal funds made available under this Act to acquire
 23 real property or any interest in real property.

1 **SEC. 7. AUTHORITIES AND DUTIES OF THE SECRETARY.**

2 (a) TECHNICAL AND FINANCIAL ASSISTANCE.—On
 3 request of the local coordinating entity, the Secretary may
 4 provide technical and financial assistance, on a reimburs-
 5 able or nonreimbursable basis, to the local coordinating
 6 entity for—

7 (1) the development and implementation of the
 8 management plan; and

9 (2) other initiatives of the local coordinating en-
 10 tity.

11 (b) COOPERATIVE AGREEMENTS.—

12 (1) IN GENERAL.—To carry out this Act, the
 13 Secretary may enter into cooperative agreements
 14 with the local coordinating entity and other public
 15 and private entities to provide assistance under sub-
 16 section (a).

17 (2) REQUIREMENTS.—The cooperative agree-
 18 ment under paragraph (1) shall, at a minimum—

19 (A) establish the goals and objectives of
 20 the Heritage Area; and

21 (B) include—

22 (i) a proposal relating to the conserva-
 23 tion and interpretation of the Heritage
 24 Area; and

1 (ii) a general outline describing each
 2 measure agreed to by the Secretary and
 3 the local coordinating entity.

4 **SEC. 8. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

5 (a) IN GENERAL.—This Act shall not affect the au-
 6 thority of any Federal official to provide technical or fi-
 7 nancial assistance under any other law.

8 (b) CONSULTATION AND COORDINATION.—The head
 9 of any Federal agency planning to conduct an activity that
 10 may have an impact on the Heritage Area shall, to the
 11 maximum extent practicable—

12 (1) consult with the Secretary and the local co-
 13 ordinating entity regarding the activity; and

14 (2) coordinate the activity with the Secretary
 15 and the local coordinating entity.

16 (c) EFFECT ON OTHER FEDERAL AGENCIES.—Noth-
 17 ing in this Act—

18 (1) modifies, alters, or amends any law (includ-
 19 ing a regulation) authorizing a Federal agency to
 20 manage Federal land under the jurisdiction of the
 21 Federal agency;

22 (2) limits the discretion of a Federal land man-
 23 ager to implement an approved land use plan within
 24 the boundaries of the Heritage Area; or

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

4 **SEC. 9. PROPERTY OWNERS AND REGULATORY PROTEC-**
5 **TIONS.**

6 Nothing in this Act shall be construed to—

7 (1) abridge the rights of any property owner,
8 whether public or private, including the right to re-
9 frain from participating in any plan, project, pro-
10 gram, or activity conducted within the Heritage
11 Area;

12 (2) require any property owner to permit public
13 access (including Federal, Tribal, State, or local gov-
14 ernment access) to such property or to modify any
15 provisions of Federal, Tribal, State, or local law with
16 regard to public access or use of private lands;

17 (3) alter any duly adopted land use regulation
18 or any approved land use plan or any other regu-
19 latory authority of any Federal, State, or local agen-
20 cy or Tribal government, or to convey any land use
21 or other regulatory authority to any local coordi-
22 nating entity;

23 (4) authorize or imply the reservation or appro-
24 priation of water or water rights;

1 (5) diminish the authority of the State to man-
 2 age fish and wildlife including the regulation of fish-
 3 ing and hunting within the Heritage Area;

4 (6) create any liability, or to have any effect on
 5 any liability under any other law, of any private
 6 property owner with respect to any persons injured
 7 on such private property; or

8 (7) abridge, or authorize the Secretary or the
 9 local coordinating entity to abridge, valid rights to
 10 timber harvesting.

11 **SEC. 10. EVALUATION.**

12 (a) IN GENERAL.—Not later than 3 years before the
 13 date on which authority for Federal funding terminates
 14 for the Heritage Area, the Secretary shall conduct an eval-
 15 uation of the accomplishments of the Heritage Area and
 16 prepare a report with recommendations for the National
 17 Park Service’s future role, if any, with respect to the Her-
 18 itage Area.

19 (b) EVALUATION COMPONENTS.—An evaluation pre-
 20 pared under subsection (a) shall—

21 (1) assess the progress of the local coordinating
 22 entity with respect to—

23 (A) accomplishing the purposes of the au-
 24 thorizing legislation for the Heritage Area; and

1 (B) achieving the goals and objectives of
2 the approved management plan for the Heritage
3 Area;

4 (2) analyze the Federal, State, local, and pri-
5 vate investments in the Heritage Area to determine
6 the leverage and impact of the investments; and

7 (3) review the management structure, partner-
8 ship relationships, and funding of the Heritage Area
9 for purposes of identifying the critical components
10 for sustainability of the Heritage Area.

11 (c) RECOMMENDATIONS.—Based upon the evaluation
12 under subsection (a), the Secretary shall prepare a report
13 with recommendations for the National Park Service’s fu-
14 ture role, if any, with respect to the Heritage Area.

15 (d) SUBMISSION TO CONGRESS.—On completion of a
16 report under subsection (c), the Secretary shall submit the
17 report to—

18 (1) the Committee on Energy and Natural Re-
19 sources of the Senate; and

20 (2) the Committee on Natural Resources of the
21 House of Representatives.

22 **SEC. 11. FUNDING.**

23 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated to carry out this Act

1 \$10,000,000, of which not more than \$1,000,000 may be
2 authorized to be appropriated for any fiscal year.

3 (b) MATCHING FUNDS.—

4 (1) IN GENERAL.—As a condition of receiving
5 assistance under subsection (a), the local coordi-
6 nating entity shall match any amounts provided to
7 the local coordinating entity under this Act.

8 (2) FORMS OF PAYMENT.—To meet the match-
9 ing requirement described in paragraph (1), the local
10 coordinating entity shall provide to the Secretary
11 payments that—

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

14 (B) may be in-kind contributions of goods
15 or services.

16 **SEC. 12. TERMINATION OF AUTHORITY.**

17 (a) IN GENERAL.—Subject to subsection (b), the au-
18 thority of the Secretary to provide financial assistance
19 under this Act terminates on the date that is 15 years
20 after the date of enactment of this Act.

21 (b) EXCEPTION.—The termination of authority of the
22 Secretary under subsection (a) shall not affect the author-
23 ity of the Secretary to provide to the local coordinating
24 entity technical assistance and administrative oversight.

○