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### SLEEPING BEAR DUNES NATIONAL LAKESHORE CONSERVATION AND RECREATION ACT

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JANUARY 13, 2012.—Ordered to be printed

Filed, under authority of the order of the Senate of December 17, 2011.

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

### R E P O R T

[To accompany S. 140]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 140) to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 140 is to designate approximately 32,557 acres of land and inland water within Sleeping Bear Dunes National Lakeshore in Michigan as wilderness.

#### BACKGROUND AND NEED

Sleeping Bear Dunes National Lakeshore was established in 1970 and includes over 70,000 acres of forests, lakes, beaches, and large sand dunes along the shores of Lake Michigan in northwestern Michigan. The lakeshore extends nearly 30 miles along the eastern shore of Lake Michigan, and includes two large Lake Michigan islands with an additional 35 miles of shoreline. The park protects and preserves scenic and recreational resources, including protected sand dunes, miles of beaches, inland lakes and streams, wetlands, and an upland beech-maple northern hardwood forest.

In 1981 the park's general management plan recommended over 30,000 acres of the park as wilderness, and those lands have been

managed as wilderness since that time. Following completion of the park's general management plan, the National Park Service prepared a formal wilderness study. The alternative mapped 32,557 acres for designation and that is the same as the proposed wilderness designation in S. 140.

#### LEGISLATIVE HISTORY

S. 140 was introduced by Senators Levin and Stabenow on January 25, 2011. The Subcommittee on National Parks held a hearing on S. 140 on May 11, 2011 (S. Hrg. 112–124). At its business meeting on November 10, 2011, the Committee on Energy and Natural Resources ordered S. 140 favorably reported.

During the 111th Congress, the Committee considered similar legislation, S. 2976, also sponsored by Senators Levin and Stabenow. The Subcommittee on National Parks held a hearing on the bill on May 19, 2010 (S. Hrg. 111–645) but no further action occurred.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on November 10, 2011, by voice vote of a quorum present, recommends that the Senate pass S. 140. Senators Lee and Paul asked to be recorded as opposing the measure.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the “Sleeping Bear Dunes National Lakeshore Conservation and Recreation Act.”

*Section 2* defines key terms used in the bill.

*Section 3(a)* designates approximately 32,557 acres of land and inland water within Sleeping Bear Dunes National Lakeshore, to be known as “Sleeping Bear Dunes Wilderness,” as a component of the National Wilderness Preservation System.

Subsection (b) directs that the map describing the wilderness area be available for public inspection in the appropriate offices of the National Park Service and allows the Secretary of the Interior to correct any clerical or typographical errors in the map. The Secretary is directed to provide a corrected map and legal description of the wilderness area to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives as soon as practicable after date of enactment.

Subsection (c) establishes road setbacks of 100 feet from centerline and 300 feet from centerline for adjacent county roads and State highways, respectively.

*Section 4(a)* directs the Secretary to manage the designated wilderness area in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except the date of enactment is considered the date of enactment of this Act and reference to the Secretary of Agriculture is considered to reference instead the Secretary of the Interior.

Subsection (b) provides for continued maintenance of roads outside of the wilderness boundary.

Subsection (c) prohibits any provision of the Act from affecting the jurisdiction of the State of Michigan as so far as management

of hunting and fishing within the lakeshore in accordance with section 5 of Public Law 91-479 (16 U.S.C. 460x-4).

Subsection (d) prohibits any provision of the Act from altering, modifying or affecting any treaty rights or valid private property rights in existence on the date of enactment.

#### COST AND BUDGETARY CONSIDERATIONS

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

##### *S. 140—Sleeping Bear Dunes National Lakeshore Conservation and Recreation Act*

S. 140 would designate as wilderness about 32,500 acres of the Sleeping Bear Dunes National Lakeshore in the state of Michigan. The newly designated lands and inland waterways would comprise the Sleeping Bear Dunes Wilderness, a new component of the National Wilderness Preservation System.

Based on information from the National Park Service, CBO estimates that the bill would have an insignificant impact on the federal budget. More than 30,000 of the affected acres have been managed as wilderness since 1981, and CBO estimates that the potential impact of the designation on public use would be minor. Enacting S. 140 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 140 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 140.

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. 140, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 140, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the May 11, 2011, Subcommittee on National Parks hearing on S. 140 follows.

STATEMENT OF STEPHEN E. WHITESELL, ASSOCIATE DIRECTOR, PARK PLANNING, FACILITIES AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 140, a bill to designate the Sleeping Bear Dunes Wilderness at Sleeping Bear Dunes National Lakeshore in the State of Michigan.

The Department strongly supports enactment of S. 140. This legislation would designate 32,557 acres, or 46 percent, of Sleeping Bear Dunes National Lakeshore in Michigan's Lower Peninsula as federally protected wilderness. Management of the wilderness area would be in accordance with the 1964 Wilderness Act (16 U.S.C. 1131 et seq.).

P.L. 91-479 established Sleeping Bear Dunes National Lakeshore on October 21, 1970, in order ". . . that certain outstanding natural features including forests, beaches, dune formations, and ancient (glacial) phenomena . . . be preserved in their natural setting and protected from developments and uses which would destroy the scenic beauty and natural character of the area . . . for the benefit, inspiration, education, recreation, and enjoyment of the public." This bill clearly supports the intent of that law.

The park extends nearly 30 miles along the eastern shore of Lake Michigan. It also includes two large Lake Michigan islands with an additional 35 miles of shoreline. The park protects and preserves superlative scenic and recreational resources including towering perched sand dunes that rise as high as 450 feet above Lake Michigan. The park contains several federally threatened and endangered species, including the Piping Plover, Pitcher's Thistle and Michigan Monkeyflower. The park also includes many historic features, including a lighthouse and three U.S. life-saving service stations, coastal villages, and picturesque farmsteads. Permanent wilderness designation will ensure protection of these significant natural, cultural and historical resources.

The park receives nearly 1.2 million visitors each year who enjoy the beaches, over 100 miles of backcountry trails and eight campgrounds. The region surrounding the park is a popular vacation and summer home destination as visitors and residents take advantage of a variety of recreational opportunities, including hiking, camping, backpacking, hunting, fishing, bird watching, boating, cross-country skiing and snowshoeing. The National Park Service estimates that the presence of the National Lakeshore brings nearly \$78 million of economic benefit to the local community each year.\* Designation of the wilderness area will not limit public access or change the way the

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\*Stynes, Daniel J. "National Park Visitor Spending and Payroll Impacts: 2009." National Park Service, 2011.

area is currently being managed for public use and enjoyment.

Native American use of the area extends some 3,000 years into the past and is represented today primarily by the Grand Traverse Band of Ottawa and Chippewa Indians. Nothing in S. 140 would modify, alter, or affect any treaty rights.

The park encompasses a total of 71,291 acres; about 58,571 acres of land and 12,720 acres of water. Over 30,000 acres of the proposed 32,557-acre wilderness area have been managed as wilderness since 1981, when a wilderness proposal produced under the park's first comprehensive General Management Plan (GMP) was published. Since that time, the five areas of the park proposed as wilderness have provided outstanding recreational opportunities for hikers, backpackers, anglers, paddlers, and hunters with hunting being allowed in accordance with State regulations. A network of hiking trails and numerous camping opportunities will continue to be maintained in this portion of the park, even with the wilderness designation. The additional acres in the current proposal arise from the inclusion of the Sleeping Bear Plateau, an area only suitable for foot travel that continues to offer outstanding opportunities for solitude. Since formal wilderness designation would not change the way in which visitor use is currently managed in the area proposed as wilderness, there is no reason to believe it would have any detrimental impact on visitation or the local economy, and formal designation may actually have a beneficial impact.

The proposed wilderness area does not include any existing county roads or areas managed primarily for historic resources. This is to ensure the continued availability of the county roads for visitors accessing remote trailheads, beaches, backcountry areas and historic areas. Although the park's boundary extends one-quarter mile out into Lake Michigan, none of the waters of Lake Michigan are proposed as wilderness. S. 140 would authorize the use of boat motors on the surface water of Lake Michigan adjacent to the wilderness and beaching of those boats, subject to applicable laws. This is to ensure continued access by boaters to the shoreline beach adjacent to the wilderness area. These have been areas of significant public concern.

Between 2006 and 2009, the NPS developed an updated GMP for the park. Because of public concern over the 1981 wilderness proposal, and its inclusion of county roads and historic sites, a formal Wilderness Study was conducted as part of this comprehensive planning effort. After extensive public involvement, review, and comment, including overwhelming public support for wilderness designation, the preferred alternative in the final GMP/Wilderness Study was approved by the Midwest Regional Director on January 6, 2009. The area of proposed wilderness was mapped at 32,557 acres, with a portion in all five eligible areas, and is the same as the proposed wilderness designation in S. 140. The final GMP/Wilderness Study does not propose

wilderness in several eligible areas, including those areas fragmented by the road corridors near the Otter Creek area of the Lakeshore; the land within the Port Oneida Rural Historic District; the lands in the historic "Cottage Row" on North Manitou Island; the area in the South Manitou Island historic farm loop; an area near the historic Bufka Farm identified for a bicycle trail; and the congested area at the top of the Dune Climb.

Passage of S. 140 would support the vision in the new GMP. The bill has very strong, broad-based public support. The overwhelming majority of local officials, the conservation community, and the Michigan delegation are united in their support for this bill as a winning resolution to an issue that has been debated since the park's establishment in 1970. Parties that had been bitterly polarized over earlier proposals have reached consensus that this bill strikes an appropriate balance between preserving access and guaranteeing outstanding primitive recreational opportunities.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be happy to answer any questions you or other committee members might have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 140 as ordered reported.

