

Calendar No. 607

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
114-334

ACADIA NATIONAL PARK SCHOODIC PENINSULA LAND RATIFICATION AND APPROVAL ACT

SEPTEMBER 6, 2016.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 3027]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 3027) to clarify the boundary of Acadia National Park, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Acadia National Park Schoodic Peninsula Land Ratification and Approval Act”.

SEC. 2. ACADIA NATIONAL PARK BOUNDARY.

Section 101 of Public Law 99-420 (16 U.S.C. 341 note; 100 Stat. 955) is amended—

- (1) in the first sentence, by striking “In order to” and inserting the following:
“(a) BOUNDARIES.—In order to”;
- (2) in the second sentence, by striking “The map” and all that follows through “made” and inserting the following:
“(c) AVAILABILITY OF MAPS.—The maps described in subsections (a) and (b) shall be—

“(1) on file and available for public inspection in the appropriate offices of the National Park Service; and

“(2) made”; and

(3) by inserting after subsection (a) (as so designated) the following:

“(b) SCHOODIC PENINSULA ADDITION.—The boundary of the Park is confirmed to include approximately 1,441 acres of land and interests in land, as depicted on the map entitled ‘Acadia National Park, Hancock County, Maine, Schoodic Peninsula Boundary Revision’, numbered 123/129102, and dated July 10, 2015.”.

SEC. 3. ACADIA NATIONAL PARK BOUNDARY AUTHORITY.

(a) **REQUIREMENT.**—The Secretary of the Interior may only acquire land or interests in land within the boundary of Acadia National Park in accordance with Public Law 99–420 (16 U.S.C. 341 note; 100 Stat. 955).

(b) **REPEALS.**—The following provisions are repealed:

(1) Section 3 of the Act of February 26, 1919 (40 Stat. 1179, chapter 45).

(2) The first section of the Act of January 19, 1929 (45 Stat. 1083, chapter 77).

SEC. 4. ACADIA NATIONAL PARK ADVISORY COMMISSION.

(a) **IN GENERAL.**—The Secretary of the Interior shall reestablish and appoint members to the Acadia National Park Advisory Commission in accordance with section 103 of Public Law 99–420 (16 U.S.C. 341 note; 100 Stat. 959).

(b) **CONFORMING AMENDMENT.**—Section 103 of Public Law 99–420 (16 U.S.C. 341 note; 100 Stat. 959) is amended by striking subsection (f).

SEC. 5. USE RESTRICTION MODIFIED.

The Act of August 1, 1950 (64 Stat. 383, chapter 511), is amended—

(1) by striking “That the Secretary” and inserting the following:

“SECTION 1. CONVEYANCE OF LAND IN ACADIA NATIONAL PARK.

“The Secretary”; and

(2) by striking “for school purposes” and inserting “for public purposes, subject to the conditions that use of the property shall not degrade or adversely impact the resources or values of Acadia National Park, and the land shall remain in public ownership for recreational, educational, or similar public purposes”.

PURPOSE

The purpose of S. 3027 is to clarify the boundary of Acadia National Park.

BACKGROUND AND NEED

In 1916, President Wilson established the Sieur de Monts National Monument in Maine. In 1919, President Wilson signed a law designating the area as Lafayette National Park. In 1929, the name was changed to Acadia National Park (Park).

Today the Park protects more than 47,000 acres, and the simple pleasures of “ocean, forests, lakes, and mountains” that have been enjoyed by millions for over a century.

In November 2015, the National Park Service (NPS) accepted a donation of 1,441 acres adjacent to the Schoodic Peninsula for inclusion to the Park from the National Park Foundation. The Schoodic Peninsula property was conveyed to the National Park Foundation from Schoodic Woods LLC, a subsidiary of Lyme Timber, in August 2015. For several years prior to the transition to the National Park Foundation, the NPS had effectively managed the Schoodic Peninsula property as NPS property. While many in the local community supported the property becoming a part of the Acadia National Park eventually, Congressional approval of the boundary adjustment and addition was thought necessary.

In 1986, Congress approved a permanent boundary for Acadia National Park (P.L. 99–420), limiting the size of the Park’s growth, and establishing the Acadia National Park Advisory Commission. Proponents of acquiring the additional 1,441 acres believed that Congressional action was needed, regardless of the level of community support.

Rather than pursuing a legislative solution, the NPS claimed authority under a 1929 law to expand the Park’s boundary and accept the donation of the 1,441 acres (45 Stat. 1083, chapter 77). NPS failed to notify the Acadia National Park Advisory Commission or

Congress of its intent to accept this donation under the 1929 authority prior to publishing in the *Federal Register*.

Although the Department of the Interior believes it had legal authority to accept the donation of land for addition to the Park, many local communities objected to the process that NPS utilized to acquire the property. S. 3027 seeks to clarify the situation by legislatively approving the donation and making clear that any future additions to the Park must be made by an Act of Congress.

LEGISLATIVE HISTORY

S. 3027 was introduced on June 7, 2016 by Senator King. The Subcommittee on National Parks held a hearing on the bill on June 15, 2016.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 3027 favorably reported as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass S. 3027, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 3027, the Committee adopted a substitute amendment to update the map of the Park; modify the Park boundary to include the Schoodic Peninsula Addition; permanently set the boundary of the Park to include the new addition; reestablish the Acadia National Park Advisory Commission; and modify a land use restriction on certain public properties within the Park.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Acadia National Park boundary

Section 2 amends section 101 of Public Law 99–420 by including the Schoodic Peninsula Addition in the permanent boundary of the Park, as depicted in the referenced map.

Section 3. Acadia National Park boundary authority

Section 3 authorizes the Secretary of the Interior to acquire land or interests in land within the boundary of the Park in accordance with applicable law. This section also repeals certain outdated provisions in the 1919 and 1929 statutes to make clear that any future additions to the Park require Congressional authorization.

Section 4. Acadia National Park Advisory Commission

Section 4 reestablishes and appoints members to the Acadia National Park Commission in accordance with applicable law.

Section 5. Use restriction modified

Section 5 modifies a use restriction for conveyance of land in the Park to include public purposes, subject to the conditions that use of the property shall not degrade or adversely impact the resources or values of Acadia National Park, and the land shall remain in public ownership for recreational, educational, or similar purposes.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 1, 2016.

Hon. LISA MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3027, the Acadia National Park Schoodic Peninsula Land Ratification and Approval Act.

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

Sincerely,

KEITH HALL.

Enclosure.

S. 3027—Acadia National Park Schoodic Peninsula Land Ratification and Approval Act

S. 3027 would confirm the boundary of Acadia National Park in Maine. The National Park Service (NPS), which manages the park, administratively adjusted the boundary in 2015 when the agency accepted the donation of 1,441 acres of land for inclusion within the park.

The bill also would permanently authorize that park's advisory commission and repeal the agency's authority to acquire additional parcels of land outside of the permanent boundaries of the park. Finally, the bill would modify a use restriction on a parcel of land that was conveyed to the town of Tremont, Maine in 1951.

Based on information from the NPS, CBO estimates that implementing S. 3027 would not have any significant budgetary effects. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 3027 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 3027 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 Jon Sperl. The estimate was approved by H. Samuel Papenfuss, 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. 3027. 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. 3027, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 3027, 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 June 15, 2016, Subcommittee on National Parks hearing on S. 3027 follows:

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, U.S. 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. 3027, to clarify the boundary of Acadia National Park, and for other purposes.

The Department would support the sections of S. 3027 that address Acadia National Park's boundary, the National Park Service's (NPS) authority to adjust the park boundary, and the use of property conveyed from the NPS to the town of Tremont, if those sections are amended in accordance with this statement. Regarding the bill's removal of the statutory time limit for the authorization of the Acadia National Park Advisory Commission, the Department is not opposed to that provision.

Section 2 of S. 3027 would modify the boundary of Acadia National Park (Acadia) established in law in 1986 to include approximately 1,441 acres of land on the Schoodic Peninsula that comprise the Schoodic Woods property that was donated to the NPS in 2015. The Schoodic Woods donation was an extremely generous gift by an anonymous donor that included not only the land but also a newly constructed campground, trails, and other visitor amenities; an endowment to help pay for operating expenses at the site; and funds to pay local governments to help offset the loss of tax revenue. The addition to the park of this land, adjacent to existing national park land and ready to wel-

come visitors, was strongly supported by the communities on the Schoodic Peninsula and throughout the area surrounding Acadia.

The NPS accepted the donation of the Schoodic Woods property and added it to the boundary of the park under the authority of 16 U.S.C. 342(a), which was enacted as part of the Act of January 19, 1929, and which authorizes the National Park Service to accept donations of lands, easements, and buildings within Hancock County, Maine, the county in which most of Acadia is located. The NPS published the notice of the boundary adjustment reflecting the imminent acceptance of fee title to the Schoodic Woods property in the Federal Register of November 17, 2015.

The intent of Section 2 appears to be to confirm in statute the action the NPS took administratively to add Schoodic Woods to the boundary of Acadia. Although we believe that the NPS was on solid legal ground in using the 1929 authority for this boundary adjustment, we are aware of the concerns that have been raised about the use of this authority, given that Congress passed legislation in 1986 establishing a “permanent boundary” for the park (Section 102 of P.L. 99-420). However, we are concerned that legislation that amends the 1986 law to modify the boundary to include Schoodic Woods not only is redundant, it may also have unintended consequences for actions that took place with respect to those lands between the dates the United States accepted title and the effective date of this legislation. We would like to work with the sponsor and the committee on an amendment that, rather than modifying the boundary, would confirm that the “permanent boundary” has been modified to include this parcel.

Section 3(c) of S. 3027 would prohibit the use of the 1929 authority, and authority under section 3 of the Act of February 26, 1919, to acquire land by donation outside of the “permanent boundary” established in 1986. Because the 1986 law effectively precludes the use of the minor boundary adjustment authority under the Land and Water Conservation Fund Act (54 U.S.C. 100506), the effect of section 3(c) would be to eliminate any administrative authority for the NPS to accept a donation of even a fraction of an acre of land with important resource values if it is located outside the 1986 boundary. Most national parks may use this limited administrative authority to acquire small parcels of land by purchase, exchange or donation. Those parks are able to respond quickly to opportunities or circumstances that are relevant to the park not only to accept donations, but also to make relatively modest purchases of land outside the boundary. We believe that Acadia should have that authority as well. We would like to work with the sponsor and the committee to find a way to provide the same limited flexibility that other national parks have for acquiring land outside their boundary.

Section 4 of S. 3027 would permanently authorize the Acadia National Park Advisory Commission. The commission was first authorized in 1986 and is currently due to

expire in 2026. The Department is not opposed to eliminating the expiration date. There are several other advisory commissions for units of the National Park System that are permanently authorized, including the ones at Gettysburg National Battlefield Park, Jimmy Carter National Historic Site, and the National Park of American Samoa.

The Department recognizes the important work of the Acadia National Park Advisory Commission. The commission advises the Secretary of the Interior, through her designee, the superintendent of Acadia, on matters relating to the management and development of the park including, but not limited to, the acquisition of land and interests in land, and the termination of rights of use and occupancy. The advisory commission is composed of 16 members, ten of whom are appointed based on recommendations from the park's host communities including the four towns of Mount Desert Island, three Hancock County mainland towns, and three island towns.

Finally, Section 5 of S. 3027 provides that specified lands that were part of Acadia and that were conveyed by the NPS to the town of Tremont, on Mt. Desert Island, for school purposes shall no longer be required to be used exclusively and perpetually for school purposes if the land is being used for public purposes.

Public Law 81-629, enacted in 1950, permitted the NPS to convey a parcel identified as NPS Tract 06-126 to the town to locate a new school. The conveyance was completed in 1951, with a reverter clause included in the deed specifying that the land would revert back to the United States of America if no longer used exclusively for school purposes. The town is now consolidating schools with a neighboring town and thus will no longer use this property exclusively for school purposes, but would like to retain ownership and continue to use the developed property for community purposes. This legislation would allow it to do so.

The NPS has no intended uses for the property, and is agreeable to allowing the town to use the property for similar public purposes, so long as the use of the property will not degrade or adversely impact park resources and values, and the property remains in public ownership for recreational, educational or similar public purposes. We would support this section if amended to provide for those specific terms. We would be happy to provide recommended language.

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

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the original bill, as 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):

Act of February 26, 1919

40 Stat. 1179

* * * * *

SEC. 2. That the administration, protection, and promotion of said Lafayette National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provision of the Act of August twenty-fifth, nineteen hundred and sixteen, entitled "An Act to establish a National Park Service, and for other purposes," and Acts additional thereto or amendatory thereof.

【SEC. 3. That the Secretary of the Interior is hereby authorized, in his discretion, to accept in behalf of the United States such other property on said Mount Desert Island, including lands, easements, buildings, and moneys, as may be donated for the extension or improvement of said park.】

* * * * *

Act of January 19, 1929

45 Stat. 1083

* * * * *

CHAP. 77.—An Act to provide for the extension of the boundary limits of the Lafayette National Park in the State of Maine and for change of name of said park to the Acadia National Park.

【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to accept in behalf of the United States lands, easements, and buildings, as may be donated for the extension of the Lafayette National Park, lying within the bounds of Hancock County within which the park is situated, together with such islands in Knox County adjoining, as lie to the east and south of the main ship channel through Penobscot Bay, which complete the archipelago of which Mount Desert Island, whereon the park is situated, forms the dominant and largest unit.】

SEC. 2. That the area now within the Lafayette National Park, together with such additions as may hereafter be made thereto, shall be known as the Acadia National Park, under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for the Lafayette National Park: Provided, That the provisions of the Act of June 10, 1920, entitled "An Act to create a Federal Power Commission, to provide for the improvement of navigation, the development of water power, the use of the public lands in relation thereto, and to repeal section 18

* * * * *

Public Law 81–629

64 Stat. 383

* * * * *

AN ACT To authorize the conveyance, for school purposes, of certain land in Acadia National Park to the town of Tremont, Maine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the Secretary]

SECTION 1. CONVEYANCE OF LAND IN ACADIA NATIONAL PARK.

The Secretary of the Interior, in his discretion, is hereby authorized to convey without consideration, but under such terms and conditions as he may deem advisable, to the town of Tremont, Hancock County, Maine, [for school purposes] for public purposes, subject to the conditions that use of the property shall not degrade or adversely impact the resources or values of Acadia National Park, and the land shall remain in public ownership for recreational, educational, or similar public purposes, eight and forty-five one-hundredths acres of land, more or less, situate between Marsh Creek and Marsh Road on Mount Desert Island, Hancock County, Maine, now a part of Acadia National Park.

PUBLIC LAW 99–420, as amended

* * * * *

TITLE I**SEC. 101. BOUNDARIES OF ACADIA NATIONAL PARK.**

[In order to] (a) *BOUNDARIES.*—*In order to protect and conserve the land and water resources of Acadia National Park in the State of Maine (hereinafter in this title referred to as ‘the Park’), and to facilitate the administration of the Park, the boundary depicted on the map entitled ‘Acadia National Park Boundary Map’, numbered 123–80011, and dated May 1986 (hereinafter in this title referred to as ‘the map’) is hereby established as the permanent boundary for the Park. [The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and it shall be made]*

(b) *SCHOODIC PENINSULA ADDITION.*—*The boundary of the Park is confirmed to include approximately 1,441 acres of land and interests in land, as depicted on the map entitled ‘Acadia National Park, Hancock County, Maine, Schoodic Peninsula Boundary Revision’, numbered 123/129102, and dated July 10, 2015.*

(c) *AVAILABILITY OF MAPS.*—*The maps described in subsections (a) and (b) shall be—*

(1) on file and available for public inspection in the appropriate offices of the National Park Service; and

(2) made available to the Registry of Deeds for Hancock and Knox Counties, Maine.

* * * * *

SEC. 103. ADVISORY COMMISSION.

* * * * *

[(f) The Commission established under this section shall terminate 40 years after the enactment of this Act.]

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