

Calendar No. 667

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 106-333

KENAI MOUNTAINS-TURNAGAIN ARM NATIONAL HERITAGE CORRIDOR AREA ACT OF 2000

JULY 10, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 2511]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2511) to establish the Kenai Mountains-Turnagain Arm National Heritage Area in the State of Alaska, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, line 5, strike “Corridor”.
2. On page 3, line 18, strike “resolution and letter of support have been received from” and insert “national heritage area designation is supported by”.
3. On page 5, line 3, strike “establish” and insert “established”.
4. On page 5, line 6, strike “the 11 member Board of Directors of the Kenai Mountains-Turnagain Arm National Heritage Area Commission,” and insert “the management entity established by section 5.”.
5. On page 6, lines 5 and 6, strike “the Secretary from a list of recommendations submitted by”.
6. On page 7, strike lines 3 through 9 and insert in lieu thereof the following:

“(b) Representatives of other organizations shall be invited and encouraged to participate with the management entity and in the development and implementation of the management plan, including but not limited to: the State Division of Parks and Outdoor Recreation; the State Division of Mining, Land and Water; the Forest Service; the State Historic Preservation Office; the Kenai Peninsula

Borough; the Municipality of Anchorage; the Alaska Railroad; the Alaska Department of Transportation, and the National Park Service.”.

7. On page 8, line 23, strike “corridor” and insert in lieu thereof “area”.
8. On page 9, line 14 through 20 strike subsection (c) and redesignate the following subsections accordingly.
9. On page 10, line 11, strike “subject” and insert “and subject”.
10. On page 10, line 12, strike “shall” and insert “may”.
11. On page 10, line 23, strike “to” and insert “to manage or”.

PURPOSE OF THE MEASURE

The purpose of S. 2511 is to establish the Kenai Mountains-Turnagain Arm National Heritage Area in the State of Alaska, and designate the board of directors of the Kenai Mountains-Turnagain Arm National Heritage Area Commission as the management entity.

BACKGROUND AND NEED

The Kenai Mountains-Turnagain Arm corridor in Alaska highlights the experience of the western frontier, and contains heritage resources that tell the story of transportation, settlement, the gold rush, and resource development in a difficult and remote landscape. Small communities, still very much as they were in the past, are dwarfed by the sweeping landscape. Turnagain Arm, once a critical transportation link, has the world’s second greatest tidal range, and a traveler through the alpine valleys and mountain passes of the area can see evidence of retreating glaciers, earthquake subsidence, and avalanches. Wildlife is abundant. Through this rugged terrain, transportation routes were developed into south central and interior Alaska. Alaska natives, Russians, gold rush “stampedeers”, and others arrived seeking access to the resource-rich land. Historic trails and evidence of mining history are often embedded and nearly hidden in the landscape. The Iditarod Trail to Nome, used to haul mail in and gold out, started at Seward. Only in the last half of the 20th Century was the highway from Seward to Anchorage opened. Before then, the small communities of the corridor were linked to the rest of Alaska by wagon trail, rail, and by boat access across Turnagain Arm and the Kenai River.

S. 2511 creates the Kenai Mountains-Turnagain Arm National Heritage Area. The designation has the support of statewide tourism and historic preservation groups, and the City of Seward. Virtually every small community within the corridor has passed a resolution or submitted a letter in support of the designation. The Board of Directors of the Kenai Mountains-Turnagain Arm National Heritage Area Commission would serve as the management entity, and would be comprised of citizens of the local communities and representatives of organizations such as Native Associations, the Iditarod Trail Committee, historical societies, visitor associations, and private or business entities. S. 2511 authorizes the appropriation of \$10 million and Secretary of Interior’s assistance for a period of 15 years.

LEGISLATIVE HISTORY

S. 2511 was introduced by Senators Murkowski and Stevens on May 4, 2000. Testimony from witnesses on this bill was included in the record of the hearing held by the Subcommittee on National Parks, Historic Preservation, and Recreation on May 25, 2000. At its business meeting on June 7, 2000, the Committee on Energy and Natural Resources ordered S. 2511, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 7, 2000, by a unanimous vote of a quorum present, recommends that the Senate pass S. 2511, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 2511, the Committee adopted an amendment to require the management entity for the Heritage Area to be appointed by the Governor of the State of Alaska rather than the Secretary of the Interior. In addition, the Committee adopted several technical and clarifying amendments.

SECTION-BY-SECTION ANALYSIS

Section 1 designates the bill's short title.

Section 2(a) contains Congressional findings.

Subsection (b) describes the purposes of the Act, which are to: (1) recognize, preserve, and interpret the historic and modern resource development and cultural landscapes of the Kenai Mountains-Turnagain Arm historic transportation corridor, and to promote and facilitate the public enjoyment of these resources; and (2) foster, through financial and technical assistance, the development of cooperative planning and partnerships among the communities and borough, State, and Federal Government entities.

Section 3 defines the term "management entity" as the management entity established by section 5, and provides definitions for several other key terms used in the Act.

Section 4 establishes the Kenai Mountains-Turnagain Arm National Heritage Area, and provides a map reference that depicts its boundaries.

Section 5 describes the makeup of the management entity, establishes the length of terms for its members, and describes the procedures for appointing its members and filling vacancies on the board. Representative of other organizations, including but not limited to those specified, must also be invited and encouraged to participate with the management entity in the development and implementation of the management plan.

Section 6(a) requires the management entity to develop a management plan for the Heritage Area within 3 years of entering into a cooperative agreement with the Secretary of the Interior, and prescribes the contents of the plan.

Subsection (b) establishes activities to which the management entity must give priority in assisting communities in the region, including: (1) carrying out programs which recognize the important resource values in the heritage area; (2) encouraging economic via-

bility in the affected communities; (3) establishing and maintaining interpretive exhibits; (4) improving and interpreting heritage trails; (5) increasing public awareness and appreciation of resources within the heritage area; (6) restoring historic buildings and structures; and (7) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are placed throughout the heritage area.

Subsection (c) requires the management entity to conduct at least two public meetings each year regarding initiation and implementation of the management plan.

Section 7 authorizes the Secretary, in consultation with the Governor of Alaska or his designee, and with public participation, to enter into a cooperative agreement with the management entity. Pursuant to the cooperative agreement, the Secretary may provide administrative, technical, financial, design, development, and operations assistance.

Section 8 clarifies that nothing in this Act grants powers of zoning or land use to the management entity, changes the authority of any unit of government to manage or regulate land use, or limits business activity on private development or resource development activities.

Section 9 prohibits the management entity from acquiring real property or any interest in real property.

Section 10 authorizes the appropriation of \$10 million, with a limit of \$350,000 for the first fiscal year, and \$1 million per fiscal year thereafter, conditioned upon the management entity completing a cooperative agreement, and subject to at least a 25 percent match of other funds or in-kind services. The Secretary's authority to provide any assistance under this Act terminates 15 years after the date that the Secretary and the management entity complete a cooperative agreement.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 21, 2000.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2511, the Kenai Mountains-Turnagain Arm National Heritage Area Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and Ali Aslam (for federal costs), and Susan Sieg Tompkins (for the state and local impact).

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

S. 2511—Kenai Mountains-Turnagain Arm National Heritage Area Act of 2000

S. 2511 would establish the Kenai Mountains-Turnagain Arm National Heritage Area in Alaska. The heritage area would be managed by a nonprofit corporation consisting of seven local representatives appointed by the Governor of Alaska. The bill would direct the Secretary of the Interior to enter into a cooperative agreement with this management entity to provide technical and financial assistance. The new corporation would develop a management plan for the heritage area designed to help local communities establish and maintain interpretive exhibits and signs, improve trails, and restore historic buildings. For these purposes, the bill would authorize the appropriation of \$350,000 for the first year after enactment, and \$1 million annually thereafter, up to a total of \$10 million.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 2511 would cost \$10 million over the next 10 to 15 years. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 2511 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The state of Alaska and local governments within the state might choose to participate in the planning for and management of the national heritage area, and would incur some costs as a result. Such costs would be voluntary. Participating governments would be eligible to receive grants to cover a portion of the costs associated with those activities. S. 2511 would impose no costs on other state, local, or tribal governments.

The CBO staff contacts are Deborah Reis and Ali Aslam (for federal costs), and Susan Seig Tompkins (for the state and local impact). This estimate was approved by Peter H. Fontaine, 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. 2511. 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. 2511, as ordered reported.

EXECUTIVE COMMUNICATIONS

On May 23, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 2511. These reports had not been received at the time the report on S. 2511 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 and the U.S. Forest Service at the Subcommittee hearing follows:

STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR, CULTURAL RESOURCES STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to present the position of the Department of Interior on S. 2511, a bill to establish the Kenai Mountains-Turnagain Arm National Heritage Corridor Area in the State of Alaska.

The Administration believes that the designation of the Kenai Mountains-Turnagain Arm area of Alaska as a National Heritage Area (NHA) would recognize the nationally distinctive history of the region and, therefore, supports the purpose of S. 2511. The Administration, however, must oppose S. 2511, as currently drafted, but would support the bill if amended to:

- Exclude National Forest lands from the proposed National Heritage Area. Typically, National Heritage Areas consist of non-federal lands, where federal lands are included in NHAs, they do not constitute the overwhelming majority of acreage in the NHA. NHAs are intended primarily to help communities take the initiative themselves to protect and interpret cultural and historic resources on non-federal lands. The appropriate vehicle for managing National Forest lands is the forest land management plan, which relies on public participation and incorporates the interests of the general community.

- Vest the responsibility for providing technical assistance to the management entity and approval of the management plan for the NHA with the Secretary of Agriculture. To the extent that the management entity may wish to draw upon the expertise of the National Park Service, we recommend that the bill be amended to authorize National Park Service, in consultation with the Secretary of Agriculture, to provide such assistance.

- Provide explicitly that, where the management entity's plan conflicts with the management plan for the National Forest lands, the latter document controls. To the extent that a non-federal management entity wishes to invest in projects on federal lands, the conditions for their participation should be consistent with the terms and conditions set forth in section 323 of the FY 1999 Interior and Related Agencies Appropriations Act.

Consistent with the bottom-up approach common to NHA planning, the Administration believes that the affected local communities, not the Federal Government, should determine the membership of the management entity. Nonetheless, membership should reflect all the interests of the community—including environmental interests and, specifically, the interests of Native Alaskans. The Administration therefore, recommends deleting the provision regarding secretarial appointment of management entity representatives and replacing it with standard language re-

quiring a locally-developed management entity to enter into a compact with the Secretary. Management entities are supposed to arise from broad-based community interest and not be top-down designations. It is expected, however, that any management entity would be representative of all local groups, including Native Alaskans.

In addition, we recommend that section 7(b) be revised to make the provision of assistance discretionary, rather than mandatory, and to exclude assistance for administrative, financial, or operations. Although we recognize the need to provide assistance, and intend to do so to the extent possible, there are certain functions that should remain the responsibility of the management entity. Grants funds, rather than agency appropriations, should be available to address basic operational responsibilities.

Finally, we recommend maintaining the 50 percent matching requirement, which is a common requirement in all other Heritage Areas. Keeping Heritage Areas as locally driven entities is a fundamental principle, but that would be difficult to maintain if the Federal Government provided a majority of funding.

Congress has already acknowledged the significance of parts of this region by establishing the Iditarod National Historic Trail and the Seward Highway National Scenic Byway. The heritage area designation wraps these routes into the whole picture of human history in the wider transportation corridor. This heritage area features mountain passes leading into south central and interior Alaska, including early native trade routes, waterway connections across the treacherous Turnagain Arm, the Alaska Railroad and numerous mining trails. Heritage area designation under this bill will greatly enhance our understanding of travel and resource development in the last frontier.

A National Heritage Area is defined as a place where natural, cultural, historic and recreational resources combine to form a nationally distinctive landscape arising from patterns of human activity. Heritage conservation efforts are grounded in a community's pride in its history and traditions, and its interest in seeing them retained. Preserving the integrity of the cultural landscape and local stories means that future generations in communities will be able to understand and define who they are, where they come from, and what ties them to their home. Heritage areas do not require federal ownership of property, but do rely on cooperation and technical assistance from the federal government.

As we have testified before to Congress, there are several steps that should be completed prior to the designation of a heritage area. The four main steps are that the proposal should have a completed suitability/feasibility study; early and frequent public involvement; a demonstration of wide public support and feasibility to implement the project in communities; and commitments from potential partners to support the project.

We believe S. 2511, if amended as the administration proposes, can meet a large portion of the intent and spirit of these steps.

Although a technical suitability/feasibility study has not been done of this area, many of the themes and the areas within this corridor have been extensively studied. The Iditarod National Historic Trail and the Seward Highway National Scenic Byway are important parts of this Corridor, and both were the subject of recent studies that found that the Iditarod Trail and the Seward Highway were nationally significant. To satisfy the technical requirement of a study in this case, we suggest language be added to the bill that would require a suitability and feasibility analysis to take place in the planning process for this area.

In Alaska, the energy and support this proposal has engendered bear witness to not only the fulfillment of the steps outlined above, but to the inspirational quality of the land and its history. More than 24 local and statewide organizations have written to express their support. The small communities within the proposed heritage area support the proposal. Local governments—including the Kenai Peninsula Borough and the Seward City Council—have supported the plan. Statewide visitor organizations, such as the Alaska Visitors Association and the Alaska Wilderness Recreation and Tourism Association have supported the heritage area proposal, as have the Kenai Peninsula Historical Association and the State Historical Commission.

By passage of this bill, Congress will respond to this grassroots support and will give the small communities on the Kenai Peninsula within the heritage area new motivation and means to work together to present the story of their historic region and to interpret and share this part of America's heritage. The heritage area model is working well in many areas in the East—in the Rivers of Steel Heritage Area in Pittsburgh, in the Black Stone River Valley, and in the Hudson Valley. The Kenai Mountains-Turnagain Arm National Heritage Area will be the first in this area, but will follow the model of success seen in other areas.

In summary, the goals of this bill are compatible with the mission of National Heritage Areas elsewhere, there is the requisite local support and commitment of success, and the historic, cultural and natural resources of the area are of national significance. We urge the Committee to adopt the amendments proposed by the Administration and pass the bill at the earliest opportunity.

This concludes my testimony. I would be happy to answer any of your questions.

STATEMENT OF SANDRA KEY, ASSOCIATE DEPUTY CHIEF,
PROGRAMS AND LEGISLATION, U.S.D.A. FOREST SERVICE

Chairman Thomas and members of the subcommittee: Thank you for the opportunity to testify here today on S. 2511 which would establish the Kenai Mountains-Turnagain Arm National Heritage Area in the State of Alaska. The Administration believes that the designation of the Kenai Mountains-Turnagain Arm area of Alaska as a National Heritage Area (NHA) would recognize the nationally distinctive history of the region and, therefore, supports the purpose of S. 2511. The Administration, however, must oppose S. 2511, as currently drafted, but would support the bill if amended to:

- Exclude National Forest lands from the proposed NHA. Typically, NHAs consist of non-federal lands; where federal lands are included in an NHA, they do not constitute the overwhelming majority of acreage in the NHA. NHAs are intended primarily to help communities take the initiative themselves to protect and interpret cultural and historic resources on non-federal lands. The appropriate vehicle for managing National Forest lands is the forest land management plan, which relies on public participation and incorporates the interests of the general community.

- Vest the responsibility for providing technical assistance to the management entity and approval of the management plan for the NHA with the Secretary of Agriculture. To the extent that the management entity may wish to draw upon the expertise of the National Park Service, we recommend that the bill be amended to authorize National Park Service, in consultation with the Secretary of Agriculture, to provide such assistance.

- Provide explicitly that, where the management entity's plan conflicts with the management plan for the National Forest lands, the latter document controls. To the extent that a non-federal management entity wishes to invest in projects on federal lands, the conditions for their participation should be consistent with the terms and conditions set forth in section 323 of the FY 1999 Interior and Related Agencies Appropriations Act.

Consistent with the bottom-up approach common to NHA planning, the Administration believes that the affected local communities, not the Federal Government, should determine the membership of the management entity. Nonetheless, membership should reflect all the interests of the community—including environmental interests and, specifically, the interests of Native Alaskans. The Administration, therefore, recommends deleting the provisions regarding secretarial appointment of management entity representatives and replacing it with standard language requiring a locally-developed management entity to enter into a compact with the Secretary. Management entities are supposed to arise from broad-based community interest and not be top-down designations. It is expected,

however, that any management entity would be representative of all local groups, including Native Alaskans.

In addition, we recommend that section 7(b) be revised to make the provision of assistance discretionary, rather than mandatory, and to exclude assistance for administrative, financial, or operations. Although we recognize the need to provide assistance, and intend to do so to the extent possible, there are certain functions that should remain the responsibility of the management entity. Grants funds, rather than agency appropriations, should be available to address basic operational responsibilities.

Finally, we recommend maintaining the 50 percent matching requirement, which is a common requirement in all other Heritage Areas. Keeping Heritage Areas as locally driven entities is a fundamental principle, but that would be difficult to maintain if the Federal Government provided a majority of funding.

The Administration enthusiastically supports the concepts and goals of this bill:

- to interpret history and culture of the corridor,
- to facilitate public enjoyment of these resources,
- to foster cooperative planning and partnerships among communities, state and federal governments.

We embrace the idea of a heritage area and believe that the rich history, spectacular natural resource values and community support merit recognition in a designation of a heritage area.

The bill, as written, could be interpreted as putting federal land management decisions in the hands of a non-federal board of directors, a board that does not represent the full spectrum of viewpoints on resource management.

S. 2511 also brings into question the legal status of the lands involved in the Heritage Area. Under the bill, as written, it is unclear whether this land continues to be subject to the laws and regulations pertaining to the national forests. If this substantial area is effectively removed from the National Forest System, then rights established under a number of laws, including the National Forest Organic Act, the Alaska Statehood Act, ANCSA and ANILCA could be affected. If there is a change in national forest status, then payments to the State of Alaska and local government entities could also be affected. If the bill results in a change in national forest status, then multiple use management and planning under the National Forest Management Act (NFMA) may no longer apply. Likewise, the public's use of the Chugach National Forest, under existing laws could be questioned.

We concur with the eloquent description of the Kenai Mountains-Turnagain Arm area's history, heritage and natural resources in the testimony of the Department of the Interior.

Grassroots efforts

The Kenai Peninsula Historical Society has worked tirelessly to bring the concept of a heritage corridor for this

area into reality. When the staff of the Chugach National Forest became aware of the Kenai Peninsula Historical Society's efforts to designate the western third of the National Forest as a National Heritage Corridor, we began to work with the group to incorporate their goals into our forest plan revision. Approximately 80% of the land within the proposed Corridor is Chugach National Forest. The Administration supports the Kenai Peninsula Historical Society's energy and enthusiasm as it dovetails with Forest Service emphasis to support and assist local communities on the Kenai. The Chugach National Forest planning team is strongly considering incorporating a goal and several objectives in the proposed plan that directly address the Kenai Peninsula Historical Society's interests. We encourage proponents to continue working with the planning team.

Predominant land management/local community commitment

For a Heritage Area designation in the vicinity of the Chugach National Forest, we believe that the Secretary Agriculture, would be the most effective and appropriate Secretary to be vested with responsibility for providing technical assistance to the management entity and approval of the management plan. The proposed Heritage Corridor of about 1.3 million acres encompasses about 1 million acres of the Chugach National Forest. The Heritage Corridor is surrounded by the remainder of the Chugach's over 5.3 million acres. The Forest Service, as the predominant local land manager, has well established community ties.

The Forest Service shares many of the goals and objectives expressed by the proponents for the Heritage Corridor designation. We often work in partnership with a variety of organizations, such as our interpretative partnership with the Kenaitze Indian Tribe at Footprints, and our collaboration with the Alaska Department of Transportation and the Hope-Sunrise Historical Society to relocate mining cabins and a Forest Service guard station, during reconstruction of the Seward Highway.

Like the Park Service, the Forest Service has employees with the skills and experience needed to support and guide a Heritage Corridor effort. We also value heritage resources and consider it part of our mission to preserve them and interpret them to the public. Our Chugach Design Center is renowned for its design work on interpretive displays, maps and publications. Chugach National Forest employees at the ranger districts in Seward and Girdwood and Supervisor's Office employees in Anchorage work daily with local community groups in project and forest planning efforts. They support those communities' efforts with grants through the state and private forestry programs for economic development. The Chugach National Forest's commitment already exists.

In conclusion

The Department of Agriculture opposes S. 2511 as it is written but would support the bill if amended to:

- exclude National Forest lands from the Heritage Area,
- vest responsibility for providing technical assistance and management plan approval with the Secretary of Agriculture and allow the Park Service, in consultation with the Secretary of Agriculture, to provide technical assistance, and
- explicitly provide that if the management entity's plan conflicts with the Chugach National Forest Plan, the Forest Plan controls.

I would be happy to answer any questions you may 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. 2511, as ordered reported.

