

## Calendar No. 538

115TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 115-319

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### ACADIA NATIONAL PARK BOUNDARY CLARIFICATION ACT

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AUGUST 15, 2018.—Ordered to be printed

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

### R E P O R T

[To accompany S. 2102]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2102) 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.

### AMENDMENTS

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 Boundary Clarification Act”.

#### SEC. 2. ACADIA NATIONAL PARK BOUNDARY CLARIFICATION.

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

(1) in the first sentence, by striking “In order to” and inserting the following: “(a) BOUNDARIES.—Subject to subsections (b) and (c)(2), to”;

(2) in the second sentence—

(A) by striking “The map shall be on file” and inserting the following:

“(c) AVAILABILITY AND REVISIONS OF MAPS.—

“(1) AVAILABILITY.—The map, together with the map described in subsection (b)(1) and any revised boundary map published under paragraph (2), if applicable, shall be—

“(A) on file”; and

(B) by striking “Interior, and it shall be made” and inserting the following: “Interior; and

“(B) made”;

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following:

“(b) SCHOODIC PENINSULA ADDITION.—

“(1) IN GENERAL.—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.

“(2) RATIFICATION AND APPROVAL OF ACQUISITIONS OF LAND.—Congress ratifies and approves—

“(A) effective as of September 26, 2013, the acquisition by the United States of the land and interests in the land described in paragraph (1); and

“(B) effective as of the date on which the alteration occurred, any alteration of the land or interests in the land described in paragraph (1) that is held or claimed by the United States (including conversion of the land to fee simple interest) that occurred after the date described in subparagraph (A).”; and

(4) in subsection (c) (as designated by paragraph (2)(A)), by adding at the end the following:

“(2) TECHNICAL AND LIMITED REVISIONS.—Subject to section 102(k), notwithstanding any other provision of this section, the Secretary of the Interior (referred to in this title as the ‘Secretary’), by publication in the Federal Register of a revised boundary map or other description, may make—

“(A) such technical boundary revisions as the Secretary determines to be appropriate to the permanent boundaries of the Park (including any property of the Park located within the Schoodic Peninsula and Isle Au Haut districts) to resolve issues resulting from causes such as survey error or changed road alignments; and

“(B) such limited boundary revisions as the Secretary determines to be appropriate to the permanent boundaries of the Park to take into account acquisitions or losses, by exchange, donation, or purchase from willing sellers using donated or appropriated funds, of land adjacent to or within the Park, respectively, in any case in which the total acreage of the land to be so acquired or lost is less than 10 acres, subject to the condition that—

“(i) any such boundary revision shall not be a part of a more-comprehensive boundary revision; and

“(ii) all such boundary revisions, considered collectively with any technical boundary revisions made pursuant to subparagraph (A), do not increase the size of the Park by more than a total of 100 acres, as compared to the size of the Park on the date of enactment of this paragraph.”.

### SEC. 3. LIMITATION ON ACQUISITIONS OF LAND FOR ACADIA NATIONAL PARK.

Section 102 of Public Law 99–420 (16 U.S.C. 341 note) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “of the Interior (hereinafter in this title referred to as ‘the Secretary’)”;

(2) in subsection (d)(1), in the first sentence, by striking “the the” and inserting “the”;

(3) in subsection (k)—

(A) by redesignating the subsection as paragraph (4) and indenting the paragraph appropriately; and

(B) by moving the paragraph so as to appear at the end of subsection (b); and

(4) by adding at the end the following:

“(k) REQUIREMENTS.—Before revising the boundaries of the Park pursuant to this section or section 101(c)(2)(B), the Secretary shall—

“(1) certify that the proposed boundary revision will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of the Park;

“(2) consult with the governing body of each county, city, town, or other jurisdiction with primary taxing authority over the land or interest in land to be acquired regarding the impacts of the proposed boundary revision;

“(3) obtain from each property owner the land or interest in land of which is proposed to be acquired for, or lost from, the Park written consent for the proposed boundary revision; and

“(4) submit to the Acadia National Park Advisory Commission established by section 103(a), the Committee on Natural Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Maine Congressional Delegation a written notice of the proposed boundary revision.

“(l) LIMITATION.—The Secretary may not use the authority provided by section 100506 of title 54, United States Code, to adjust the permanent boundaries of the Park pursuant to this title.”.

**SEC. 4. ACADIA NATIONAL PARK ADVISORY COMMISSION.**

(a) **IN GENERAL.**—The Secretary 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).

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

**SEC. 5. REPEAL OF CERTAIN PROVISIONS RELATING TO ACADIA NATIONAL PARK.**

The following are repealed:

(1) Section 3 of the Act of February 26, 1919 (40 Stat. 1178, chapter 45).

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

**SEC. 6. MODIFICATION OF USE RESTRICTION.**

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 land shall not degrade or adversely impact the resources or values of Acadia National Park and that the land shall remain in public ownership for recreational, educational, or similar public purposes”.

**SEC. 7. CONTINUATION OF CERTAIN TRADITIONAL USES.**

Title I of Public Law 99–420 (16 U.S.C. 341 note) is amended by adding at the end the following:

**“SEC. 109. CONTINUATION OF CERTAIN TRADITIONAL USES.**

“(a) **DEFINITIONS.**—In this section:

“(1) **LAND WITHIN THE PARK.**—The term ‘land within the Park’ means land owned or controlled by the United States—

“(A) that is within the boundary of the Park established by section 101;

or

“(B)(i) that is outside the boundary of the Park; and

“(ii) in which the Secretary has acquired a property interest or conservation easement pursuant to this title.

“(2) **MARINE SPECIES; MARINE WORM; SHELLFISH.**—The terms ‘marine species’, ‘marine worm’, and ‘shellfish’ have the meanings given those terms in section 6001 of title 12 of the Maine Revised Statutes (as in effect on the date of enactment of this section).

“(3) **STATE LAW.**—The term ‘State law’ means the law (including regulations) of the State of Maine, including the common law.

“(4) **TAKING.**—The term ‘taking’ means the removal or attempted removal of a marine species, marine worm, or shellfish from the natural habitat of the marine species, marine worm, or shellfish.

“(b) **CONTINUATION OF TRADITIONAL USES.**—The Secretary shall allow for the traditional taking of marine species, marine worms, and shellfish, on land within the Park between the mean high watermark and the mean low watermark in accordance with State law.”.

**SEC. 8. CONVEYANCE OF CERTAIN LAND IN ACADIA NATIONAL PARK TO THE TOWN OF BAR HARBOR, MAINE.**

(a) **IN GENERAL.**—The Secretary shall convey to the Town of Bar Harbor all right, title, and interest of the United States in and to the .29-acre parcel of land in Acadia National Park identified as lot 110–055–000 on the tax map of the Town of Bar Harbor for section 110, dated April 1, 2015, to be used for a solid waste transfer facility.

(b) **REVERSION.**—If the land conveyed under subsection (a) is used for a purpose other than the purpose described in that subsection, the land shall, at the discretion of the Secretary, revert to the United States.

**PURPOSE**

The purpose of S. 2102 is to clarify the boundary of Acadia National Park and to make other modifications to Acadia National Park management authorities.

## 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 hosts over 3.5 million visitors annually.

In November 2015, the National Park Service (NPS) accepted a donation from the National Park Foundation of 1,441 acres adjacent to the Schoodic Peninsula for inclusion in the Park. 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. Although 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 by some. Opposition to the inclusion of the addition was primarily based on the common assumption that the park had a permanent boundary. This assumption was based on the fact that in 1986, Congress approved a permanent boundary for Acadia National Park (Public Law 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 to adjust the boundary, regardless of the level of community support.

NPS claimed authority under a 1929 law to expand the Park's boundary and accepted the donation of the 1,441 acres (45 Stat. 1083, chapter 77) rather than seek another Act of Congress. 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 notice in the Federal Register.

Although the Department of the Interior asserted legal authority to accept the donation of land for addition to the Park, many local communities objected to the process that NPS used to acquire the property. S. 2102 seeks to clarify the situation by ratifying the prior donation by statute while clarifying that any future additions or large boundary modifications require an Act of Congress. S. 2102 would also specifically allow limited future technical boundary corrections of less than 10 acres each, with all revisions taken together not to increase the acreage of the park by more than 100 acres. Before revising the boundaries of the Park pursuant to the bill, the Secretary would be required to: certify that the boundary revision will contribute to and is necessary for proper preservation, protection, interpretation or management of the park; consult with local authorities as specified; obtain written consent from specified property owners; and provide written notice to the Acadia National Park Advisory Commission, the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Maine Congressional delegation.

S. 2102 would resolve other local issues relating to the operation and maintenance of Acadia National Park. These include perma-

nently reauthorizing the Acadia National Park Advisory Commission, modifying existing land use restrictions in areas of the park, and allowing for an area previously set aside for a public school to be used for additional public purposes, as the tract is no longer needed for a school.

S. 2102 would also clarify that traditional harvesting of marine species, marine worms, and shellfish within park boundaries and any adjacent areas where the Secretary may have a property interest or conservation easement is an allowable activity. In Maine, unlike most states, the intertidal zone between the mean high watermark and the mean low watermark belongs to the owner of the adjacent upland rather than the state. A colonial ordinance adopted by the Massachusetts Bay Colony in 1641, when Maine was still part of Massachusetts, provided that the owner of the upland held title to the adjoining intertidal zone subject to the public's right to fish in the intertidal zone. Although the colonial ordinance is no longer in effect, the Supreme Court of Maine long ago held that the public right of fishing afforded by the colonial ordinance was a rule of Massachusetts common law when Maine became a state in 1820 and was incorporated into the common law of Maine pursuant to the Maine Constitution at that time.

Although Maine law has given the public the right to harvest marine species in the intertidal zone since statehood, the NPS currently prohibits this activity within Acadia National Park pursuant to its statutory responsibility to protect park resources. To alleviate the conflict between the public's common law right and National Park Service regulations, S. 2102 would make it clear that the National Park Service, like any other owner of land adjacent to the intertidal zone, must allow the public to collect marine species, marine worms, and shellfish in accordance with Maine law in the intertidal zone within the boundaries of Acadia National Park or on lands owned or controlled by the National Park Service in which it has a property interest or conservation easement.

Finally, S. 2102 would convey a .29-acre parcel of land in Acadia National Park to the town of Bar Harbor, Maine, to be used as a solid waste transfer facility for the benefit of the park and local communities. If this parcel is used for a purpose other than as a solid waste transfer facility, it shall, at the discretion of the Secretary, revert to the United States.

#### LEGISLATIVE HISTORY

Senators King and Collins introduced S. 2102, the Acadia National Park Boundary Clarification Act, on November 8, 2017. The Subcommittee on National Parks held a hearing on S. 2102 on February 14, 2018.

A similar measure, H.R. 4266 was introduced by Rep. Poliquin in the House of Representatives on November 7, 2017. The Natural Resources Subcommittee on Federal Lands held a hearing on H.R. 4266 on November 15, 2017. The Natural Resources Committee reported the bill on December 13, 2017 (H. Rept. 115-526).

The Committee on Energy and Natural Resources met in open business session on May 17, 2018, and ordered S. 2102 favorably reported, as amended.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 17, 2018, by a majority voice vote of a quorum present recommends that the Senate pass S. 2102, if amended as described herein.

## COMMITTEE AMENDMENT

During its consideration of S. 2102, the Committee adopted an amendment in the nature of a substitute that is further described in the section-by-section analysis.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Section 1 sets forth a short title.

*Section 2. Acadia National Park boundary clarification*

Section 2 clarifies the boundary of Acadia National Park, specifically incorporating the Schoodic Peninsula Addition, and confirming that the Park includes 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. This section amends Public Law 99–420 to ratify and approve the Schoodic Peninsula addition. In addition, section 2 provides for future technical and limited boundary revisions to the park boundary, by permitting the Secretary of the Interior, by publication in the Federal Register, to make certain boundary revisions and ensuring that such adjustments are limited in scope to less than 10 acres each, are not part of a more comprehensive boundary adjustment plan, and do not increase the size of the Park by more than 100 acres as compared to the size of the park on the date of enactment.

*Section 3. Limitation on acquisitions of land for Acadia National Park*

Section 3 amends section 102 of Public Law 99–420 (16 U.S.C. 341 note) by reformatting paragraphs, removing duplicative language, and adding two new sections at the end: “REQUIREMENTS.” which sets forth due-diligence the Secretary must perform before revising the boundaries of the park, and “LIMITATION.” which clarifies that the Secretary may not use the authority provided by section 100506 of title 54, U.S.C., to adjust the permanent boundaries of the Park pursuant to this title.

The added “REQUIREMENTS” provision mandates that the Secretary shall (1) certify that the proposed revision will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of the Park; (2) consult with the governing body of each county, city, town, or other jurisdiction with primary taxing authority over, or interest in, the land to be acquired regarding impacts of the proposed revision; (3) obtain written consent for the proposed boundary revision from each property owner that is a party to the revision; and (4) submit written notice of the proposed boundary revision to the Acadia National Park Commission,

the Committee on Natural Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Maine Congressional Delegation before revising the boundaries of the park.

*Section 4. Acadia National Park Advisory Commission*

Section 4 instructs the Secretary to reestablish and appoint members to the Acadia National Park Advisory Commission in accordance with section 103 of P.L. 99-420 (16 U.S.C. 341 note) and amends section 103 of Public Law 99-420 by striking subsection (f), which terminates the Commission.

*Section 5. Repeal of certain provisions relating to Acadia National Park*

Section 5 repeals section 3 of the Act of February 26, 1919 (40 Stat. 1178, chapter 45), which authorizes the Secretary to accept property donations on Mount Desert Island in Maine, and section 1 of the Act of January 19, 1929 (45 Stat. 1083, chapter 77), which authorizes the Secretary to accept property donations for the extension of Lafayette National Park in Maine.

*Section 6. Modification of use restriction*

Section 6 amends the Act of August 1, 1950 (64 Stat. 383, chapter 511), so that certain land in Acadia National Park that was conveyed to the town of Tremont, Maine by the Secretary is no longer exclusively used for school purposes, but for public purposes subject to conditions that use of the land does not degrade or adversely impact the resources or values of Acadia National Park, and that the land remains in public ownership for recreational, educational, or similar public purposes.

*Section 7. Continuation of certain traditional uses*

Section 7 amends Title I of Public Law 99-420 (16 U.S.C. 341 note) by adding "SEC. 109. CONTINUATION OF CERTAIN TRADITIONAL USES."

The new section provides relevant definitions related to the continuation of traditional activities within the Park and on lands in which the Secretary has acquired a property interest or conservation interest. The Secretary shall allow for the traditional taking of marine species, marine worms, and shellfish on land within the Park between the mean high watermark and the mean low watermark in accordance with State law.

*Section 8. Conveyance of certain land in Acadia National Park to the Town of Bar Harbor, Maine*

Section 8 instructs the Secretary to convey specified land to the Town of Bar Harbor for use as a solid waste transfer facility. If the conveyed land is used for a purpose other than as a solid waste transfer facility, the Secretary is authorized to revert the conveyed land back to the United States.

COST AND BUDGETARY CONSIDERATIONS

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

S. 2102 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 would require the NPS to allow traditional harvesting of marine species within and near park boundaries in accordance with the laws of the state of Maine. Finally, S. 2102 would require the NPS to convey a 0.29-acre parcel of land located within the park to the Town of Bar Harbor.

Based on the budgets for Acadia National Park and other units of the National Park System, CBO estimates that allowing traditional harvesting activities would lead to an increase in management, monitoring, and enforcement costs at the park, but such costs would total less than \$500,000 over the 2019–2023 period. In addition, using information from the NPS, CBO estimates that the agency would incur roughly \$50,000 in administrative costs associated with the land conveyance to the Town of Bar Harbor. Such spending would be subject to the availability of appropriated funds.

Enacting S. 2102 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 2102 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 2102 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On December 21, 2017, CBO transmitted a cost estimate for H.R. 4266, the Acadia National Park Boundary Clarification Act, as ordered reported by the House Committee on Natural Resources on December 13, 2017. The pieces of legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed 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. 2102. 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. 2102, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 2102, 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 Department of the Interior at the February 14, 2018, hearing on S. 2102 follows:

STATEMENT OF P. DANIEL SMITH, DEPUTY DIRECTOR, EXERCISING THE AUTHORITY OF THE DIRECTOR OF THE NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Chairman Daines, Ranking Member King, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views on S. 2102, to clarify the boundary of Acadia National Park, and for other purposes.

The Department supports this legislation. S. 2102 contains changes that address the Department's concerns about the original version's (S. 257) provisions on park boundary authority and traditional harvesting authority in Acadia National Park. We appreciate the willingness of the bill sponsor, Ranking Member King, and the other members of the Maine delegation, to work with us to resolve these concerns.

Section 2 of S. 2102 would confirm in statute that the boundary of Acadia National Park now also includes the approximately 1,441-acre Schoodic Woods property that was donated to the National Park Service (NPS) in 2015.

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 NPS 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.

We understand 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). Section 2 would allay those concerns and we support this section.

Section 3 provides that, although generic minor boundary adjustment authority could not be used at Acadia, the NPS would have a park-specific authority to make technical boundary revisions and other limited boundary revisions involving up to 10 acres of land. The legislation additionally provides that all such revisions taken together may not increase the size of the park by more than a total of 100 acres over the size of the park on the date of enactment of this bill.

This provision will allow the NPS to address encroachments due to mistaken surveys, rationalize boundary lines, and otherwise resolve real-world land ownership dilemmas that have an impact on neighboring landowners. We understand the desire of the Maine delegation and the communities around Acadia to limit changes to the park

boundaries established in 1986 and we appreciate the sponsor's pragmatic approach to this issue.

Section 4 would authorize the Secretary, subject to the availability of prior appropriations, to contribute \$350,000 to a regional consortium of local governments, on or near Mount Desert Island that is established to improve the management of the disposal and recycling of solid waste. The 1986 law required the Secretary to contribute the lesser of \$350,000 or 50% of the cost of the construction of a waste transfer facility that would benefit the park as well as the local towns. This funding was never appropriated and construction of a facility is no longer needed, but there is local interest in converting the \$350,000 authorization for construction into a federal payment for municipal waste disposal. We support section 4.

Section 5 would permanently authorize the Acadia National Park Advisory Commission. The Department recognizes the important work of the Acadia National Park Advisory Commission (Commission). The Commission advises the Secretary of the Interior on matters relating to the management and development of the park. The 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.

Section 6 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. The intent of this section is to ensure that the boundaries of the park cannot be enlarged beyond the lines drawn in 1986 through a donation of land, except for limited boundary revisions that are authorized through Section 3 of this Act. We support section 6.

Section 7 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, subject to the condition that use of the land shall not degrade or adversely impact the resources or values of Acadia National Park and that the lands shall remain in public ownership for recreational, educational, or similar public purposes.

Public Law 81-629 permitted the NPS to convey a parcel identified as NPS Tract 06-126 to the town to locate a new school. 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 and we support this section.

Section 8 provides that the Secretary shall allow the traditional harvesting of marine species in Acadia and outside

of the park where the NPS has a property interest. The provision would allow for the harvesting of marine worms, shellfish, and other marine species (as defined by Maine Revised Statutes in effect on the date of enactment of this Act). The Department supports this provision to allow traditional harvesting of clams and worms in the intertidal areas of the park to continue.

Finally, Section 9 would require the Secretary to convey to the Town of Bar Harbor a 0.29-acre parcel of land for the construction of a solid waste transfer facility. The Department supports this section and the overall intent of the legislation.

#### 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):

#### PUBLIC LAW 99-420

#### A BILL TO ESTABLISH A PERMANENT BOUNDARY FOR THE ACADIA NATIONAL PARK IN THE STATE OF MAINE, AND FOR OTHER PURPOSES

\* \* \* \* \*

#### TITLE I

#### SEC. 101. BOUNDARIES OF ACADIA NATIONAL PARK.

**[In order to]**

(a) *BOUNDARIES.*—*Subject to subsections (b) and (c)(2), 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]*

(b) *SCHOODIC PENINSULA ADDITION.*—

(1) *IN GENERAL.*—*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.*

(2) *RATIFICATION AND APPROVAL OF ACQUISITIONS OF LAND.*—*Congress ratifies and approves—*

(A) *effective as of September 26, 2013, the acquisition by the United States of the land and interests in the land described in paragraph (1); and*

(B) *effective as of the date on which the alteration occurred, any alteration of the land or interests in the land described in paragraph (1) that is held or claimed by the United States (including conversion of the land to fee sim-*

ple interest) that occurred after the date described in subparagraph (A).”

(c) **AVAILABILITY AND REVISIONS OF MAPS.**—

(1) **AVAILABILITY.**—*The map, together with the map described in subsection (b)(1) and any revised boundary map published under paragraph (2), if applicable, shall be—*

(A) *on file and available for public inspection in the offices of the National Park Service, Department of the [Interior, and it shall be made] Interior; and*

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

(2) **TECHNICAL AND LIMITED REVISIONS.**—*Subject to section 102(k), notwithstanding any other provision of this section, the Secretary of the Interior (referred to in this title as the “Secretary”), by publication in the Federal Register of a revised boundary map or other description, may make—*

(A) *such technical boundary revisions as the Secretary determines to be appropriate to the permanent boundaries of the Park (including any property of the Park located within the Schoodic Peninsula and Isle Au Haut districts) to resolve issues resulting from causes such as survey error or changed road alignments; and*

(B) *such limited boundary revisions as the Secretary determines to be appropriate to the permanent boundaries of the Park to take into account acquisitions or losses, by exchange, donation, or purchase from willing sellers using donated or appropriated funds, of land adjacent to or within the Park, respectively, in any case in which the total acreage of the land to be so acquired or lost is less than 10 acres, subject to the condition that—*

(i) *any such boundary revision shall not be a part of a more-comprehensive boundary revision; and*

(ii) *all such boundary revisions, considered collectively with any technical boundary revisions made pursuant to subparagraph (A), do not increase the size of the Park by more than a total of 100 acres, as compared to the size of the Park on the date of enactment of this paragraph.*

**SEC. 102. LANDS WITHIN BOUNDARIES.**

(a) The Secretary [of the Interior (hereinafter in this title referred to as “the Secretary”)] is authorized to acquire lands and interests therein within the boundaries of the Park by donation, exchange (in accordance with this section), or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein owned by the State of Maine or any political subdivision thereof may be acquired only by donation or exchange; and

(2) privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary determines that the property is being developed or proposed to be developed in a manner which is detrimental to the scenic, historical, cultural, and other values for which the Park was established.

(b)(1) Not later than 6 months after the enactment of this Act [Sept. 25, 1986], the Secretary shall publish specific guidelines

under which determinations shall be made under subsection (a)(2). The Secretary shall provide adequate opportunity for public comment on such guidelines. The guidelines shall provide for notice to the Secretary prior to commencement of any proposed development within the boundaries of the Park. The Secretary shall provide written notice to the owner of the property of any determination proposed to be made under subsection (a)(2) and shall provide the owner a reasonable opportunity to comment on such proposal.

(2) For purposes of this section, except as provided in paragraph (3), development or proposed development of private property within the boundaries of the Park that is significantly different from, or a significant expansion of, development existing as of November 1, 1985, shall be considered by the Secretary as detrimental to the values for which the Park was established.

(3) Reconstruction or expansion of a private or commercial building shall not be treated as detrimental to the Park or as an incompatible development within the meaning of this section if such reconstruction or expansion is limited to one or more of the following:

(A) Reconstruction of an existing building.

(B) Construction of attached or accessory structural additions, which do not exceed 25 per centum of the square footage of the principal structure.

(C) Construction of reasonable support development such as roads, parking facilities, water and sewage systems, and dock facilities.

(c)(1) The owners of any private property within the Park may, on the date of its acquisition by the Secretary and as a condition of such acquisition, retain for himself and his successors or assigns a right to use and occupancy for a definite term of not more than 25 years, or ending at the death of the owner, or his spouse, whichever is later. The owners shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the right retained by the owner.

(2) Any such right retained pursuant to this subsection shall be subject to such terms and conditions as the Secretary may prescribe and may be terminated by the Secretary upon his determination and after reasonable notice to the owner thereof that such property is being used for any purpose which is incompatible with the administration of the Park or with the preservation of the resources therein. Such right shall terminate by operation of law upon notification to the owner by the Secretary and tendering to the owner the amount equal to the fair market value of that portion which remains unexpired.

(d)(1) In exercising his authority to acquire lands by exchange pursuant to this title, the Secretary may accept title to non-Federal property located within [the the] *the* boundary of the Park and may convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which lies outside said boundary and depicted on the map. Properties so exchanged shall be approximately equal in value, as determined by the Secretary, except that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the value of the properties exchanged.

(2) Federally owned property under jurisdiction of the Secretary referred to in paragraph (1) of this subsection shall be conveyed to the towns in which the property is located without encumbrance and without monetary consideration, except that no town shall be eligible to receive such lands unless lands within the Park boundary and owned by the town have been conveyed to the Secretary.

(e) Notwithstanding any other provision of this section, lands depicted on the map referenced in section 101 and identified as 10DBH and 11DBH known as the "Bar Harbor Sewage Treatment Plant"; 14DBH known as the "New Park Street Ballfield"; and 15DBH known as the "Former Park Headquarters"; shall be conveyed by the Secretary, without monetary consideration, to the town of Bar Harbor, Maine, within 180 days following the enactment of this Act. The real property conveyed pursuant to this subsection shall be used and retained by the town for municipal and public purposes. Title to the properties conveyed pursuant to this subsection shall revert to the United States if such property or any portion thereof is conveyed by the town to another party or used for purposes other than those specified in this subsection.

(f) Notwithstanding any other provision of this section, land depicted on the map identified as 4DBH, located in the village of Town Hill, Maine, shall be conveyed by the Secretary without monetary consideration, to the town of Bar Harbor, Maine, as soon as practicable following the enactment of this Act, subject to such terms and conditions, including appropriate reversionary provisions, as will in the judgment of the Secretary provide for the development and use of such property by any town which so desires as a solid waste transfer station in accordance with a plan that is satisfactory to the town and the Secretary. The Secretary shall (subject to the availability of prior appropriations) contribute toward the cost of constructing such transfer station the lesser of—

(1) \$350,000, or

(2) 50 per centum of the cost of such construction.

(g) Notwithstanding any other provision of this section, the Secretary is authorized to acquire by donation or exchange lands or interests therein in the area identified on the map as 'Schooner Head', which is outside the boundary of the park. The Secretary is further authorized to acquire conservation easements on such lands by purchase with donated or appropriated funds if he determines after written notice to the owner and after providing a reasonable opportunity to comment on such notice, that the property is being developed or proposed to be developed in a manner which is significantly different from or a significant expansion of development existing as of November 1, 1985, as defined in subsection (b) of this section.

(h)(1) The Secretary is authorized to acquire conservation easements by purchase from a willing seller or by donation on parcels of land adjacent to the Park on Schoodic Peninsula, the islands of Hancock County, and the islands of Knox County east and south of the Penobscot Ship Channel, except such islands as lie within the town of Isle au Haut, Knox County. Parcels subject to conservation easements acquired or accepted by the Secretary under this subsection must possess one or more of the following characteristics:

- (A) important scenic, ecological, historic, archeological, or cultural resources;
  - (B) shorefront property; or
  - (C) largely undeveloped entire islands.
- (2) Conservation easements acquired pursuant to this subsection shall—
- (A) protect the respective scenic, ecological, historic, archeological, or cultural resources existing on the parcels;
  - (B) preserve, through setback requirements or other appropriate restrictions, the open, natural, or traditional appearance of the shorefront when viewed from the water or from other public viewpoints; or
  - (C) limit year-round and seasonal residential and commercial development to activities consistent with the preservation of the islands' natural qualities and to traditional resource-based land use including, but not limited to, fishing, farming, silviculture, and grazing.
- (3) In determining whether to accept or acquire conservation easements pursuant to this subsection, the Secretary shall consider the following factors:
- (A) the resource protection benefits that would be provided by the conservation easement;
  - (B) the public benefit that would be provided by the conservation easement;
  - (C) the significance of the easement in relation to the land planning objectives of local government and regional and State agencies;
  - (D) the economic impact of the conservation easement on local livelihoods, activities, and government revenues; and
  - (E) the proximity of the parcel to the boundary of the Park and to other parcels on which the Secretary maintains conservation easements.
- (4) For purposes of this subsection, the term 'conservation easement' means a less-than-fee interest in land or a conservation restriction as defined in section 476 through 479-B inclusive, as amended, of title 33 of the Maine Revised Statutes of 1964, as in effect on the date of the enactment of this Act.
- (5) No easement may be acquired by the Secretary under this subsection without first consulting with, and providing written notification to, the town in which the land is located and the Acadia National Park Advisory Commission established by section 103 of this title. In providing such notification, the Secretary shall indicate the manner and degree to which the easement meets the criteria provided in this subsection.
- (i) Nothing in this section shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.
  - (j)(1) Notwithstanding any other provision of this section, the Secretary shall accept an offer of the following from the Jackson Laboratory (a not-for-profit corporation organized under the laws of Maine):
    - (A) Lands depicted on the map as 55 A ABH which are held in fee by the Jackson Laboratory.
    - (B) A conservation easement on lands depicted on the map identified as 55 ABH (the developed property known as

“Highseas”). The easement shall prohibit subdivision of such land or any further significant development on such lands, except as permitted by the guidelines published under section 102(b)(1).

(2) Upon receipt of the lands and easement described in paragraph (1), the Secretary shall transfer to the Jackson Laboratory the lands depicted on the map as 8 DBH and 9 DBH. Any disparity in the fair market value of the lands and easement referred to in paragraph (1) and the lands described in the preceding sentence shall be equalized as provided in section 102(d)(1).

[(k)] (4) For purposes of subsection (a)(2), the construction of one single family residence on Burnt Porcupine Island by the owner of the Island shall not be treated as detrimental to the scenic, historic, cultural, or other values for which the park was established if, before such construction commences, the Secretary has reviewed and approved plans for the size, location and architectural design of the structure.

(k) *REQUIREMENTS.—Before revising the boundaries of the Park pursuant to this section or section 101(c)(2)(B), the Secretary shall—*

*(1) certify that the proposed boundary revision will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of the Park;*

*(2) consult with the governing body of each county, city, town, or other jurisdiction with primary taxing authority over the land or interest in land to be acquired regarding the impacts of the proposed boundary revision;*

*(3) obtain from each property owner the land or interest in land of which is proposed to be acquired for, or lost from, the Park written consent for the proposed boundary revision; and*

*(4) submit to the Acadia National Park Advisory Commission established by section 103(a), the Committee on Natural Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Maine Congressional Delegation a written notice of the proposed boundary revision.*

(l) *LIMITATION.—The Secretary may not use the authority provided by section 100506 of title 54, United States Code, to adjust the permanent boundaries of the Park pursuant to this title.”*

#### **SEC. 103. ADVISORY COMMISSION.**

(a) There is hereby established an Acadia National Park Advisory Commission (hereinafter referred to as “the Commission”). The Commission shall be composed of 16 members appointed by the Secretary as follows:

(1) 3 members at large.

(2) 3 members appointed from among individuals recommended by the Governor of Maine.

(3) 4 members, appointed from among individuals recommended by each of the four towns on the island of Mount Desert.

(4) 3 members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton.

(5) 3 members, appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.



(b) The terms of the Commission members shall be 3 years except that, for initial appointments under each paragraph, one member shall serve for a term of one year, and one member shall serve for a term of 2 years.

(c) The Commission shall elect its own chairman and adopt its own bylaws. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(d) Members of the Commission shall serve without compensation as such, except that the Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this title.

(e) The Secretary shall consult with the Commission on matters relating to the management and development of the Park, including but not limited to each of the following:

(1) The acquisition of lands and interests in lands (including conservation easements on islands).

(2) Termination of rights of use and occupancy.

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

**SEC. 104. BEAR ISLAND.**

(a) Notwithstanding any other provision of law, Federal property located on Bear Island in the town of Cranberry Isle shall, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of the title. Such Federal property shall not be developed by the Secretary in a manner which would provide for or encourage intensive visitor use.

(b) The Secretary is authorized to make improvements to the Federal property on Bear Island as he deems appropriate for the protection of adjacent private property.

**SEC. 105. TOWN OF ISLE AU HAUT.**

The provisions of this title shall not apply to those portions of the Park lying within the Town of Isle au Haut, Maine, which lands shall continue to be governed by the provisions of Public Law 97-335.

**SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

(a) Effective October 1, 1986, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, but not to exceed \$9,100,000 for acquisition of lands and interests therein.

(b) For the purposes of paragraph 7(a)(3) of the Land and Water Conservation Fund Act of 1965, as amended ([former] 16 U.S.C. 4601-9) [now 54 U.S.C. 200306(a)(4)], the statutory ceiling provided in subsection (a) shall be deemed to have been enacted prior to the convening of the Ninety-fifth Congress [Jan. 4, 1977].

(c) ADDITIONAL FUNDING.—In addition to such sums as have been heretofore appropriated, there is hereby authorized \$10,000,000 for acquisition of lands and interests therein.

**SEC. 107. PAYMENTS TO LOCAL GOVERNMENTS.**

(a) Notwithstanding the limitation in subsection 3(d) of the Act of October 20, 1976 (90 Stat. 2662) payments in the manner provided in section 3 of that Act [see 31 U.S.C. 6904(b)] shall be made

to the appropriate units of local government having jurisdiction over lands with the boundary of the Park. Such payments shall be made only for a period of 12 years.

(b) Payments received by the units of local government pursuant to this section shall be used only for fire protection, police protection, solid waste management, and road maintenance and improvement.

(c) Payments pursuant to this section may be made only from funds appropriated therefor. Such payments shall be in addition to and not in place of any other funds or form of Federal assistance to which the units of local government are entitled.

**SEC. 108. INTERMODAL TRANSPORTATION CENTER.**

(a) IN GENERAL.—The Secretary may provide assistance in the planning, construction, and operation of an intermodal transportation center located outside of the boundary of the Park in the town of Trenton, Maine to improve the management, interpretation, and visitor enjoyment of the Park.

(b) AGREEMENTS.—To carry out subsection (a), in administering the intermodal transportation center, the Secretary may enter into interagency agreements with other Federal agencies, and, notwithstanding chapter 63 of title 31, United States Code, cooperative agreements, under appropriate terms and conditions, with State and local agencies, and nonprofit organizations—

(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

(2) to conduct activities that facilitate the dissemination of information relating to the Park and the Island Explorer transit system or any successor transit system;

(3) to provide financial assistance for the construction of the intermodal transportation center in exchange for space in the center that is sufficient to interpret the Park; and

(4) to assist with the operation and maintenance of the intermodal transportation center.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary not more than 40 percent of the total cost necessary to carry out this section (including planning, design and construction of the intermodal transportation center).

(2) OPERATIONS AND MAINTENANCE.—There are authorized to be appropriated to the Secretary not more than 85 percent of the total cost necessary to maintain and operate the intermodal transportation center.

**SEC. 109. CONTINUATION OF CERTAIN TRADITIONAL USES.**

(a) DEFINITIONS.—*In this section:*

(1) *LAND WITHIN THE PARK.*—*The term “land within the park” means land owned or controlled by the United States—*

*(A) that is within the boundary of the Park established by section 101; or*

*(B)(i) that is outside the boundary of the Park; and*

*(ii) in which the Secretary has acquired a property interest or conservation easement pursuant to this title.*

(2) *MARINE SPECIES; MARINE WORM; SHELLFISH.*—*The terms “marine species”, “marine worm”, and “shellfish” have the*

*meanings given those terms in section 6001 of title 12 of the Maine Revised Statutes (as in effect on the date of enactment of this section).*

*(3) STATE LAW.—The term “State law” means the law (including regulations) of the State of Maine, including the common law.*

*(4) TAKING.—The term “taking” means the removal or attempted removal of a marine species, marine worm, or shellfish from the natural habitat of the marine species, marine worm, or shellfish.*

*(b) CONTINUATION OF TRADITIONAL USES.—The Secretary shall allow for the traditional taking of marine species, marine worms, and shellfish, on land within the Park between the mean high watermark and the mean low watermark in accordance with State law.*

### **ACT OF FEBRUARY 26, 1919**

40 Stat. 1178, Chapter 45

AN ACT To establish the Lafayette National Park in the State of Maine

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tracts of land, easements, and other real estate heretofore known as the Sieur de Monts National Monument, situated on Mount Desert Island, in the county of Hancock and the State of Maine, established and designated as a national monument under the Act of June eighth, nineteen hundred and six, entitled “An Act for the preservation of American antiquities,” by presidential proclamation of July eighth, nineteen hundred and sixteen, is hereby declared to be a national park and dedicated as a public park for the benefit and enjoyment of the people under the name of the Lafayette National Park, under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for Sieur de Monts National Monument.*

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.】

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**ACT OF JANUARY 19, 1929**

45 Stat. 1083, Chapter 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 of the Rivers and Harbors Appropriation Act, approved August 8, 1917, and for other purposes," shall not apply to or extend to any lands now or hereafter included in said park.

**ACT OF AUGUST 1, 1950**

64 Stat. 383, Chapter 511

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 land shall not degrade or adversely impact the resources or values of Acadia National Park and that 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.*