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### GAYLORD NELSON APOSTLE ISLANDS STEWARDSHIP ACT OF 1999

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AUGUST 25, 2000.—Ordered to be printed

Filed, under authority of the order of the Senate of July 26, 2000

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

### REPORT

[To accompany S. 134]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 134) to direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 4, line 20, strike “(g) FUNDING.—” and all that follows through the end of the bill.

#### PURPOSE OF THE MEASURE

The purpose of S. 134 is to direct the Secretary of the Interior to evaluate areas of land within Apostle Islands National Lakeshore for inclusion within the National Wilderness Preservation System, and to take appropriate action to protect the lighthouse structures at Raspberry Island and Outer Island.

#### BACKGROUND AND NEED

Apostle Islands National Lakeshore is comprised of 21 forested islands and 12 miles of the Lake Superior shoreline in the State of Wisconsin. The lakeshore includes sand beaches, sandstone caves, remnant old-growth forests, resident bald eagles and black bears, and the largest collection of lighthouses anywhere in the National Park System.

The 1989 General Management Plan for Apostle Islands National Lakeshore identified the need for a formal wilderness study to determine which park lands might be suitable for inclusion in the National Wilderness Preservation System. Although all park lands that may be suitable for designation as wilderness are currently being managed to protect wilderness values, the study has never been completed.

Of the several lighthouses included within Apostle Islands National Lakeshore, engineering studies have determined that three of them are in danger of structural damage due to the continued erosion of red clay banks upon which they were built. The situations at the Raspberry Island and Outer Island lighthouses are the most critical. Preservation of the structures requires protection of the bluffs beneath them, stabilization of the banks, and de-watering of the areas immediately shoreward of the bluffs. The estimated costs for the projects are \$1.5 million for Raspberry Inland and \$2.4 million for Outer Island.

S. 134 requires the Secretary of the Interior to evaluate areas of land within Apostle Islands National Lakeshore for inclusion in the National Wilderness Preservation System. The measure also authorizes the appropriation of \$4.1 million, with \$3.9 million of that amount made available for the lighthouse preservation projects and the remaining \$200,000 to fund the wilderness study.

#### LEGISLATIVE HISTORY

S. 134 was introduced by Senators Feingold and Kohl on January 19, 1999. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 134 on June 29, 2000. At the business meeting on July 13, 2000, the Committee on Energy and Natural Resources ordered S. 134 favorably reported, as amended.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 13, 2000, by a majority vote of a quorum present, recommends that the Senate pass S. 134, if amended as described herein.

#### COMMITTEE AMENDMENT

During the consideration of S. 134, the Committee adopted an amendment to delete a provision that required a spending offset in the form of a \$10 million rescission from the Department of Energy's Clean Coal Technology Program. Since the legislation only authorizes the appropriation of funds, no offset is necessary.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* designates the bill's short title.

*Section 2(a)* contains congressional findings.

Subsection (b) provides definitions for key terms used in the measure.

Subsection (c) directs the Secretary of the Interior to evaluate areas of land within Apostle Island National Lakeshore for inclusion in the National Wilderness System.

Subsection (d) directs the Secretary to take appropriate actions to protect the lighthouse structures at Raspberry Lighthouse and Outer Island Lighthouse at the Lakeshore.

Subsection (e) amends the law which established the Lakeshore to add a provision authorizing the Secretary to enter into cooperative agreements with Federal, State, tribal, or local government agencies and nonprofit entities.

Subsection (f) authorizes the appropriation of \$200,000 to carry out subsection (c) and \$3,900,000 to carry out subsection (d).

#### COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 20, 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. 134, the Gaylord Nelson Apostle Islands Stewardship Act of 1999.

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

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

#### *S. 134—Gaylord Nelson Apostle Islands Stewardship Act of 1999*

S. 134 would direct the Secretary of the Interior to study land within the Apostle Islands National Lakeshore in Wisconsin for possible inclusion in the National Wilderness System. The bill also would direct the Secretary to stabilize the land near two lighthouses at the lakeshore. Finally, the bill would allow the Secretary to execute cooperative agreements with government agencies and nonprofit organizations to aid in the development of recreational facilities. The bill would authorize the appropriation of \$0.2 million for the wilderness study and \$3.9 million to stabilize the lighthouses.

Assuming appropriation of the authorized amounts and based on information provided by the National Park Service, CBO estimates that the federal government would spend \$4.1 million over the next three years to complete the required study and stabilize two lighthouses at the lakeshore. CBO estimates that the cooperative agreements with local entities would not result in any significant cost.

S. 134 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no private-sector or intergovernmental 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 Deborah Reis. The 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. 134. 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. 134, as ordered reported.

## EXECUTIVE COMMUNICATIONS

Legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 134 had not been received at the time the report on S. 134 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 at the Subcommittee hearing follows:

STATEMENT OF JACQUELINE LOWEY, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before the subcommittee to present the views of the Department of the Interior on S. 134. In addition to authorizing a wilderness study for Apostle Islands National Lakeshore, the bill mandates that appropriate action be taken to protect the Raspberry Island Lighthouse and the Outer Island Lighthouse. It also amends the park's enabling legislation to specifically authorize cooperative agreements to aid in the protection and preservation of park resources and to aid in the development of facilities in order to provide appropriate recreation. The Department of the Interior supports enactment of this legislation if amended as provided herein.

Located in Lake Superior and the State of Wisconsin, Apostle Islands National Lakeshore was established by Public Law 91-424 on September 26, 1970. It was established to "\* \* \* conserve and develop for the benefit, inspiration, education, recreational use and enjoyment of the public \* \* \*" 20 of the 22 islands in the archipelago as well as a 13-mile-long strip of shoreline on the mainland. In 1986, Long Island was added to the lakeshore.

Section 2 of this bill would direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area and authorizes \$200,000 for a study. The process would begin with a wilderness suitability study of the lakeshore, as required by the Wilderness Act. This provision of the bill is consistent with the park's September 1989 General Management Plan (GMP). Of the lands within the lakeshore under National Park Service jurisdiction, about 97% or 41,054 acres may be suitable for wilderness designation. In ac-

cordance with the GMP, these lands are currently being managed to preserve wilderness values until a formula wilderness study can be completed. Any recommended wilderness area would be managed to preserve its wilderness qualities, pending action by Congress.

A wilderness study would also be consistent with the intent of the State of Wisconsin in its donation of lands to the lakeshore. Wisconsin Statutes 1.026(1)(b) states, "It is the policy of the legislature that the Apostle Islands be managed in a manner that will preserve their unique primitive and wilderness character \* \* \*"

Section 3 would direct the Secretary of the Interior to undertake appropriate action to protect the historic Raspberry Island and Outer Island Lighthouses. The bill authorizes \$3.9 million for bluff stabilization and other necessary actions. There are eight lighthouses on six islands in the Apostle Islands National Lakeshore, more than in any other unit of the National Park System. Engineering studies have determined that several of these historic lighthouses are in danger of serious structural damage or loss due to the continued erosion of the red clay banks upon which they were built.

This legislation would address the stabilization of the two determined to be in the most immediate danger, Raspberry Island Lighthouse and Outer Island Lighthouse. Between 1987 and 1991, Outer Island suffered its highest rate of erosion and averaged approximately one foot of bank loss per year. The erosion at the Raspberry Island Light Station has been more sporadic. However, heavy spring rains in 1991 caused significant erosion at Raspberry Island and resulted in some mass wasting of the slope directly in front of the light station structures.

The Fiscal Year 1999 Department of the Interior appropriations provided \$215,000 for the rehabilitation of the historic lighthouses, and this funding will pay for preliminary engineering assessments to secure design alternatives for addressing the stabilization of both lighthouses. The alternatives are currently at the 30% completion stage and are under review by the National Park Service. The President's Fiscal Year 2001 budget request includes \$1.36 million for repairs to the Raspberry Island Light Station. The final construction documents should be completed and ready for advertising in January 2001, subject to availability of funds.

There is an immediate need to take action on the erosion problems adjacent to the Raspberry and Outer Island Light Stations. Erosion has advanced to within 30 feet and 50 feet of the shoreward structures on Raspberry and Outer Islands, respectively. Failure to act promptly could result in damage to or the loss of the structures, possibly with the next high water cycle on Lake Superior. Some evidence indicates that damage may already be occurring at Outer Island. The engineering studies indicate that a return to the high lake levels of the mid-1980s and of excessively wet weather could result in significant loss of re-

sources on Raspberry Island within 10 years and at Outer Island within 10 to 20 years.

Section 2 also amends the park's enabling legislation to authorize cooperative agreements to aid in the protection and preservation of park resources and to aid in the development of facilities in order to provide appropriate recreation. This would ensure that the lakeshore has the legislative authority to effectively enlist the assistance of many of its partners currently interested and willing to help in the long-term management and preservation of the lakeshore's nationally significant natural, cultural, and recreational resources.

Section 2(g) authorizes an offset from the Department of Energy, Clean Coal Technology, to pay for the wilderness study and stabilization of the lighthouses. The Department of Energy advises that it opposes the use of prior appropriated Clean Coal Technology program funds for this purpose and that these funds are still necessary to meet contractual obligations with industrial cost-sharing partners for ongoing Clean Coal Technology projects. We prefer to fund these projects through the studies and construction accounts of the National Park Service and recommend that the provision be amended accordingly.

This concludes my testimony. I would be happy to answer any questions that you or 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 bill S. 134, as ordered 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 91-424

AN ACT To provide for the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, and for other purposes

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#### **SEC. 6. MANAGEMENT.**

**[SEC. 6. The lakeshore]** (a) *IN GENERAL.*—*The lakeshore shall be administered, protected, and developed in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented; and the Act of April 9, 1924 (43 Stat. 90; 16 U.S.C. 8a et seq.), as amended, except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of the Act.*

(b) *COOPERATIVE AGREEMENTS.*—*The Secretary may enter into a cooperative agreement with a Federal, State, tribal, or local government agency or a nonprofit private entity if the Secretary determines*

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*that a cooperative agreement would be beneficial in carrying out section 7.*

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