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SENATE

{ REPORT
108-321

EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL ACT

AUGUST 25, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of July 22, 2004

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

R E P O R T

[To accompany S. 2052]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2052) to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “El Camino Real de los Tejas National Historic Trail Act”.

SEC. 2. DESIGNATION OF EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

“(24) EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.—

“(A) IN GENERAL.—El Camino Real de los Tejas (the Royal Road to the Tejas) National Historic Trail, a combination of historic routes (including the Old San Antonio Road) totaling approximately 2,580 miles, extending from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, as generally depicted on the map entitled ‘El Camino Real de los Tejas’ contained in the report entitled ‘National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana’, dated July 1998.

“(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the National Park Service.

“(C) ADMINISTRATION.—(i) The Secretary of the Interior (referred to in this paragraph as ‘the Secretary’) shall administer the trail.

“(ii) The Secretary shall administer those portions of the trail on non-Federal land only with the consent of the owner of such land and when such trail portion qualifies for certification as an officially established component of the trail, consistent with section 3(a)(3). An owner’s approval of a certification agreement shall satisfy the consent requirement. A certification agreement may be terminated at any time.

“(iii) The designation of the trail does not authorize any person to enter private property without the consent of the owner.

“(D) CONSULTATION.—The Secretary shall consult with appropriate State and local agencies in the planning and development of the trail.

“(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

“(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.”

PURPOSE OF THE MEASURE

The purpose of S. 2052 is to amend the National Trails System Act to designate El Camino Real de los Tejas in Texas and Louisiana as a National Historic Trail.

BACKGROUND AND NEED

Used as early as the 1690’s, El Camino Real de los Tejas was an early road system that brought Anglo settlers and volunteers from the United States to Texas. The roadway also played a key role in General Antonio López de Santa Ana’s march on Texas in early 1836, and the defeat of the Mexican army by Texan forces under General Sam Houston at San Jacinto on April 21, 1836.

After Mexico’s independence from Spain in 1821, Mexico agreed to open Texas to American settlers through the efforts of Stephen F. Austin. During the next decade, some 30,000 Anglo-Americans, along with 3,000 slaves, migrated into Texas via the old Camino Real linking Natchitoches in Louisiana and San Antonio in the Texas province.

As hostilities grew between the Mexican government and the Texas settlers, the roads of the Camino Real de los Tejas served an important military purpose. The former congressman from Tennessee, David Crockett, used parts of the Camino Real roads to reach the Alamo.

After the birth of the Texas Republic, the Camino Real de los Tejas continued to serve as both a major thoroughfare for migration into Texas and a military highway system, helping to propel Texas into a unique and prosperous future. The designation of the El Camino Real as a National Historic Trail will allow future generations to experience and understand this important piece of American history.

LEGISLATIVE HISTORY

S. 2052 was introduced by Senator Hutchison on February 5, 2004. A similar bill, H.R. 4122, was introduced by Representative Rodriguez on April 1, 2004. The Subcommittee on National Parks

held a hearing on S. 2052 on April 27, 2004. The Committee on Energy and Natural Resources ordered S. 2052, as amended, favorably reported on July 14, 2004.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in an open business session on July 14, 2004, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 2052, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 2052, the Committee adopted an amendment in the nature of a substitute. The amendment makes clarifying changes to language regarding the effect of the trail designation on private property rights. The amendment conforms the designation authority for El Camino Real de los Tejas more closely to previously designated National Historic Trails while clarifying that such designation will not adversely affect private landowners. The amendment is described in detail in the section-by-section analysis below.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles this bill the “El Camino Real de los Tejas National Historic Trail Act.”

Section 2 amends section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) to establish El Camino Real de Los Tejas as a National Historic Trail. The section identifies the trail route to be designated and provides that the trail is to be administered by the Secretary of the Interior (Secretary).

The Secretary may administer non-Federal portions of the trail only with the willing consent of the owner and only when those lands qualify for certification as an officially established section of the National Historic Trail. Approval of the certification agreement by the property owner will serve as adequate evidence of their consent. Notwithstanding Historic Trail designation, no person is authorized to enter private property without the consent of the property owner. The Secretary is directed to consult with appropriate State and local agencies in the planning and development of the trail.

The Secretary is also directed to coordinate with the public of the United States and Mexico and with non-government organizations to exchange data, research, technical assistance and other information and to work toward the establishment of an international trail with complementary education and preservation programs.

Finally, the section makes clear that the United States may not acquire any non-Federal land without the voluntary consent of the owner.

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 16, 2004.

Hon. PETE V. DOMENICI,
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. 2052, the El Camino Real de los Tejas National Historic Trail Act.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 2052—El Camino Real de los Tejas National Historic Trail Act

S. 2052 would amend the National Trails System Act to designate the El Camino Real de los Tejas (the Royal Road to the Tejas) as a National Historic Trail. The segment of the El Camino Real to be designated extends from the Rio Grande near Laredo, Texas, to Natchitoches, Louisiana, a distance of 2,580 miles. The National Park Service (NPS) would administer the trail and coordinate the efforts of U.S. and Mexican public and private entities on trail education, interpretation, and preservation.

Based on information provided by the NPS and assuming the availability of appropriated funds, CBO estimates that establishing, developing, and administering the proposed historic trail would cost about \$400,000 annually beginning in fiscal year 2005. Of this amount, we estimate that the NPS would spend a total of \$300,000 over the next two or three years to prepare a comprehensive management plan for the trail. We expect that the balance of each year's expenses would cover trail development, educational programs, and operation under partnership agreements with Mexico and with local organizations.

S. 2052 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is 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. 2052.

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. 2052.

EXECUTIVE COMMUNICATIONS

On March 30, 2004, 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. 2052. These reports had not been received when this report was filed. The testimony provided by the Department of the Interior at the Subcommittee hearing on S. 2052 follows:

STATEMENT OF PAUL HOFFMAN, DEPUTY ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 2052, a bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

The Department supports S. 2052 with amendments to clarify the differences between designation of the trail and certifying sites and segments to be managed as part of the trail.

S. 2052 would add the Camino Real de los Tejas as a national historic trail component of the National Trails System only on publicly owned land. Making sites and segments of the trail available for public use where the trail crosses privately owned lands would be authorized only upon the consent of the owner when the site qualifies for certification. Subject to the provisions for privately owned lands, the bill would designate a series of routes, totaling approximately 2,600 miles.

The designated trail would include the evolving routes of the camino real as well as its successor, the Old San Antonio Road. The trail would extend across a 550-mile-long corridor from the Rio Grande near Eagle Pass and Laredo, Texas to Natchitoches (pronounced Nack-a-dish), Louisiana with trail administration provided by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area could be acquired by the United States for the trail except with the consent of the owner. S. 2052 also would allow the Secretary of the Interior to coordinate activities with United States and Mexican public and non-governmental organizations, academic institutions and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions. Finally, the bill also calls for the Department to consult with appropriate state agencies including exchanging trail information and research, fostering trail preservation and education programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

The National Park Service (NPS) was authorized to study both El Camino Real de los Tejas and the Old San

Antonio Road by P.L. 103–145. The National Historic Trail Feasibility Study and Environmental Assessment, El Camino Real de los Tejas, Texas—Louisiana was completed in July 1998. The study concluded that both roads met all national historic trail criteria as defined by the study provisions of the National Trails System Act (16 U.S.C. 1244). The study was presented to the National Park System Advisory Board and the board concurred with the findings.

El Camino Real de los Tejas was the primary route between the Spanish vice-regal capital of Mexico City and the Spanish provincial capital of Tejas at Los Adaes (pronounced Uh-die-us) (1721–73) and San Antonio (1773–1821). The camino real, bringing Spanish and Mexican influences northeastward, led to the exploration, conquest, colonization, settlement, migration, military occupation, religious conversion, and cultural interaction that helped shape what are now the southern borderlands of the United States.

The Old San Antonio Road brought American immigrants and influence westward to Texas during the early 19th century. This large-scale immigration led to revolt, creation of the Texas Republic and eventually its annexation to the United States, which in turn precipitated war between the U.S. and Mexico.

While the entire route of El Camino Real de los Tejas extended over 1,600 miles from Mexico City to Los Adaes, today most of the route lies in Mexico. S. 2052 would allow for collaborative programs with Mexican institutions, both public and private, that would help in fully understanding the history, geography, and cultures of the entire route. Interest has been expressed by officials in Mexico for developing preservation and education programs along Mexico's part of El Camino Real de los Tejas. If this complementary program were implemented, an international historic trail would be created with benefits leading to an increase in mutual understanding between our nations.

Partnerships and cooperation, keystones to the development of the National Trails System, are essential to bring about the preservation and interpretation of El Camino Real de los Tejas resources. The trail crosses public and private lands and it is important that the intent of the National Trails System Act be met by respecting private property rights. Respecting property rights will develop solid and long-lasting relationships with partners and help stimulate and maintain a strong, grassroots-managed trail system. It is also vital that we acknowledge the pride and stewardship of all our partners, private and public, in their voluntary and good faith efforts to preserve and appropriately share their part of our national patrimony.

With continued and even increasing public interest and efforts to help commemorate it, opportunities for partnerships along El Camino Real de los Tejas are very promising. Long-term success of the trail will depend on continued involvement from partners as well as the States of Texas and Louisiana, landowners, and other organizations

and individuals. In that regard, we would strongly encourage the early creation of a non-profit trails organization to represent the various constituencies along the trail and to enhance the public/private partnerships that make nationally designated trails successful.

Should S. 2052 be enacted, the NPS, subject to availability of funds, would prepare a comprehensive management plan with public input to identify the goals and objectives for trail preservation, research, interpretation, public use, trail marking, and cooperative management. The required national historic trail advisory council would be established with broad representation of those interested, including private landowners, to advise on trail planning and administration matters. The NPS would implement the plan by creating a trail administration office to provide technical and limited financial assistance for preservation, historical research, planning and design for interpretation and development projects. It would also manage the negotiating and certifying of qualifying sites, trail segments, and interpretive facilities. NPS would develop and manage the official trail marker symbol, marking the route and negotiating agreements with different trail partners. This would include establishing agreements with Mexico to enrich our understanding of trail history and to exchange information to enhance resource preservation and public understanding. This would involve some increased operational costs, although most trails have annual funding of less than \$300,000.

We believe there is some confusion with regard to the language that seeks to assure that private property rights are protected and we recommended that this language be clarified to eliminate this confusion. When Congress adds a trail to the National Trails System Act, designation of the trail and certification of sites and segments are two separate actions. Designation of the trail involves the acknowledgment of a continuous route on a map with a beginning and an ending point. This route is consistent with the findings of the study completed for the trail.

However, the designation of this route does not mean that each piece of land that makes up the route is open and available for public use. Sites and segments are only available for public use through the certification process whereby the NPS would discuss with private landowners whether they would like the portion of the trail through their property to be part of the designated trail. No landowner is required to have his property available for use even though a trail is designated by Congress.

Should a landowner agree to have any site or segment certified for a designated trail, the NPS Intermountain Region, which administers eight national historic trails and would be responsible for the trail designated by S. 2052, includes language in its certification agreement to protect private property rights. That language reads: "The owner retains all legal rights to the property, and nothing in this agreement is to be construed as granting any legal author-

ity to the National Park Service over the property or any action by the owner.” Landowners retain complete rights to their lands and only participate in trail programs to the extent that they desire through the certification process. Under existing authorities, neither trail designation, nor certification gives the Federal government any control over private lands.

Some of the language proposed in this bill to protect private property rights is already found in the National Trails System Act, and we believe creates confusion between the designation and certification processes. We would be glad to work with the committee on alternative language to eliminate this confusion.

We appreciate the committee’s interest in this legislation. That concludes my remarks and I would be happy to respond to any questions that you 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 S. 2052, 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 90-543

AN ACT To establish a national trails system, and for other purposes

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

SHORT TITLE

SECTION 1. This Act may be cited as the “National Trails System Act”.

* * * * *

SEC. 5. (a) National scenic trails shall be authorized and designated only by Act of Congress. There are hereby established as the initial National Scenic Trails:

(1) The Appalachian Trail, a trail of approximately two thousand miles extending generally along the Appalachian Mountains from Mount Katahdin, Maine, to Springer Mountain, Georgia. Insofar as practicable, the right-of-way for such trail shall comprise the trail depicted on the maps identified as “Nationwide System of Trails, Proposed Appalachian Trail, NST-AT-101-May 1967”, which shall be on file and available for public inspection in the office of the Director of the National Park Service. Where practicable, such rights-of-way shall include lands protected for it under agreements in effect as of the date of enactment of this Act, to which Federal agencies and States were parties. The Appalachian Trail shall be administered primarily as a footpath by the Secretary of the Interior, in consultation with the Secretary of Agriculture.

* * * * *

(24) *EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.*—

(A) *IN GENERAL.*—*El Camino Real de los Tejas (the Royal Road to the Tejas) National Historic Trail, a combination of historic routes (including the Old San Antonio Road) totaling approximately 2,580 miles, extending from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, as generally depicted on the map entitled “El Camino Real de los Tejas” contained in the report entitled “National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana”, dated July 1998.*

(B) *MAP.*—*A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the National Park Service.*

(C) *ADMINISTRATION.*—(i) *The Secretary of the Interior (referred to in this paragraph as “the Secretary”) shall administer the trail.*

(ii) *The Secretary shall administer those portions of the trail on non-Federal land only with the consent of the owner of such land and when such trail portion qualifies for certification as an officially established component of the trail, consistent with section 3(a)(3). An owner’s approval of a certification agreement shall satisfy the consent requirement. A certification agreement may be terminated at any time.*

(iii) *The designation of the trail does not authorize any person to enter private property without the consent of the owner.*

(D) *CONSULTATION.*—*The Secretary shall consult with appropriate State and local agencies in the planning and development of the trail.*

(E) *COORDINATION OF ACTIVITIES.*—*The Secretary may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.*

(F) *LAND ACQUISITION.*—*The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.*

* * * * *