

EASTERN WILDERNESS ACT OF 1998

OCTOBER 12, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1567]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1567) to provide for the designation of additional wilderness lands in the eastern United States, having considered the same, report favorably thereon with an amendment and recommend 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 "Eastern Wilderness Act of 1998".

SEC. 2. INCLUSION OF AREAS IN WILDERNESS SYSTEM.

(a) **PURPOSE AND INTENT.**—In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is necessary to increase and expand the existing wilderness areas in the eastern United States. These wilderness areas shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness. As the bulk of wilderness lands exist in the western United States, the purpose and intent of this Act is to provide the means to designate additional qualifying lands as wilderness in the eastern United States.

(b) **MANAGEMENT.**—The inclusion of an area of Federal lands in the National Wilderness Preservation System pursuant to this Act notwithstanding, the area shall

continue to be managed by the department or agency having administrative jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. If the area was previously private or State land, the area shall be managed by the department or agency with the largest presence in the area.

(c) WILDERNESS.—For purposes of this Act, a wilderness, in contrast with those areas where man and his own works dominate the landscape, is recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined as an area of undeveloped Federal, State, or private land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which—

(1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;

(2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation;

(3) is east of the 100th meridian and has at least 500 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition;

(4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value; and

(5) if significantly trammelled by man, could otherwise qualify as wilderness through natural reclamation.

For the purposes of this Act, the term "natural reclamation" means a process whereby, with minimal assistance or interference from man, land may in time, through the natural physical and biological processes of ecological succession, be restored to a state where man's imprint is substantially unnoticeable.

(d) SCOPE OF ACT AND RELATIONSHIP TO OTHER LAW.—This Act shall apply only to lands east of the 100th meridian and nothing in this Act shall apply to any lands designated as components of the national wilderness preservation system before the enactment of this Act.

SEC. 3. STUDY.

The Secretary of Agriculture and the Secretary of the Interior are hereby directed to study and inventory all Federal lands of 500 acres or greater which are east of the 100th meridian and which qualify as wilderness according to the definition of wilderness in section 2(c) above.

SEC. 4. REVIEW.

(a) STUDY.—Within 10 years after the date of approval of this Act, the Secretary of Agriculture and the Secretary of the Interior shall review those areas identified as having wilderness characteristics during the inventory required in section 3 and shall from time to time report to the President their recommendation as to the suitability or nonsuitability of each such area for preservation as wilderness.

(b) PROCEDURE.—

(1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness—

(A) give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: *Provided*, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies; and

(C) at least 30 days before the date of a hearing, advise the Governor of each State and the governing board of each county in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than 30 days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of paragraph (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(c) RECOMMENDATION.—The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within 2 years of the receipt of each report from the Secretaries. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(d) MANAGEMENT OF STUDY AREAS.—During the period of review of such areas and until Congress has determined otherwise, the appropriate Secretary shall continue to manage such public lands under his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of the Federal Land Policy and Management Act of 1976 for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness under this Act, the provisions of this Act shall apply with respect to the administration and use of such designated area.

SEC. 5. MANAGEMENT OF WILDERNESS AREAS.

(a) IN GENERAL.—Except as otherwise provided in this Act, each agency administering any area designated as wilderness under this Act shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

(b) COMMERCIAL ENTERPRISES, ROADS, STRUCTURES, ETC.—Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within such area.

(c) SPECIAL PROVISIONS.—The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act, the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the appropriate Secretary deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Nothing in this Act shall prevent, within wilderness areas designated by this Act, any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

(3) Within wilderness areas designated by this Act—

(A) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interest of the United States and the people thereof than will its denial; and

(B) the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(4) Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.

(5) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(6) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish on public lands.

SEC. 6. PRIVATE PROPERTY.

(a) PRIVATE PROPERTY.—In any case where State owned or privately owned land is completely surrounded by public lands within areas designated by this Act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State owned or privately owned land by such State or private owner and their successors in interest, or the State owned or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the appropriate Secretary: *Provided, however,* That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) ACCESS TO VALID OCCUPANCIES.—In any case where valid mining claims or other valid occupancies are wholly within a designated wilderness area, the appropriate Secretary shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

(c) ACQUISITION.—Subject to the appropriation of funds by Congress, the appropriate Secretary is authorized to acquire State owned or privately owned land in order to establish the wilderness area or lands within the boundaries of any area designated by this Act as wilderness if—

(1) the owner consents to such acquisition; and

(2) the acquisition is specifically authorized by Congress.

(d) COMPENSATION.—Any private or State land taken by an Act of Congress pursuant to this Act will constitute a “taking” under the fifth amendment and the owner of the land shall be compensated at fair market value.

SEC. 7. ACCEPTANCE OF GIFTS.

(a) LAND.—The appropriate Secretary may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary may also accept gifts or bequests of land adjacent to wilderness areas designated by the Act for preservation as wilderness if he has given 60 days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary under this section shall become part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.

(b) PRIVATE CONTRIBUTIONS.—The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this Act.

SEC. 8. REPORT.

At the opening of each session of Congress, the Secretaries of Agriculture and the Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make.

PURPOSE OF THE BILL

The purpose of H.R. 1567 is to provide for the designation of additional wilderness lands in the eastern United States.

BACKGROUND AND NEED FOR LEGISLATION

During the 1960s Congress became concerned that expanding settlement and the trend toward urbanization would eventually en-

velop the entire country, leaving no land in a natural and pristine state. Congress attempted to address this problem by passing the Wilderness Act of 1964. That Act established the National Wilderness Preservation System, giving Congress the ability to set aside designated wilderness areas where “the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.”

About 100 million acres of wilderness have been designated west of the 100th meridian, the traditional demarcation line between the eastern and western United States, and Congress has recently considered designating several million more acres.

Unfortunately, the Act hasn’t served the East very well. To date, only a little more than four million acres of wilderness have been designated east of the 100th meridian. Because wilderness is so rarely designated in the East, important ecosystems that should be preserved are quickly disappearing, and existing wilderness areas are becoming overcrowded.

Wilderness designation in the East is difficult. First, the Wilderness Act specifies that wilderness areas should generally be at least 5,000 acres. Because most of the East was settled long before the West, it is difficult to find areas of 5,000 acres that are still in a wilderness condition. Second, the Wilderness Act allows land to be designated as wilderness only if it is significantly untrammelled by man. Because the East has been settled so long, many areas that almost qualify as wilderness don’t quite make the cut because they have some evidence of man’s activities. Finally, because the Wilderness Act is directed mainly at federal public lands, it is harder to find qualifying areas in the eastern states, where the federal government owns much less land.

H.R. 1567 would direct the Secretaries of Agriculture and Interior to study and inventory all federal, state, and private lands east of the 100th meridian of 500 acres or greater which could qualify as wilderness. During the 15 years following the date of enactment, and after public hearings, the Secretaries will periodically report to the President their recommendations for wilderness preservation. Within two years of receiving these reports, the President will provide Congress with a map of the areas, a definition of their boundaries and his recommendation for designation. The areas will become wilderness only through an act of Congress.

H.R. 1567 would solve several of the problems that have made wilderness designation in the East so difficult. First, H.R. 1567 decreases the acreage threshold in the East from 5,000 to 500. This makes it much easier to find qualifying areas. In addition, H.R. 1567 expands the definition of wilderness to include areas that could eventually qualify as wilderness through natural reclamation. This provision addresses the problem that so little of the East is “untrammelled by man” and dramatically increases the acreage of land that may be preserved.

COMMITTEE ACTION

H.R. 1567 was introduced on May 8, 1997, by Congressman James V. Hansen (R-UT). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands and the Subcommittee on Forest

and Forest Health. On June 17, 1997, the National Parks and Public Lands Subcommittee held a hearing on H.R. 1567. On July 31, 1997, the National Parks Subcommittee met to mark up H.R. 1567. Congressman Hansen offered an en bloc amendment to change the short title of the bill to “The Eastern Wilderness Act of 1997,” delete a reference to the Bureau of Mines, shorten the study period to 10 years, define the term “natural reclamation,” and mandate compensation for any private or state land taken pursuant to the bill. The amendment was adopted by voice vote. Congressman Maurice Hinchey (D–NY) then offered an amendment in the nature of a substitute which applied the terms of the bill nationwide. The amendment failed by voice vote. The bill as amended was then ordered favorably reported to the Full Committee on Resources by a roll call vote of 9–2, as follows:

Republicans	Yea	Nay	Present	Democrats	Yea	Nay	Present
Hansen	X	.....	.....	Faleomavaega	X	.....	.....
Gallegly .....	.....	.....	.....	Markey .....	.....	.....	.....
Duncan .....	.....	.....	.....	Vento .....	.....	.....	.....
Hefley	X	.....	.....	Kildee .....	.....	X	.....
Gilchrest	X	.....	.....	Romero-Barceló .....	.....	.....	.....
Pombo .....	.....	.....	.....	Hinchey .....	.....	X	.....
Chenoweth .....	.....	.....	.....	Underwood .....	.....	.....	.....
Linda Smith	X	.....	.....	Kennedy .....	.....	.....	.....
Radanovich	X	.....	.....	Delahunt .....	.....	.....	.....
Jones	X	.....	.....	Green .....	.....	.....	.....
Shadegg .....	.....	.....	.....	Kind .....	.....	.....	.....
Ensign .....	.....	.....	.....	Doggett .....	.....	.....	.....
Bob Smith .....	.....	.....	.....	.....	.....	.....	.....
Hill	X	.....	.....	.....	.....	.....	.....
Gibbons	X	.....	.....	.....	.....	.....	.....
Total Republicans	8	.....	.....	Total Democrats	1	2	.....

The Subcommittee on Forests and Forest Health was discharged from further consideration of H.R. 1567 on August 14, 1997.

On November 5, 1997, the Full Resources Committee met to consider H.R. 1567. Congressman Hansen offered an en bloc amendment to restrict the wilderness study of state and private lands to those intermixed with or adjacent to federal lands. By unanimous consent, Congressman Hansen further amended his amendment to require prior written consent from a private land owner before his land may be studied for wilderness designation. Congressman Jim Saxton (R–NJ) offered a substitute amendment for the Hansen amendment to exclude state and private lands from the wilderness study. The Saxton amendment was adopted by voice vote and the Hansen amendment, as amended by the Saxton substitute, was adopted by voice vote. Congressman George Miller (D–CA) offered an amendment to require both owner consent *and* Congressional authorization for the acquisition of state or private lands within the boundaries of wilderness areas designated pursuant to H.R. 1567; the amendment was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact H.R. 1567.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1567. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1567 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1567.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1567 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 6, 1998.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
U.S. House of Representatives,
Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1567, the Eastern Wilderness Act of 1997.

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

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

H.R. 1567—Eastern Wilderness Act of 1997

CBO estimates that enacting this bill would not have a significant impact on the federal budget. Because H.R. 1567 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 1567 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no significant impact on the budgets of state, local, or tribal governments.

H.R. 1567 would direct the Secretary of Agriculture and the Secretary of the Interior to study and inventory all federal lands of 500 acres or greater east of the 100th meridian that qualify as wilderness as defined by the bill. Within 10 years of the bill's enactment, the two Secretaries would be required to recommend to the President land suitable for wilderness designation as a result of such study.

The Federal Government owns roughly 43 million acres east of the 100th meridian, of which about 4 million acres is already designated wilderness. The Department of the Interior has jurisdiction over almost 12 million acres of federally owned land, the Forest Service (within the Department of Agriculture) has jurisdiction over about 25 million acres, and other agencies have jurisdiction over another 6 million acres.

Assuming that the Secretaries of Agriculture and the Interior would study only that federal land under their jurisdiction that is not already designated as wilderness, we estimate that enacting H.R. 1567 would require that about 33 million acres be reviewed for suitability for wilderness designation over the next 10 years. Under current law, many of the acres under Agriculture and Interior jurisdiction would be studied and inventoried for wilderness designation as part of the regular cycle of land management reviews. Therefore, CBO estimates that implementing H.R. 1567 would require additional costs of less than \$500,000 per year over the next 10 years, subject to appropriation of the necessary funds. CBO assumes for this estimate that the Secretaries of Agriculture and the Interior would not study the 6 million acres of federal land in the East outside their jurisdiction.

The CBO staff contact for this estimate is Victoria V. Heid. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1567 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1567 would make no changes in existing law.

ADDITIONAL VIEWS

HR 1567 sets in place a procedure to study, designate and manage wilderness lands in the eastern United States that is for the most part duplicative of the existing Wilderness Act. In fact, whole sections of the bill are taken verbatim from the Wilderness Act. When the Committee held hearings on HR 1567 in June 1997, the Administration testified in opposition to HR 1567, citing the bill's deviation from existing wilderness policy and its redundancy with many provisions of the Wilderness Act.

Of significant concern to many was that HR 1567 provided for the study of all state and private lands east of the 100th meridian for possible wilderness designation. The Wilderness Act only provides that *Federal* lands be studied and designated wilderness. The inclusion of state and private lands in HR 1567 provoked substantial opposition from Committee members and the Committee voted to delete the provision from the bill. As amended by the Committee, HR 1567 is a fairly innocuous measure that is nevertheless repetitive of existing law and therefore unnecessary.

What troubles me about HR 1567 is that instead of dealing with the needs of our national parks, addressing the \$10 billion backlog in maintenance in our parks, forests and other public lands, or reforming the subsidized use of public resources, the Committee's majority continues to devote most of our time to such superfluous and symbolic legislation as HR 1567.

It has been obvious from the beginning of the debate in Committee that HR 1567 was little more than a cynical effort to "tweak" Members of Congress from Eastern states who have strongly supported wilderness designations in the West. We believe there is overwhelming public support—in the West and nationally—for park improvements and expansions, for wilderness designations and for other congressional actions to preserve the natural resource legacy of this country. We are neither reluctant nor apologetic about initiating and supporting such efforts whether in Utah, California, New Jersey or elsewhere.

The fact is that this legislation is utterly unnecessary. Over the past 30 years, Congress has provided for the study and designation of Federal lands in the eastern United States. In fact, an Eastern Wilderness Act was signed into law in 1975. Numerous eastern areas were designated wilderness prior and subsequent to 1975. If there are new proposals to designate wilderness in the East, we should consider them in the context of the existing Wilderness Act and in a manner consistent with that law's policies and framework.

GEORGE MILLER.

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