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SENATE

{ REPORT
107-73

GRAND TETON NATIONAL PARK LAND EXCHANGE ACT

OCTOBER 1, 2001.—Ordered to be printed

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

REPORT

[To accompany S. 1105]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1105) to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Grand Teton National Park Land Exchange Act”.

SEC. 2. DEFINITIONS.

As used in this Act:

- (1) The term “Governor” means the Governor of the State of Wyoming.
- (2) The term “Federal lands” means public lands identified for disposal under approved land use plans (as in effect on the date of enactment of this Act) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).
- (3) The term “Secretary” means the Secretary of the Department of the Interior.
- (4) The term “State lands” means the State of Wyoming lands, and interest therein, within the boundaries of Grand Teton National Park as identified on a map titled “Private, State & County Inholdings Grand Teton National Park”, dated March 2001, and numbered GTNP-0001.

SEC. 3. PURPOSE.

The purpose of this Act is to authorize the Secretary to acquire approximately 1,406 acres of State lands and interests therein within the exterior boundaries of Grand Teton National Park.

SEC. 4. VALUATION OF INTEREST.

Not later than 90 days after the date of enactment of this Act, the State lands to be acquired shall be valued by one of the following methods:

(1) **SELECTION OF APPRAISER.**—The Secretary and the Governor shall mutually agree on the selection of a qualified appraiser to conduct an appraisal of the State lands.

(2) **NO AGREEMENT ON APPRAISER.**—If no appraiser is mutually agreed to under paragraph (a)(1) of this section, the Secretary and the Governor shall each designate a qualified appraiser, and the two designated appraisers shall select a third qualified appraiser to perform the appraisal with the advice and assistance of the designated appraisers.

(3) **FAILURE OF PROCESS.**—If the Secretary and the Governor cannot agree on the evaluation of the appraised State lands by the date that is 180 days after the date of enactment of this section the Governor may petition the United States Court of Federal Claims for a determination of the value of the State lands and interest therein. Subject to the right of appeal, a determination by the Court shall be binding for purposes of this section on all parties.

SEC. 5. LAND EXCHANGE.

Within 180 days after the value of the State lands is determined in accordance with the provisions of section 4 of this Act, the Secretary, in consultation with the Governor, shall exchange Federal lands of equal value or other Federal assets of equal value, or a combination of both, for the State lands.

SEC. 6. ADMINISTRATION OF ACQUIRED LANDS.

Upon final exchange of title between the State and the Secretary, the lands conveyed to the United States pursuant to this Act shall become part of Grand Teton National Park. Once conveyed, such lands shall be managed in accordance with the Act of August 25, 1916 (commonly known as the “National Park Service Organic Act”) and other laws, rules and regulations applicable to units of the National Park System.

PURPOSE

The purpose of S. 1105 is to provide for the acquisition of approximately 1,366 acres of land and 40 acres of mineral interests owned by the State of Wyoming within the boundaries of Grand Teton National Park.

BACKGROUND AND NEED

At the time of statehood, Wyoming was granted two sections and a third smaller parcel of school trust lands in what later became Grand Teton National Park. The Wyoming Constitution directs the State to generate a reasonable income from these trust lands to support its public schools. Any revenue or proceeds from school trust lands must be used for the educational trust fund. The State has been leasing the lands identified in the bill for grazing and wildlife purposes, raising approximately \$2,000 annually in fees. Due to a recent Wyoming Supreme Court decision, the State is reevaluating the revenue streams from its school trust lands. Because the State land in Grand Teton National Park is near the town of Jackson, the State may be facing future legal challenges to obtain maximum value for the lands and sell them for development.

Three parcels of land and a 40-acre tract of subsurface mineral interests would be exchanged under the terms of S. 1105. The 40-acre mineral interest is located in the northern part of the park near Jackson Lake. The smallest land parcel of state land comprises 86 acres and is located across the Snake River from the Jackson Hole Airport. The two largest parcels, 640 acres in size each, are in the southern and eastern portion of the park close to some of the park’s developed road system. Enactment of S. 1105 will allow for the continued protection of these properties within Grand Teton National Park while ensuring that the State of Wyo-

ming meets its constitutional mandate to maximize revenues from its school trust lands.

LEGISLATIVE HISTORY

S. 1105 was introduced by Senators Thomas and Enzi on March 1, 2001. The Subcommittee on National Parks held a hearing on S. 1105 on July 31, 2001. At its business meeting on August 2, 2001, the Committee on Energy and Natural Resources ordered S. 1105 favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on August 2, 2001, by a voice vote of a quorum present, recommends that the Senate pass S. 1105, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 1105, the Committee adopted an amendment in the nature of a substitute. The amendment made minor clarifying and technical changes. The amendment also clarifies that only public lands identified as eligible for disposal under approved land use plans may be exchanged for the State inholdings. The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill “Grand Teton National Park Land Exchange Act.”

Section 2 defines key terms used in the bill.

Section 3 states that the purpose of the Act is to authorize the Secretary of the Interior (the “Secretary”) to acquire approximately 1,406 acres of State lands and interests within Grand Teton National Park.

Section 4 requires that the State lands be valued within 90 days after the date of enactment by one of the following methods: the Secretary and the Governor are to mutually agree on the selection of a qualified appraiser to conduct an appraisal of the State lands; or if they are unable to agree on an appraiser, then they are each to select an appraiser, and the two appraisers will select a third qualified appraiser to value the State lands. If the Secretary and Governor are unable to agree on the value of the State lands within 180 days after the date of enactment of this Act, then the Governor is authorized to petition the U.S. Court of Federal Claims for a binding determination of value, subject to the right of appeal.

Section 5 requires the Secretary, within 180 days after the valuation of the State lands is determined, to exchange Federal lands, assets, or a combination of both for the State lands.

Section 6 provides that the lands and interests acquired from the State are to be administered as part of Grand Teton National Park and are to be managed in accordance with the Act of August 25, 1916 (the National Park Service Organic Act) and other laws and regulations applicable to units of the National Park System.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 10, 2001.

Hon. JEFF BINGAMAN,
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. 1105, the Grand Teton National Park Land Exchange Act.

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

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1105—Grand Teton National Park Land Exchange Act

Summary: S. 1105 would direct the Secretary of the Interior to exchange federal lands or assets to acquire about 1,400 acres of state-owned lands and associated interests that lie within the boundaries of the Grand Teton National Park in Teton County, Wyoming. Under the bill, the Secretary and the Governor of Wyoming must agree on the appraised value of the state lands prior to the exchange, and, once such an agreement has been reached, the exchange must occur within 180 days.

CBO estimates that enacting S. 1105 would increase direct spending by \$23 million over the next 10 years and by \$36 million over the next 20 years. Because the bill would affect direct spending (including offsetting receipts), pay-as-you-go procedures would apply. CBO also estimates that implementing the bill could cost \$1 million in 2002, assuming appropriation of the necessary amounts.

S. 1105 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. This exchange would be voluntary on the part of the Wyoming state government.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1105 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

[By fiscal year, in millions of dollars]

	2002	2003	2004	2005	2006
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	0	2	3	3	3
Estimated Outlays	0	2	3	3	3
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	1	0	0	0	0

[By fiscal year, in millions of dollars]

	2002	2003	2004	2005	2006
Estimated Outlays	1	0	0	0	0

Basis of estimate: S. 1105 does not specify the federal lands or assets to be exchanged for state-owned lands, nor does it provide a definition for federal assets. The bill does specify that the federal lands or assets exchanged must be equal in value to Wyoming's lands. According to Wyoming state officials, the state would prefer to exchange its lands for federal assets that would produce a significant source of income to support schools in the state. According to the Department of the Interior (DOI), federal assets exchanged under S. 1105 could include the federal government's reserved royalty interest in federally owned mineral resources, thereby allowing the state to collect royalty payments due under federal leases. For this estimate, CBO assumes that the Secretary would exchange the reserved royalty interest in one or more oil or gas leases that are expected to produce a stream of royalties with a net present value equal to the estimated value of Wyoming's lands—\$42 million. We also assume that the exchange would occur during fiscal year 2003.

Direct spending (including offsetting receipts)

Based on information from DOI and Teton County, Wyoming, about the potential value of the state lands, CBO estimates that exchanging reserved royalty interests to acquire those lands would reduce federal receipts from mineral leases by a total of \$47 million over the 2003–2011 period and by \$72 million over the next 20 years. Because Wyoming receives 50 percent of federal mineral receipts generated within its boundaries, those forgone receipts would be partially offset by a corresponding decrease in direct spending of about \$23.5 million over the 2003–2011 period, (and \$36 million over the next 20 years). Hence, we estimate that enacting S. 1105 would result in a net increase in direct spending of \$23.5 million over the 2003–2011 period. That amount could be less if other assets, such as federal lands, are used to complete the exchange instead of royalty interests.

Spending subject to appropriation

Assuming appropriation of the necessary amounts and based on information from DOI, CBO estimates that the department would spend \$1 million to implement the exchange authorized by the bill, with most of that spending occurring in 2002, subject to the availability of appropriated funds.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	0	0	2	3	3	3	3	3	3	2	2

[By fiscal year, in millions of dollars]

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

¹ Not applicable.

Intergovernmental and private-sector impact: S. 1105 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. This exchange would be voluntary on the part of the Wyoming state government.

Estimate prepared by: Federal Costs: Megan Carroll and Julie Middleton. Impact on State, Local and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Lauren Marks.

Estimate 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. 1105. The bill is not a regulatory measure in the sense of imposing government-established standards or significant 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. 1105.

EXECUTIVE COMMUNICATIONS

On July 27, 2001, 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. 1105. These reports had not been received at the time this report was filed. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT BY JOHN REYNOLDS, REGIONAL DIRECTOR, PACIFIC WEST REGION, NATIONAL PARK SERVICE, 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. 1105, a bill to provide for the completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park.

The Department supports the legislation and thanks Senator Thomas and Senator Enzi for their continued interest and support of the National Park System and Grand Teton National Park.

S. 1105 would authorize the Secretary of the Interior to acquire from the State of Wyoming 1,366.32 acres of land, and mineral interests on 39.59 acres of land, all within the current boundary of Grand Teton National Park in ex-

change for other federal lands and/or other federal assets of equal value. The state trust lands and mineral interests were among the non-federal lands incorporated into the newly designated national park on September 14, 1950, bringing it to its present size (approximately 310,000 acres).

The legislation also details the process under which the exchange would take place, including selection of an appraiser, approval of the value of the lands as well as a mechanism by which an appeal can be made in case the process fails.

This acreage includes two full 640-acre sections. One section lies in the southeast area of the park known as Antelope Flats which is an open expanse of grasses and sagebrush that provides habitat for birds (including the declining sage grouse) and many large mammals (deer, antelope, elk, bison, coyotes, and wolves) and also provides the scenic foreground of the Teton Range. In the past, the state has leased the land for grazing.

The second full section lies on the eastern boundary of the park, adjacent to the Bridger-Teton National Forest. The vegetation is a mix of grasses, sagebrush, and trees. The area provides excellent habitat for a variety of large and small animals. The state currently leases this section for grazing.

The remaining acreage is located in the southwestern part of the park and is part of a 301-acre state parcel that straddles the park boundary. The Snake River runs through the parcel, which offers excellent riparian and wetland habitat. In the past, the state has leased the land for grazing.

Finally, the state also owns the mineral interests on approximately 39 acres of undeveloped sagebrush flats in the center of the park, slightly to the east.

Over the last fifty-one years, the State of Wyoming and Grand Teton National Park have worked together on a variety of issues including compatible land uses. The National Park Service (NPS) has been interested in the purchase of, or exchange for, these lands for a long time. The Park's land protection files contain more than thirty years of correspondence on how to appropriately compensate the state for bringing the lands under federal ownership.

The draft 2001 *Grand Teton Land Protection Plan* places fee acquisition of the state lands and mineral interest sixth on a list of fifteen priorities. Only some private lands that contain critical resources, or that are under intense development pressure in the high-stakes, Jackson Hole real estate market are listed higher. The NPS believes that federal fee acquisition, through either purchase or exchange, is the best alternative for the Park. A federal appraisal has not been completed on the State lands and there have not been any sales or exchanges similar to the one proposed, so it is difficult to estimate either the cost of purchasing the state lands or how much federal land or interest in federal land would be required to exchange for

them. Funding to purchase these lands would be subject to NPS servicewide priorities and the availability of appropriations.

The State of Wyoming is actively pursuing disposing a different State owned section near Teton Village. Teton Village is located near the southwest corner of Grand Teton National Park and at the base of the Jackson Hole Ski Area. Currently, the State is negotiating the sale of the section for \$30 million. Because the state lands described in the bill are inside a national park and bordered by permanently protected lands, we understand that they may be viewed as more valuable.

The NPS will not require additional funds or staff to bring these lands under federal management. The additional lands would increase the acreage of Grand Teton National Park by approximately one half of one percent. Currently the State owned lands are surrounded by national park lands and have no roads or other formal access, although hikers use the lands occasionally. If acquired, the State lands can be managed by the park with existing staff and with no additional resources.

There is broad support for making these exchanges and that support has been expressed in a variety of ways, including a letter to Secretary Norton from Wyoming Governor Jim Geringer. Editorials in the *Jackson Hole News* and *Casper Star* call the proposal, "a win for all sides".

In his May 16, 2001, letter Governor Jim Geringer wrote, "We would like to express to you our full support for the National Park Service acquiring our state trust lands located within Grand Teton National Park * * * We ask your support in accomplishing this acquisition for the benefit of the people of Wyoming and the United States."

The Department believes that S. 1105 demonstrates the value of reaching a broad based consensus on potentially challenging resource management questions between local parties, the State, and the federal government.

We appreciate the committee's interest in this legislation and the efforts of the senators from Wyoming. This concludes my remarks. 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 State, the Committee notes that no changes in existing law are made by the bill S. 1105, ordered reported.