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HOUSE OF REPRESENTATIVES

REPORT
117–673

ADVANCING CONSERVATION AND EDUCATION ACT

DECEMBER 30, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 2348]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2348) to maximize land management efficiencies, promote land conservation, generate education funding, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2348 is to maximize land efficiencies, promote land conservation, and generate education funding.

BACKGROUND AND NEED FOR LEGISLATION

Stemming from the General Land Ordinance of 1785[1] and the Northwest Ordinance,[2] Congress in its earliest days granted each new state certain federal lands to be held in trust by that state for the sole purpose of generating income for public institutions, in particular for education.[3] Today, there are approximately 46 mil-

[1] Land Ordinance of 1785, Act of May 20, 1785, 28 J. CONT'L CONG. 375, available at http://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=028/lljc028.db&recNum=386.

[2] Northwest Ordinance of 1787, Act of July 13, 1787, 32 J. CONT'L CONG. 334, available at http://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=032/lljc032.db&recNum=343 (expanding upon the Land Ordinance of 1785); *see also* Northwest Ordinance of 1789, Act of Aug. 7, 1789, ch. VIII, 1 Stat. 50, 50–51, 51 n.(a), https://uscode.house.gov/statviewer.htm?volume=1&page=50 (Here the 1st U.S. Congress reaffirmed—under the new U.S. Constitution—the Northwest Ordinance of 1787, which the Congress of the Confederation had previously enacted under the Articles of Confederation.).

[3] Act of May 20, 1785, 28 J. CONT'L CONG. 375, 378 ("There shall be reserved [for the United States] the lot N 16, of every township, for the maintenance of public schools, within the said township . . . ."), available at http://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=028/
Continued

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lion acres of state trust lands, predominantly in the West. Many of these lands are contained within wilderness, national park units, and other federal conservation areas.

Since state trust lands are managed to generate revenues and maximize returns for public education, many state trust land managers have an interest in exchanging lands within federal conservation areas for lands with a higher revenue potential. Conversely, federal land management agencies often have a strong interest in acquiring state trust lands within conservation areas to improve management efficiency and better protect environmentally sensitive areas.

H.R. 2348 would establish a new mechanism for states to relinquish state trust lands within federally designated conservation areas in exchange for specified public lands managed by the Bureau of Land Management (BLM) within the state. Currently, the primary means of eliminating state trust lands within federally designated conservation areas has been through legislative land exchanges that are both time-consuming and complicated. Some state trust land managers also oppose new conservation designations that do not address state trust land inholdings, creating a significant barrier for new conservation-focused designations.

H.R. 2348 would facilitate the expedited removal of state trust lands from federal conservation areas and is based on an existing provision of federal law (43 U.S.C. § 851) that allows states to select other federal lands in lieu of state trust lands that are encumbered by settlements or homesteads. The bill would expand this provision to apply to all state trust lands in 12 western states [4] and the State of Alaska that are contained within federal conservation areas. Upon relinquishment by the state, the lands would become a part of the applicable conservation area.

The legislation stipulates that the Secretary of the Interior has the discretion to accept or reject state applications and that all land exchanges must comply with applicable laws, including the National Environmental Policy Act of 1969 (NEPA). The bill also includes provisions that address the valuation of mineral lands, as well as the conveyance of mineral lands, mining claims, water rights, and grazing permits.

COMMITTEE ACTION

H.R. 2348 was introduced on April 1, 2021, by Representative Chris Stewart (R–UT). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests, and Public Lands. On May 5, 2021, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

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lljc028.db&recNum=389 and at Library of Congress item 90898212, image 3, CONT'L CONG. BROADSIDE COLLECTION (Hudson & Goodwin, 1785), https://www.loc.gov/item/90898212/; *see also* Northwest Ordinance of 1787, *supra* note 2, at art. III, 1 Stat. at 52 n.(a) ("Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.").

[4] The 12 western states are Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: full Committee markup held on May 5, 2021.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, as well as clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 2, 2021.

Hon. RAÚL M. GRIJALVA,
Chairman Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2348, the Advancing Conservation and Education Act.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
H.R. 2348, Advancing Conservation and Education Act As ordered reported by the House Committee on Natural Resources on May 5, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	70
Revenues	0	0	70
Increase or Decrease (-) in the Deficit	0	0	70
Spending Subject to Appropriation (Outlays)	1	8	not estimated

Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would:

- Authorize land exchanges between the Department of the Interior and 13 western states

Estimated budgetary effects would mainly stem from:

- Federal income forgone after land is transferred from federal to state ownership

Areas of significant uncertainty include:

- Estimating the amount of forgone federal income
- Determining specific locations and values of parcels exchanged

Bill summary: H.R. 2348 would authorize 13 western states to exchange state land located in eligible areas for federal land managed by the Department of the Interior (DOI).[5] The bill would direct DOI to establish a process by which states can request an exchange. Any conveyances would be subject to valid existing rights.

Estimated Federal Cost: The estimated budgetary effect of H.R. 2348 is shown in Table 1. The costs of the legislation fall within budget functions 300 (natural resources and environment) and 800 (general government).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2348

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–2031
Increases in Direct Spending												
Estimated Budget Authority	0	0	0	0	0	0	10	15	20	25	0	70
Estimated Outlays	0	0	0	0	0	0	10	15	20	25	0	70
Increases in Spending Subject to Appropriation												
Estimated Authorization	1	1	2	2	2	n.e.	n.e.	n.e.	n.e.	n.e.	8	n.e.
Estimated Outlays	1	1	2	2	2	n.e.	n.e.	n.e.	n.e.	n.e.	8	n.e.

n.e. = not estimated.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted by the end of calendar year 2021.

[5] Those states are Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

Background: H.R. 2348 would authorize 13 western states to relinquish their rights to some of the land that the federal government granted them at statehood. In exchange, upon relinquishment, the states would be allowed to select DOI land of generally equal value or make an equalization payment to the federal government if the value of the federal parcel exceeds that of the state parcel.

The bill would require DOI, within 540 days of enactment, to establish a process for exchanging the land. Once that process is in place, states could submit applications and DOI would have three years to make a final determination. During that period, the agency would complete appraisals, environmental analyses, and other administrative activities. If a determination is issued to approve or modify a proposed exchange, DOI would enter into a final agreement with the affected state and, within one year, convey the federal land. Any exchanges would be subject to valid existing rights.

Direct spending: CBO estimates that enacting H.R. 2348 would reduce offsetting receipts, thus increasing direct spending, by $70 million over the 2022–2031 period.

CBO expects that most of the land that the states would relinquish over the next 10 years is surrounded by federal land that is designated for conservation—for example, national monuments, wilderness areas, or national parks—and that the land would not generate significant income for the federal government. CBO also expects that most of the federal land selected by states would otherwise have generated income for the federal government from a variety of activities, such as mineral development, renewable-energy development, and timber sales. Income generated from those activities is classified in the budget as offsetting receipts and recorded as reductions in direct spending. Although lands exchanged would generally be of equal value, we expect that the federal government would relinquish smaller parcels that will generate significant receipts for larger parcels that would be designated for conservation. Based on timeframes specified under H.R. 2348, the first exchanges would be completed in 2028 and the transactions would continue for several years.

Using information from DOI, CBO projects that the federal land eligible for selection by states will generate an average of $1.25 billion in annual net receipts over the 2021 2031 period; most of that amount is from mineral leasing.[6] CBO estimates that enacting H.R. 2348 would reduce those receipts by a small amount—less than 2 percent each year—starting in 2028, as land is transferred out of federal ownership. (That net amount is inclusive of any equalization payments from states.) CBO estimates that, in total, enacting the legislation would reduce offsetting receipts by $70million over the 2022–2031 period.

Spending subject to appropriation: Based on the costs of similar activities, CBO estimates that developing the process for exchanging the land would cost $1 million in 2022 and $1 million in 2023. Under the bill, either DOI or the states could assume responsibility for covering administrative costs associated with the land ex-

[6] In many cases, a portion of the receipts generated from activities on federal land is paid to the state or county where the activities occur. In other cases, agencies can spend all or a portion of any receipts generated. This projection represents only the portion of receipts that will be deposited into the Treasury.

changes. CBO expects that states would submit applications to complete a total of 10 to 20 land exchanges over the 2024–2026 period; that in most cases DOI would cover the associated administrative costs; that the costs of completing 75 percent of those exchanges would total about $100,000 per exchange; and that the costs of completing larger, more complex exchanges would average about $1 million each. In total, CBO estimates, implementing H.R.2348 would cost $8 million over the 2022–2026 period; such spending would be subject to the availability of appropriated funds.

Uncertainty: CBO's estimate of forgone receipts is uncertain; actual amounts could be higher or lower. CBO cannot predict which specific parcels of federal land states would select and cannot accurately project the income those parcels will generate over the next 10years. However, because state land selections are intended to generate funding for state schools, CBO assumes that most of the federal land selected by states would have a high potential to generate receipts.

In addition, CBO has no information on the quantity, configuration, or location of state land that would be conveyed to the federal government under the bill because those decisions have not been made yet and would probably not happen until after the bill is enacted. Thus, CBO has no basis for estimating land values or identifying the factors the government might consider in making a valuation.

Finally, the budgetary effects of the bill would depend on decisions made by officials in the affected states and at DOI. Likewise, because decisions about which land would be transferred have not been made, CBO has no basis for determining whether or to what extent nonfinancial factors would affect the decisions made by state governments. CBO also has no basis for determining how DOI might exercise its broad authority to reject applications.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 2.

TABLE 2.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 2348, THE ADVANCING CONSERVATION AND EDUCATION ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON MAY 5,2021

	By fiscal year, millions of dollars—											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022–2026	2022–22031
	Net Increase in the Deficit											
Pay-As-You-Go Effect	0	0	0	0	0	0	10	15	20	25	0	70

Increase in long-term deficits: CBO estimates that enacting H.R. 2348 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2032.

Mandates: None.

Estimate prepared by: Federal Costs: Janani Shankaran; Mandates: Lilia Ledezma.

Estimate reviewed by: Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

2. *General Performance Goals and Objectives*. As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to maximize land efficiencies, promote land conservation, and generate education funding.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to CBO, this bill contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS

None.