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REPORT
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NATIONAL PARK ACCESS ACT

DECEMBER 10, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 2104]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2104) to require the Director of the National Park Service to refund to States all State funds that were used to reopen and temporarily operate a unit of the National Park System during the October 2013 shutdown, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 2104 is to refund money to states that provided funds to the National Park Service to reopen units of the National Park System during the October 2013 shutdown.

BACKGROUND AND NEED

The Anti-Deficiency Act, 31 U.S.C. 1341, prohibits Federal agencies and their officers and employees administering public lands (31 U.S.C.) from making or authorizing any expenditure or obligation before Congress appropriates sufficient funds for the expenditure or obligation. As a result, federal agencies have had to suspend most non-essential functions when Congress has failed to appropriate the funds needed to pay for those functions. During past lapses of appropriations in 1995–1996 and 2013, partial government shutdowns have required the National Park Service to close national parks to the public. The closure of the parks hurt nearby communities that rely on visitor spending.

In both the 1995–1996 and 2013 shutdowns, the National Park Service entered into individual agreements with certain states, at

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the states' request, to temporarily reopen several National Park sites with funds donated by the states. The agreements did not allow for reimbursement as that would create an obligation to pay money prior to Congressional appropriation.

In 1996, Congress appropriated funds before the National Park Service spent the states' money. The parks were reopened using federal funds and the National Park Service was able to return the unspent donated funds to the states. In 2013, however, the National Park Service spent the states' money to reopen parks before Congress appropriated federal funds. The National Park Service has been unable to reimburse the states because it has no legal authority to reimburse the states for their donations.

Specifically, the National Park Service entered into agreements with the States of Arizona, Colorado, New York, South Dakota, Tennessee, and Utah to temporarily reopen National Parks within those states using funds donated by the states. The agreements provided approximately $2 million for the operation of National Parks in the six states. National Park sites reopened by these agreements included Grand Canyon National Park (AZ); Mount Rushmore National Monument (SD); Arches, Bryce Canyon, Canyonlands, Capital Reef, Zion National Parks, Cedar Breaks, Natural Bridges National Monuments, and Glen Canyon National Recreation Area (UT); Great Smoky Mountains National Park (TN); Rocky Mountains National Park (CO); and Statue of Liberty National Monument (NY).

Legislation is needed to authorize the Director of the National Park Service to refund approximately $2 million to the six states that entered into agreement with the National Park Service to reopen National Park sites in those states.

LEGISLATIVE HISTORY

S. 2104 was introduced by Senator Flake on March 11, 2014. S Senators Alexander, Bennet, Corker, Hatch, Lee, McCain, and Udall of Colorado are original cosponsors. The Subcommittee on National Parks held a hearing on S. 2104 on July 23, 2014. The Committee ordered the bill favorably reported on November 13, 2014.

A similar bill, H.R. 4353, was introduced by Representative Gardner with eight cosponsors on April 1, 2014.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 13, 2014, by a voice vote of a quorum present, recommends that the Senate pass S. 2104.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the National Park Access Act.

Section 2 contains findings that during the October 2013 lapse of appropriations, the National Park Service entered into agreements with various States to temporarily reopen units of the National Park System. The States advanced approximately $2,000,000 to the National Park Service to reopen these parks. The parks, once temporarily reopened, collected entrance fees. When Congress funded the government ending the shutdown, the National Park Service retained the funds from the States in addition to the appropriated funds. The bill finds that the States should be reimbursed by the National Park Service.

Section 3 directs the Director of the National Park Service to refund the funds that the States advanced to reopen units of the National Park System. Additionally, this section directs that the funds to repay the States should come from funds appropriated after the date of enactment of this act.

COST AND BUDGETARY CONSIDERATIONS

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

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S. 2104 would require the National Park Service (NPS) to reimburse states for funds they donated to the federal government to operate certain national park units during the period of lapsed appropriations that occurred from October 1, 2013, to October 16, 2013.

Governors of six states (Arizona, Colorado, New York, South Dakota, Tennessee, and Utah) signed agreements with the Department of the Interior (DOI) to donate about $3.6 million to operate 13 national park units in October of 2013. When appropriations for the NPS were enacted on October 17, 2013, about $1.6 million of the unspent donations were returned to the states. Based on information provided by the NPS and assuming appropriation of the necessary amounts, CBO estimates that implementing S. 2104 would cost about $2 million—an amount equivalent to the states' donations that were spent to operate national park units during that period.

Enacting S. 2104 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 2104 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On December 18, 2013, CBO transmitted a cost estimate for H.R. 3286, Protecting States, Opening National Parks Act, as ordered reported by the House Committee on Natural Resources on December 4, 2013. H.R. 3286 would require the Department of Treasury to reimburse states for the operation of national parks during the government shutdown. Unlike S. 2104, however, the reimbursement requirement in H.R. 3286 would not be subject to the availability of future appropriations.

The CBO staff contact for this estimate is Marin Burnett. The estimate was approved by Theresa Gullo, 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. 2104.

The Act 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. 2104, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2104, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the July 23, 2014, Subcommittee on National Parks hearing on S. 2104 follows:

STATEMENT OF CHRISTINA GOLDFUSS, DEPUTY DIRTECTOR, CONGRESSIONAL AND EXTERNAL RELATIONS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before you today to provide the Department of the Interior's views on S. 2104, a bill to require the Director of the National Park Service to refund to States all State funds that were used to reopen and temporarily operate a unit of the National Park System during the October 2013 shutdown.

S. 2104 requires the Director of the National Park Service to reimburse each State that provided funds to open and temporarily operate a unit (or units) of the National Park System in October 2013, when there was a lapse in appropriations for most Federal government activities. The bill specifies that the reimbursement shall be carried out using funds appropriated for the National Park Service after enactment of this legislation. We estimate that the cost of reimbursing the States would be approximately $2 million.

From October 1 through October 16, 2013, the National Park Service, along with other bureaus and offices of the Department of the Interior, implemented a shutdown of our activities due to a lapse in appropriations. Under the closure determination and notice issued by the Director of the National Park Service, and consistent with applicable law, the National Park Service closed and secured all 401 national parks across the country, suspended all activities, and furloughed more than 20,000 National Park Service employees.

In response to the economic impacts that the park closures were having on many communities and local businesses, as the shutdown entered a second week, Secretary Jewell announced that the Department would consider agreements with Governors who indicated an interest and ability to fully fund National Park Service personnel to reopen specified national parks in their States. Six States—Arizona, Colorado, New York, South Dakota, Tennessee, and Utah—signed donation agreements with the Department to open a total of 13 park units that are all significant contributors to tourism in the States where they are located. State donations under these agreements totaled approximately $3.6 million. Once these agreements were signed and the funds were transferred, the National Park Service reopened the national parks in accordance with the specific agreements.

Under the terms of the agreements, the States donated to the National Park Service lump sum payments in advance to cover the cost of operating the parks for a specific number of days. Further, these agreements stipulated that funds donated and used to re-open the parks could not be returned to the States. The employees who returned to work in these parks during the shutdown were paid for these days out of the funds donated by the States. When Congress passed a continuing resolution providing appropriations for the first three and a half months of FY 2014 on October 16, 2013, the National Park Service was able to resume operations on October 17, 2013, and stop charging employee time against the funds that had been donated by the States.

Once the shutdown ended, the National Park Service immediately began the process of reimbursing the six States for the portion of donated funding that was not expended to operate the parks, which totaled approximately $1.6 million. However, the National Park Service does not have the authority to reimburse States for the portion of funding that was expended (approximately $2 million); an act of Congress is needed for that. S. 2104 would provide that authority. We would like to point out that, as written. the source of funds for repayment will be derived from future appropriations, not from funds received by the parks in FY14.

Mr. Chairman. this concludes my testimony, and I would be happy to answer any questions you or other members of the subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 2104, as ordered reported.

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