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WIND CAVE NATIONAL PARK BOUNDARY REVISION ACT OF 2005

MARCH 8, 2005.—Ordered to be printed

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

R E P O R T

[To accompany S. 276]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 276) to revise the boundary of the Wind Cave National Park in the State of South Dakota, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 276 is to revise the boundary of the Wind Cave National Park in South Dakota to add approximately 5,675 acres to the park.

BACKGROUND AND NEED

S. 276 would authorize the expansion of Wind Cave National Park to include approximately 5,675 acres of land. The proposed addition includes two private parcels of 5,555 and 40 acres, both owned by willing sellers; and 80 acres which would be transferred from the Bureau of Land Management. These lands are a natural extension of the park, and will improve fire management of the mixed-grass prairie ecosystem.

These additions will protect archaeological sites such as a thousand-year-old buffalo jump, expand the backcountry, preserve a viewshed, and increase natural habitat for bison, elk, deer and pronghorn antelope. The lands are a natural extension of the rolling hills and prairie that dominate the current park landscape and will help preserve the magnificent mixed-grass prairie and ponderosa pine forest of this natural treasure.

LEGISLATIVE HISTORY

S. 276 was introduced by Senators Johnson and Thune on February 3, 2005. During the 108th Congress, the Committee considered identical legislation, S. 425, sponsored by Senator Daschle. The committee also considered similar legislation, S. 2788, during the 107th Congress. The Subcommittee on National Parks held a hearing on S. 2788 on September 19, 2002, (S. Hrg. 107–680) and the Committee ordered the bill reported, without amendment, on October 3, 2002. The text of S. 2788 was adopted by the Senate as an amendment to S. 1894, and the bill, as amended, passed the Senate by unanimous consent on November 19, 2002.

In the 108th Congress, the Subcommittee on National Parks held a hearing on S. 425 on March 4, 2003 (S. Hrg. 108–14). At its business meeting on March 12, 2003, the Committee on Energy and Natural Resources ordered S. 425 favorably reported (S. Rept. 108–26). S. 425 passed the Senate, with amendment and amendment to the title, by unanimous consent on October 10, 2004. The text of S. 425 was also included in Senate amendments of H.R. 620 and S. 1521, both of which passed the Senate, as amended, by unanimous consent on December 7, 2004. The House of Representatives did not consider any of these bills prior to the *sine die* adjournment of the 108th Congress.

At its business meeting on February 16, 2005, the Committee on Energy and Natural Resources ordered S. 276 favorably reported.

COMMITTEE RECOMMENDATIONS

The Committee on Energy and Natural Resources, in open business session on February 16, 2005, by a voice vote of a quorum present, recommends that the Senate pass S. 276 as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the Act the “Wind Cave National Park Boundary Revision Act of 2005.”

Section 2 defines key terms used in the bill.

Section 3 authorized the Secretary of the Interior to acquire approximately 5,675 acres of land depicted on a referenced map, by donation, purchase from a willing seller with donated or appropriated funds, or by exchange. The boundary of Wind Cave National Park is adjusted accordingly.

Section 4 directs the Secretary to administer the referenced land as part of the Wind Cave National Park, and directs the Secretary to transfer jurisdiction over the land from the Director of the Bureau of Land Management to the Director of the National Park Service.

Section 5 authorizes the Secretary to permit the continuation of livestock grazing on the newly acquired lands, on levels not to exceed the level of grazing as of the date of acquisition. The Secretary may purchase the outstanding portion of a grazing permit or lease or accept the voluntary termination of a permit or lease on any of the acquired land.

COST AND BUDGETARY CONSIDERATIONS

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

S. 276—Wind Cave National Park Boundary Revision Act of 2005

S. 276 would authorize the National Park Service (NPS) to acquire 5,675 acres of land for addition to the Wind Cave National Park in South Dakota. The additional acreage could be acquired by donation, purchase, exchange, or administrative transfer, if other federal property were acquired.

Assuming appropriation of the necessary amounts, CBO estimates that it would cost the NPS \$9 million to implement S. 276 over the next five years. Of that amount, we estimate that about \$6 million would be spent in 2005 or 2006 to purchase 5,595 acres of privately owned land adjacent to the existing park boundary. During this period, we expect that the agency also would accept administrative jurisdiction over an additional 80 acres currently managed by the Bureau of Land Management (BLM). (The transfer of the two nearby 40-acre BLM parcels would not have any significant impact on either agency's budget and would not affect any grazing activities currently authorized on those sites.) CBO estimates that the NPS would spend another \$2 million during 2005 to protect and develop newly acquired lands for park use. Finally, we estimate that managing the added property would cost the NPS about \$200,000 a year beginning in 2005, assuming the availability of appropriated funds. This cost estimate is based on information provided by the NPS and by local taxing authorities.

Enacting S. 276 would not affect direct spending or revenues. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. This 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. 276. 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. 276, as ordered reported.

EXECUTIVE COMMUNICATIONS

During the 108th Congress, the Committee considered identical legislation (S. 425). The views of the Administration on S. 425 were included in testimony received by the Committee at a hearing on the bill on September 9, 2003, as follows:

STATEMENT OF DETEEL PATTERSON TILLER, ACTING ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the views of the Department on S. 425, a bill to revise the boundary of Wind Cave National Park in the State of South Dakota.

The Department does not support S. 425 at this time because of the high costs of this boundary expansion. The Department strongly supports the President's commitment to eliminate the deferred maintenance backlog in our national parks. We need to continue to focus our resources on taking care of existing areas in the National Park System.

Wind Cave National Park, established in 1903, is one of the Nation's first national parks and the first cave set aside for protection. The cave itself, after which the park is named, is one of the world's oldest, longest, and most complex cave systems with more than 104 miles of mapped passages. The cave is well-known for its exceptional display of boxwork, a rare honeycomb-shaped formation protruding from the cave's ceilings and walls. While the cave is the focal point of the park, the land above the cave is equally impressive with 28,295 acres of rolling prairie, majestic forests, and pristine creeks. Legislation passed in 1912 established in Wind Cave National Game Preserve creating a permanent national range for buffalo and other Native American game animals as may be placed therein. In 1935, the Wind Cave National Game Preserve was transferred into Wind Cave National Park.

This legislation would authorize the Secretary of the Interior to acquire 5,675 acres adjacent to Wind Cave National Park. A ranching family currently owns 5,555 acres of the land and has indicated they would be willing to sell the property to the United States as a lasting legacy to their father. Another 40 acres of land from a willing seller would preserve a viewshed for the park. The last 80 acres would be an administrative jurisdiction transfer from the Director of the Bureau of Land Management to the Director of the National Park Service. The acquisition cost for the proposal is estimated at \$5 to \$6 million although actual costs will not be known until the land appraisals are completed. In many cases, non-profit groups are willing to purchase the properties and hold them for a short period of time until the National Park Service is able to designate land acquisition funding.

The current annual base funding for Wind Cave National Park is \$1.892 million. If enacted, additional funding would be required due to anticipated increases in the number of FTEs needed for increased wildlife and interpretive responsibilities. In addition, construction funding of \$1.817 million would be necessary for the removal and installation of fencing.

This concludes my prepared statement. I will be pleased to answer any questions you or other members of the committee 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 the bill S. 276, as ordered reported.

