

## Calendar No. 204

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*1st Session* }

SENATE

{ REPORT  
114-124

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### NATIONAL PARK ACCESS ACT

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SEPTEMBER 9, 2015.—Ordered to be printed

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

### R E P O R T

[To accompany S. 145]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 145) 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. 145 is 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.

#### BACKGROUND AND NEED

The Anti-Deficiency Act (31 U.S.C. 1341) prohibits Federal agencies and their officers and employees administering public lands 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.

From October 1 through October 16, 2013, there was a lapse in appropriations for the Federal government. During this period, most of the Federal government was closed, including lands administered by the National Park Service. The closure of these Park Service sites impacted nearby communities that rely on visitor

spending to help local economies. For this reason, at the request of certain states, the National Park Service entered into individual agreements with Arizona, Colorado, New York, South Dakota, Tennessee, and Utah to temporarily reopen several national park sites in those states with donated funds from the states.

Approximately \$2 million in total was donated by the states under the agreements for the operation of national park sites in these six states. The national park sites reopened included: Grand Canyon National Park (AZ); Mount Rushmore National Monument (SD); Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capital Reef National Park, Zion National Park, Cedar Breaks National Monument, Natural Bridges National Monuments, and Glen Canyon National Recreation Area (UT); Great Smoky Mountains National Park (TN); Rocky Mountain National Park (CO); and Statue of Liberty National Monument (NY).

Although the funding resolution that reopened the Federal government (Public Law 113–46) retroactively funded the Park Service for operations during the government shutdown, including the time during which the 13 sites were operated with state-donated funds, the National Park Service has been unable to reimburse the states because it has no legal authority to make the reimbursements. S. 145 would provide the legal authority to reimburse the states.

#### LEGISLATIVE HISTORY

In the 113th Congress, Senators Flake, Udall of Colorado, Alexander, McCain, Bennet, Lee, Hatch, and Corker introduced a similar bill, S. 2104, on March 11, 2014. The Subcommittee on National Parks held a hearing on the bill on July 23, 2014 (S. Hrg. 113–493), and the Committee reported the bill on a voice vote on December 10, 2014 (S. Rept. 113–298).

In the House of Representatives, Representatives Gardner, Franks, Duncan, Gosar, Roe, Blackburn, Bishop, Chaffetz, and Tip-ton introduced a similar bill, H.R. 4353, on April 1, 2014.

S. 145 was introduced by Senators Flake, Alexander, Bennet, Corker, Gardner, Lee, McCain, Hatch, and Thune on January 12, 2015. The Subcommittee on National Parks held a hearing on the bill on June 10, 2015.

The Committee on Energy and Natural Resources met in open business session on July 30, 2015, and ordered S. 145 favorably reported.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 30, 2015, by a majority voice vote of a quorum present, recommends that the Senate pass S. 145.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* contains the short title, the “National Park Access Act.”

*Section 2* contains findings.

*Section 3* directs the Director of the National Park Service to refund to each state all funds that were used to reopen and temporarily operate national park units during the October 2013 shut-

down. The refunds are to be paid from appropriations made to the National Park Service after the enactment of this Act.

#### COST AND BUDGETARY CONSIDERATIONS

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

##### *S. 145—National Park Access Act*

S. 145 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 to donate about \$3.6 million to operate 13 national park units. When the appropriations for the National Park Service were enacted on October 17, 2013, about \$1.6 million of the unspent donations were returned to the states. Based on information provided by NPS and assuming appropriation of necessary amounts, CBO estimates that implementing S. 145 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. 145 would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

S. 145 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The bill would repay the states of Arizona, Colorado, New York, South Dakota, Tennessee, and Utah for funds they provided to the federal government as part of agreements to reopen certain national parks during the government shutdown in October 2013.

The CBO staff contact for this estimate is Marin Burnett. The estimate was approved by H. Samuel Papenfuss, 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. 145. 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. 145, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 145, as ordered 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 June 19, 2015, National Parks Subcommittee hearing on S. 145 follows:

STATEMENT OF VICTOR KNOX, ASSOCIATE DIRECTOR, PARK  
PLANNING, FACILITIES AND LANDS, 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. 145, 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. 145 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 reopen 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. 145 would provide that authority. We would like to point out that, as written, the source of funds for repayment will be derived from appropriations made after the enactment of this bill, not from funds received by the parks in FY14 or FY15.

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 the bill S. 145, as ordered reported.

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