

## CONTINENTAL DIVIDE TRAIL COMPLETION ACT

JULY 18, 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

together with

### DISSENTING VIEWS

[To accompany H.R. 5118]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5118) to direct the Secretary of Agriculture to prioritize the completion of the Continental Divide National Scenic Trail, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Continental Divide Trail Completion Act”.

#### SEC. 2. CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL.

##### (a) COMPLETION OF TRAIL.—

(1) IN GENERAL.—Not later than November 10, 2028, the Secretary and the Secretary of the Interior shall, to the maximum extent practicable, ensure the completion of the Continental Divide National Scenic Trail as a contiguous route, consistent with the following provisions of the National Trails System Act:

(A) Section 3(a)(2) (16 U.S.C. 1242(a)(2)).

(B) Section 5(a)(5) (16 U.S.C. 1244(a)(5)).

(C) Section 7 (16 U.S.C. 1246).

(2) PRIORITY OF ACTIONS.—The Secretary and the Secretary of the Interior shall, to the maximum extent practicable, take necessary actions to achieve this goal, including the following steps, listed in order of priority:

(A) Complete the Continental Divide National Scenic Trail by acquiring land or an interest in land, or by encouraging States or local governments

to enter into cooperative agreements to acquire interests in land, to eliminate gaps between sections of the Trail while maintaining the nature and purposes of the Trail.

(B) Optimize the Trail by relocating incompatible existing portions of the Trail on Federal land as necessary to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which the Trail passes, consistent with the Trail's nature and purposes.

(C) Publish maps of the completed Trail corridor.

(b) TRAIL COMPLETION TEAM.—

(1) IN GENERAL.—In carrying out subsection (a), not later than 1 year after the date of the enactment of this section, the Secretary, in coordination with the Secretary of the Interior, shall establish a joint Forest Service and Bureau of Land Management trail completion team to work in coordination with the Trail Administrator to facilitate the completion and optimization of the Trail, pursuant to the purposes of section 3(a)(2) of the National Trails System Act (16 U.S.C. 1242(a)(2)) and the Trail's nature and purposes.

(2) DUTIES OF THE TEAM.—The Team shall:

(A) Implement land and right-of-way acquisitions, relocations, and trail construction consistent with any Optimal Location Review for the trail, giving priority to land that—

- (i) eliminates gaps between segments of the Trail;
- (ii) may be acquired by the Secretary or the Secretary of the Interior by purchase from a willing seller, donation, exchange, or by cooperative agreement;
- (iii) is best suited for inclusion in the Trail corridor in accordance with the purposes, policies, and provisions of the National Trails System Act (16 U.S.C. 1241 et seq.); and
- (iv) has been identified as a segment of the Trail on Federal land that should be relocated to provide for maximum outdoor recreation potential and the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which the Trail passes.

(B) Provide the necessary administrative and technical support to complete the Trail corridor under subsection (a).

(C) As appropriate, consult with other Federal agencies, Governors of affected States, Indian Tribes, Land Grants-Mercedes, Acequias, relevant landowners or land users of an acequia or land grant-merced, the Continental Divide Trail Coalition, and other volunteer and nonprofit organizations that assist in, or whose members may be affected by, the development, maintenance, and management of the Trail.

(D) Support the Secretary in the development of the acquisition and development plan under subsection (c) and annual reports under subsection (f).

(c) COMPREHENSIVE ACQUISITION AND DEVELOPMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the establishment of the Team under subsection (b), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a comprehensive acquisition and development plan for the Trail.

(2) CONTENTS OF PLAN.—The comprehensive acquisition and development plan should—

- (A) identify any gaps in the Trail where the Secretary and the Secretary of the Interior have not been able to acquire land or interests in land by purchase from a willing seller, by donation, by exchange, or by cooperative agreement;
- (B) include a plan for closing such gaps by acquiring lands or interests in land; and
- (C) include general and site-specific development plans, including anticipated costs.

(d) METHOD OF ACQUISITION.—In carrying out this section, the Secretary and the Secretary of the Interior—

- (1) may acquire land only by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange; and
- (2) may not acquire land by eminent domain.

(e) MAINTAINING EXISTING PARTNERSHIPS.—In carrying out this section, the Secretary, the Secretary of the Interior, and the Team shall continue to maintain and

develop working relationships with volunteer and nonprofit organizations that assist in the development, maintenance, and management of the Trail.

(f) **REPORTS.**—Not later than September 30, 2024, and at the close of each fiscal year until the acquisition and development plan is fully implemented, the Secretary shall report on the following, in writing, to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate:

(1) The progress in acquiring land or interests in land to complete the Trail consistent with this Act.

(2) The amount of land or interests in land acquired during the fiscal year and the amount expended for such land or interests in land.

(3) The amount of land or interests in land planned for acquisition in the ensuing fiscal year and the estimated cost of such land or interests in land.

(4) The estimated amount of land or interests in land remaining to be acquired.

(5) The amount of existing Trail miles on Federal lands that need to be relocated to provide for maximum outdoor recreation potential and for conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which the Trail passes.

(g) **DEFINITIONS.**—In this section:

(1) **ACEQUIA.**—The term “acequia” has the meaning of the term “community ditch” as such term is defined under section 73-2-27 of the New Mexico Statutes.

(2) **LAND GRANT-MERCED.**—The term “land grant-merced” means a community land grant issued under the laws or customs of the Government of Spain or Mexico that is recognized under chapter 49 of the New Mexico Statutes (or a successor statute).

(3) **OPTIMAL LOCATION REVIEW.**—The term “Optimal Location Review” means the procedures described in the Continental Divide National Scenic Trail Optimal Location Review Guide, dated November 2017.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(5) **TEAM.**—The term “Team” means the trail completion team established under subsection (b).

(6) **TRAIL.**—The term “Trail” means the Continental Divide National Scenic Trail established by section 5 of the National Trails System Act (16 U.S.C. 1244).

Amend the title so as to read:

A bill to direct the Secretary of Agriculture and the Secretary of the Interior to prioritize the completion of the Continental Divide National Scenic Trail, and for other purposes.

#### PURPOSE OF THE BILL

The purpose of H.R. 5118 is to direct the Secretary of Agriculture to prioritize the completion of the Continental Divide National Scenic Trail.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 5118 would direct the U.S. Forest Service and the Bureau of Land Management to work together to finish the Continental Divide Trail (CDT), setting 2028 as the target year for substantial completion of the entire trail. The bill achieves this goal by establishing an interagency Land Acquisition Team designed to review existing gaps and identify property for acquisition. The agencies are directed to develop an acquisition plan within three years of enactment. Property can be purchased only from willing sellers, and the bill encourages maintaining existing partnerships for the development, maintenance, and management of the trail.

Congress created the Continental Divide Trail in 1978 as part of the National Trails System, a network that spans all 50 states. The trail’s corridor helps protect the headwaters of the Colorado, Rio Grande, Columbia, and Mississippi Rivers, and when the trail is

complete, it will connect an unbroken corridor of more than 2 million acres of public land for wildlife to traverse along their migration routes safely. More than 40 years after its creation, the trail remains incomplete due to gaps in public lands along more than 160 miles of its route. In these areas, the CDT is forced to follow along roads to connect one completed section to another.

#### COMMITTEE ACTION

H.R. 5118 was introduced on August 27, 2021, by Representative Joe Neguse (D-CO). 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 November 9, 2021, the Subcommittee held a hearing on the bill. On January 19, 2022, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Rep. Neguse offered an amendment in the nature of a substitute. The Neguse amendment in the nature of a substitute was agreed to by voice vote. The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by voice vote.

#### HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on National Parks, Forests, and Public Lands held on November 9, 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, 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, July 14, 2022.*

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. 5118, the Continental Divide Trail Completion Act.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>H.R. 5118, Continental Divide Trail Completion Act</b>			
As ordered reported by the House Committee on Natural Resources on January 19, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	1	not estimated
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 5118 would direct the Forest Service and the Department of the Interior (DOI) to complete, to the maximum extent possible, the Continental Divide National Scenic Trail as a contiguous recreational route. The agencies would be required to prepare a trail acquisition and development plan and report periodically to the Congress on their progress.

The Forest Service and DOI are already undertaking activities to complete the trail, including optimal location review, land acquisition, and trail construction. On that basis, and the costs of similar tasks, CBO estimates that the agencies would need one employee, at an average annual cost of \$120,000, to support those activities and complete the required plan. In total, we estimate that implementing H.R. 5118 would cost about \$1 million over the 2022–2027 period; such spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Lilia Ledezma. The estimate was reviewed by H. Samuel Papenfuss, Deputy 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 direct the Secretary of Agriculture to prioritize the completion of the Continental Divide National Scenic Trail.

#### 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.

## DISSENTING VIEWS

H.R. 5118 seeks to expedite land acquisition necessary to eliminate gaps in the Continental Divide National Scenic Trail (CDNST). Under this legislation, the Secretary of Agriculture is required to substantially complete the land acquisition necessary to finish the CDNST by 2028, the 50th anniversary of the establishment of the CDNST. Additionally, the Secretary of Agriculture, in coordination with the Secretary of the Interior, must establish a joint U.S. Forest Service (USFS) and Bureau of Land Management (BLM) land acquisition team to facilitate the completion and optimization of the CDNST.

Much of H.R. 5118 is unnecessary and redundant with existing authorities. The USFS and other federal land management agencies have existing authority to acquire lands for the CDNST. Further, these agencies already have the authority to develop working partnerships with volunteer and nonprofit organizations that assist with the development, maintenance, and management of the CDNST. At the legislative hearing on H.R. 5118, the USFS testified that, “Currently, approximately 95 percent of the CDNST is protected on lands in public or tribal ownership, or through easements across private lands.” Additionally, the USFS stated that progress towards completion of the remaining five percent “. . . is, in large part, determined by private landowners’ willingness to sell their property or put it under a conservation easement.” Finally, the USFS testified that work is already underway to accomplish the goals of H.R. 5118 and that the agency is working to finish a draft optimal location review document in 2022.

H.R. 5118 is also another discouraging example of the Majority disregarding Member engagement and moving legislation that affects Members’ districts without the support of the impacted Members. The CDNST runs through Montana, Idaho, Wyoming, Colorado, and New Mexico. Noticeably absent from the cosponsor list, however, are Members from three of the five affected States.

Committee Republicans support completion of the CDNST but oppose unnecessary new reports, duplicative administrative processes, and new legislation that pressures land management agencies to “create” willing sellers out of private landowners. If the Committee Majority wants to aid the land management agencies in completing trails, they could instead look at ways to streamline the National Environmental Policy Act (NEPA; 42 U.S.C. 4321) envi-

ronmental review process, rather than advancing superfluous legislation.

BRUCE WESTERMAN,  
*Ranking Member,*  
*Committee on Natural Resources.*

