

Calendar No. **705**

107TH CONGRESS
2^D SESSION

H. R. 4968

IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 2002

Received

OCTOBER 11 (legislative day, OCTOBER 10), 2002

Read the first time

OCTOBER 15, 2002

Read the second time and placed on the calendar

AN ACT

To provide for the exchange of certain lands in Utah.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal-Utah State
3 Trust Lands Consolidation Act”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) The San Rafael Swell in Utah is a 900-
7 square mile, wild and beautiful region west of the
8 Green River. The San Rafael Swell is dominated by
9 the jagged, uplifted San Rafael Reef, which has
10 nearly two dozen major canyons and many side
11 draws and box canyons. The San Rafael Swell tow-
12 ers above the desert like a wilderness castle, ringed
13 by 1,000-foot ramparts of Navajo sandstone. Its
14 highlands have been fractured by uplift and scooped
15 hollow by erosion over countless millennia, leaving a
16 tremendous basin punctuated by mesas, buttes, and
17 canyons and traversed by sediment-laden desert
18 streams.

19 (2) The San Rafael Swell region was one of the
20 country’s last frontiers and possesses important nat-
21 ural, historical, and cultural resources, including ex-
22 ceptional backcountry recreation opportunities, pro-
23 ductive habitat for Desert Bighorn Sheep, important
24 historical sites, including sections of the Old Spanish
25 Trail and the Outlaw Trail, significant paleontolog-
26 ical resources, and multiple wilderness study areas

1 created pursuant to section 603 of the Federal
2 Lands Policy and Management Act of 1976, or oth-
3 erwise identified by local government and conserva-
4 tion interests as having significant conservation val-
5 ues. The beautiful rural landscapes, historic and cul-
6 tural landscapes, and spectacular scenic vistas of the
7 San Rafael Swell region contain significant undevel-
8 oped recreational opportunities for people through-
9 out the United States.

10 (3) The State of Utah owns approximately
11 102,871 acres of land located in the San Rafael
12 Swell region and administered by the Utah School
13 and Institutional Trust Lands Administration.
14 These lands were granted by the Congress to the
15 State of Utah pursuant to the Utah Enabling Act of
16 1894 (chapter 138; 23 Stat. 107), to be held in
17 trust for the benefit of the State's public school sys-
18 tem and other public institutions. The lands are
19 largely scattered in checkerboard fashion amidst the
20 Federal lands comprising the remainder of the San
21 Rafael Swell area.

22 (4) Development of surface and mineral re-
23 sources on State trust lands within the San Rafael
24 Swell area, or the sale of such lands into private
25 ownership, could be incompatible with management

1 of such lands for nonimpairment of their wilderness
2 characteristics pursuant to section 603(c) of the
3 Federal Land Policy and Management Act of 1976,
4 with future congressional designation of the lands as
5 wilderness, or with future designation of such lands
6 as a national monument, national heritage area, or
7 other conservation designation.

8 (5) The State of Utah also owns 3,533 acres of
9 land within or directly adjacent to the Manti-La Sal
10 National Forest in Grand and Emery Counties,
11 Utah, and 6,411 acres of land within the Red Cliffs
12 Desert Reserve, a conservation reserve established in
13 1995 by the United States and Washington County,
14 Utah, to implement a multiple-species habitat con-
15 servation plan approved by the Fish and Wildlife
16 Service under section 10(a) of the Endangered Spe-
17 cies Act of 1973. The Reserve contains the highest
18 density of critical habitat for the Mojave desert tor-
19 toise, a threatened species, in the United States.
20 These State trust lands are also administered by the
21 Utah School and Institutional Trust Lands Adminis-
22 tration, but the use of such lands by the State is
23 limited because of the conservation designations of
24 surrounding Federal lands.

1 (6) The United States owns lands and interests
2 in lands elsewhere in Utah that can be transferred
3 to the State of Utah in exchange for the San Rafael
4 Swell inholdings, the Manti-La Sal forest lands, and
5 the Red Cliffs Desert Reserve lands without jeopard-
6 izing Federal management objectives or needs.

7 (7) The large presence of State trust land
8 inholdings in the San Rafael Swell region, the
9 Manti-La Sal National Forest, and the Red Cliffs
10 Desert Reserve makes land and resource manage-
11 ment in these areas difficult, costly, and controver-
12 sial for both the State of Utah and the United
13 States.

14 (8) It is in the public interest to reach agree-
15 ment on exchange of such inholdings, on terms fair
16 to both the State of Utah and the United States.
17 Such an agreement, subject to ratification by Con-
18 gress and consent by the Utah legislature, would
19 save much time and delay in meeting the legitimate
20 expectations of the State school and institutional
21 trusts, in simplifying management of Federal lands,
22 and in avoiding the significant time and expense as-
23 sociated with administrative land exchanges.

24 (9) The State of Utah and the United States
25 have reached an agreement under which the State

1 would exchange certain State trust lands within the
2 San Rafael Swell region, the Manti-La Sal National
3 Forest, and the Red Cliffs Desert Reserve for var-
4 ious Federal lands outside of those areas but in the
5 same region of Utah.

6 (10) The parties agreed at the outset of nego-
7 tiations to avoid identifying Federal assets for con-
8 veyance to the State where any of the following was
9 known to exist or likely to be an issue as a result
10 of foreseeable future uses of the lands:

11 (A) Wilderness study areas.

12 (B) Areas proposed for wilderness designa-
13 tion in pending Federal legislation.

14 (C) Significant endangered species habitat.

15 (D) Significant archaeological resources.

16 (E) Areas of critical environmental con-
17 cern.

18 (F) Other lands known to raise significant
19 environmental concerns of any kind.

20 (11) Because the State trust lands to be ac-
21 quired by the Federal Government include properties
22 within some of the most spectacular wild areas in
23 the western United States, and because a mission of
24 the Utah School and Institutional Trust Lands Ad-
25 ministration is to produce economic benefits for

1 Utah's public schools and other beneficiary institu-
2 tions, the exchange of lands called for in this agree-
3 ment will resolve longstanding environmental con-
4 flicts with respect to existing and proposed wilder-
5 ness study areas, place important natural lands into
6 public ownership, and further the interests of the
7 State trust lands, the school children of Utah, and
8 these conservation resources.

9 (12) Under this agreement, the State interests
10 to be conveyed to the United States by the State of
11 Utah, and the Federal interests to be conveyed to
12 the State of Utah by the United States, have been
13 examined by licensed independent real estate con-
14 sultants and, taken as a whole, have been found to
15 be approximately equal in value.

16 (b) PURPOSE.—The purpose of this Act is to enact
17 into law and direct prompt implementation of this agree-
18 ment, and thereby to further the public interest by consoli-
19 dating State and Federal lands into manageable units
20 while facilitating the protection of lands with significant
21 scientific, cultural, and natural resources.

1 **SEC. 3. RATIFICATION OF THE AGREED EXCHANGE BE-**
2 **TWEEN THE STATE OF UTAH AND THE**
3 **UNITED STATES.**

4 (a) AGREEMENT.—The State of Utah, the Depart-
5 ment of the Interior, and the Department of Agriculture
6 have agreed to exchange certain Federal lands in the State
7 of Utah for lands of approximately equal value managed
8 by the Utah School and Institutional Trust Lands Admin-
9 istration in the San Rafael Swell area of Utah, the Manti-
10 La Sal National Forest, and the Red Cliffs Desert Re-
11 serve.

12 (b) RATIFICATION.—All terms, conditions, proce-
13 dures, covenants, reservations, and other provisions set
14 forth in the document entitled “Agreement for Exchange
15 of Lands 2002 Federal-Utah State Trust Lands Consoli-
16 dation”, dated June 18, 2002 (in this Act referred to as
17 “the Agreement”), are hereby incorporated in this Act, are
18 ratified and confirmed, and set forth the obligations of the
19 United States, the State of Utah, and the Utah School
20 and Institutional Trust Lands Administration, as a matter
21 of Federal law.

22 **SEC. 4. CONVEYANCES.**

23 (a) CONVEYANCES.—All conveyances under sections
24 2, 3, and 4 of the Agreement shall be completed not later
25 than 70 days after enactment of this Act.

26 (b) MAPS AND LEGAL DESCRIPTIONS.—

1 (1) IN GENERAL.—The maps and legal descrip-
2 tions referred to in the Agreement depict the lands
3 subject to the conveyances under the Agreement.

4 (2) PUBLIC AVAILABILITY.—The maps and
5 legal descriptions referred to in the Agreement shall
6 be on file and available for public inspection in the
7 offices of the Secretary of the Interior, the Secretary
8 of Agriculture, the Intermountain Regional Office of
9 the Forest Service, and the Utah State Director of
10 the Bureau of Land Management.

11 (3) CONFLICT.—In case of any conflict between
12 the maps and the legal descriptions in the Agree-
13 ment, the legal descriptions shall control.

14 (c) CERTAIN COAL LANDS.—

15 (1) IDENTIFICATION.—The Secretary of the In-
16 terior shall prepare legal descriptions for the ap-
17 proximately 4,000 acres of Federal lands that State
18 of Utah and the Secretary have identified within sec-
19 tions 1 through 17 of township 22 south, range 6
20 east, and within township 22 south, range 7 east,
21 Salt Lake Base and Meridian, Utah.

22 (2) RESTRICTION ON CONVEYANCE.—Convey-
23 ance of the lands identified in paragraph (1) shall
24 reserve to the United States the coal estate and the
25 right to develop the coal estate.

1 (3) FUTURE DISPOSITION.—Reservation of the
2 coal estate pursuant to paragraph (2) shall not re-
3 strict future disposition of the coal estate pursuant
4 to applicable law.

5 (d) SPECIES IDENTIFICATION.—Prior to any convey-
6 ances under this Act, the Secretary of the Interior shall
7 identify Federal lands subject to the Agreement which
8 contain wildlife species, or habitat of wildlife species, listed
9 as a threatened species or an endangered species under
10 the Endangered Species Act of 1973 (16 U.S.C. 1531 et
11 seq.) or that is a candidate for such a listing.

12 (e) INDEPENDENT MINERAL ASSESSMENT.—Prior to
13 any conveyances under this Act, the Secretary of the Inte-
14 rior and the State of Utah shall select an independent
15 qualified mineral appraiser, or other qualified expert
16 agreeable to both parties, who shall determine whether the
17 terms of the Agreement related to the UA/UB parcel,
18 identified in section 3(d) of the Agreement, are fair and
19 equitable to both parties. If there is a contrary determina-
20 tion, the Secretary and the State shall adjust the exchange
21 or terms of the Agreement so that the terms are fair and
22 equitable to both parties.

23 (f) EXCEPTIONS TO CONVEYANCES.—

24 (1) LEGAL DESCRIPTIONS.—The Secretary of
25 the Interior shall prepare legal descriptions, using

1 the smallest possible aliquot parts, for lands within
2 sections 4, 5, 8, and 9, township 22 south, range 7
3 east, and within section 12, township 22 south,
4 range 6 east, Salt Lake Base and Meridian, and
5 which are identified on the map entitled “Emery
6 County Lands”, dated September 27, 2002.

7 (2) LANDS NOT AUTHORIZED TO BE CON-
8 VEYED.—The lands identified in paragraph (1) shall
9 not be conveyed pursuant to subsection (a). In addi-
10 tion, lands within section 17, township 22 south,
11 range 7 east, and within section 33, township 21
12 south, range 7 east, Salt Lake Base and Meridian,
13 shall not be conveyed pursuant to subsection (a).

14 (3) LANDS NOT AUTHORIZED TO BE ACCEPT-
15 ED.—The Secretary of the Interior shall not accept
16 conveyance of section 36, township 24 south, range
17 6 east; section 32, township 24 south, range 14 east;
18 and section 2, township 26 south, range 8 east, Salt
19 Lake Base and Meridian, Utah, pursuant to sub-
20 section (a).

21 **SEC. 5. PLANT AND WILDLIFE SPECIES.**

22 For the lands identified under section 4(d), and the
23 lands identified in Exhibit E to the Agreement, the Sec-
24 retary of the Interior and the State of Utah shall enter
25 into an agreement which provides a process for the State

1 to consult or take other appropriate action to avoid, offset,
2 or mitigate adverse effects to any species or habitat identi-
3 fied.

4 **SEC. 6. MINERAL DEVELOPMENT.**

5 All payments received by the United States pursuant
6 to section 13(c) of the Agreement shall be subject to shar-
7 ing with the State of Utah in the same manner the United
8 States shares bonus bids, rentals, and royalties with the
9 State of Utah under section 35 of the Mineral Leasing
10 Act (30 U.S.C. 191).

11 **SEC. 7. AUTHORIZATION.**

12 There are authorized to be appropriated such sums
13 as are necessary to carry out this Act, including such sums
14 as may be desired to reduce the balance of the interest
15 and principal amounts owed by the United States to the
16 Trust Lands Administration pursuant to sections 4 and
17 5 of the Agreement.

1 **SEC. 8. COSTS.**

2 The United States and the State of Utah shall each
3 bear its own respective costs incurred in the implementa-
4 tion of this Act.

 Passed the House of Representatives October 1,
2002.

Attest:

JEFF TRANDAHL,
Clerk.

Calendar No. 705

107TH CONGRESS
2^D SESSION

H. R. 4968

AN ACT

To provide for the exchange of certain lands in
Utah.

OCTOBER 15, 2002

Read the second time and placed on the calendar