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CONFIRMING STATE LAND GRANTS FOR EDUCATION ACT

JULY 31, 2018—Ordered to be printed

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

R E P O R T

[To accompany H.R. 2582]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 2582) to authorize the State of Utah to select certain lands that are available for disposal under the Pony Express Resource Management Plan to be used for the support and benefit of State institutions, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 2582 is to authorize the State of Utah to select certain lands that are available for disposal under the Pony Express Resource Management Plan to be used for the support and benefit of State institutions.

BACKGROUND AND NEED

The 1894 Utah Enabling Act (28 Stat. 107) granted the State of Utah the right to select public lands for the support and benefit of state institutions, including an agricultural college (now Utah State University), in addition to the more familiar school land grants. Lands granted to Utah under this Act are managed by the Utah School and Institutional Trust Lands Administration (SITLA), which is an independent state agency that manages Utah's 3.4 million acres of trust lands.

According to SITLA, several thousand acres of unfulfilled selection rights are currently outstanding. In 1998, SITLA filed an ap-

plication with the Bureau of Land Management (BLM) to select 444.05 acres of BLM land near the City of Eagle Mountain in Utah County for the benefit of the Utah State University land trust. This selection application was subsequently modified to add an additional 80 acres near the City of Saratoga Springs.

For several years, BLM worked to process this application, and SITLA has incurred significant expenses in obtaining necessary archaeological clearances for the selection. However, in 2006, BLM determined that the applicable federal land management plan did not allow for the selection. The basis for this decision was that, although the subject lands were classified in the land management plan for disposal by land exchange, the disposal language did not expressly refer to state selections, so selections (as opposed to land exchanges) could not be processed.

SITLA believes that under applicable legal authority, state selections are in fact authorized under the land management plan, but BLM disagrees. SITLA has also requested that BLM consider a plan amendment to authorize the proposed selections, but BLM declined to do so due to inadequate staff and funding to process the plan amendment.

H.R. 2582 would correct the legal technicality, and confirm that BLM may process the current 500-acre selection, and future state selections in the immediate area, without further land use planning. The selected lands would still be subject to environmental reviews before they are transferred to SITLA. This will allow the United States to fulfill commitments made in the Utah Enabling Act to provide land for support of higher education and other public purposes.

LEGISLATIVE HISTORY

Representative Love introduced H.R. 2582 in the House of Representatives on May 22, 2017. H.R. 2582 was reported, as amended, by the Committee on Natural Resources (H. Rept. 115–305) on September 12, 2017. The House of Representatives passed H.R. 2582 by voice vote on October 2, 2017.

Senator Hatch introduced S. 1665, companion legislation, on July 27, 2017. The Subcommittee on Public Lands, Forests, and Mining held a legislative hearing on S. 1665 and H.R. 2582 on February 7, 2018.

The Committee on Energy and Natural Resources met in open business session on May 17, 2018, and ordered H.R. 2582 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 17, 2018, by a majority voice vote of a quorum present recommends that the Senate pass H.R. 2582.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Authorization

Subsection (a) authorizes the State of Utah, subject to valid existing rights, to select any lands in T6S and T7S, R1W, Salt Lake Base and Meridian, administered by BLM and identified as available for disposal by land exchange in the applicable Record of Decision for the Pony Express Resource Management Plan and Rangeland Program Summary for Utah County (January 1990), as amended by the Pony Express Plan Amendment (November 1997), and as generally depicted on the map entitled, “Proposed Utah County Quantity Grants” (June 27, 2017). This subsection also states that these selections are to be used to further the purposes of SITLA without added use planning action by the BLM.

Subsection (b) states the criteria listed in Decision 3 of the Lands Program of the resource management plan described in subsection (a) shall not apply to any selected land.

Subsection (c) notes that nothing in this Act affects the limitation established under section 2815(d) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65).

COST AND BUDGETARY CONSIDERATIONS

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

H.R. 2582 would allow the Bureau of Land Management (BLM) to process the selection of 520 acres of federal land in Utah under the Utah Enabling Act of 1894. That act authorized the state of Utah to select certain federal lands to be held in trust by the School and Institutional Trust Lands Administration (SITLA), an independent state agency, for the benefit of the state. The state used that authority to select 520 acres of land that BLM identified for disposal. However, because BLM’s land use plan for the area containing the selected lands does not allow land to be disposed of through the land selection process, the agency cannot transfer those lands to the state without revising its existing plan. Using information from BLM, CBO does not expect the agency to make the necessary revisions to that plan within the next 10 years.

Under H.R. 2582, BLM would be authorized to process SITLA’s land selections without revising its existing land use plan. The affected lands currently generate receipts from grazing allotments, rights-of-way, and gravel pits. Based on historical collections, CBO estimates receipts from those sources will total less than \$25,000 a year over the next 10 years. Thus, CBO estimates that allowing SITLA to take the affected lands into trust would not have a significant effect on offsetting receipts (which are recorded in the budget as reductions in direct spending) over the 2019–2028 period. Because enacting H.R. 2582 would affect direct spending, pay-as-you-go procedures apply. The legislation would not affect revenues.

CBO estimates that enacting H.R. 2582 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 2582 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would benefit the state of Utah and local governments by expediting the transfer of federal lands to the state. The transfer could increase revenue from resource development on state trust lands; those rev-

enues are used to fund public schools in Utah. Any costs incurred by the State of Utah or local governments associated would result from voluntary commitments.

On September 11, 2017, CBO transmitted a cost estimate for H.R. 2582, the Confirming State Land Grants for Education Act, as ordered reported by the House Committee on Natural Resources on July 26, 2017. The two versions of the legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs) and Zachary Byrum (for mandates). The estimate was reviewed 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 H.R. 2582. 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 H.R. 2582, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 2582, 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 Department of the Interior at the February 7, 2018, hearing on S. 1665, the companion legislation for H.R. 2582, follows:

STATEMENT OF BRIAN STEED, DEPUTY DIRECTOR FOR POLICY & PROGRAMS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for inviting the Department of the Interior (Department) to testify on S. 1665, the Confirming State Land Grants for Education Act. S. 1665 authorizes the State of Utah (State) to select certain public lands managed by the Bureau of Land Management (BLM) in fulfillment of the land grants made under the Utah Enabling Act of 1894 (28 Stat. 107) without further land use planning action by the BLM. S. 1665 is consistent with Secretary Zinke's priority of serving the American family by enhancing our relationships with States and local communities. The Department has no objection to the State's selection of these lands and supports the goals of S. 1665 to fulfill these specific land grants. We would like the opportunity to work with the sponsor and Subcommittee on a clarifying amendment.

Background

Under the Utah Enabling Act of 1894, the State is authorized to select certain lands for the support of common schools, the establishment and support of a state university and agricultural college, the establishment of permanent water reservoirs for irrigating purposes, and the establishment and support of various other state health institutions and schools.

In 1998, the State made an application for selection of approximately 440 acres of BLM-managed public lands in Utah County, Utah, for an agricultural college (Utah State University) in partial fulfillment of the grant authorized under the Utah Enabling Act of 1894. In 2004, the State amended its application to include an additional 80 acres of BLM-managed public lands in the County. In 2007, the BLM ultimately determined, based on a review of existing law and in consultation with the Department's Office of the Solicitor, that the lands in question were not available for State selection because they had been identified in the 1997 Pony Express Resource Management Plan (RMP) as potentially suitable for exchange, but not other forms of disposal. The Department notes that the Pony Express RMP would need to be amended to enable State selection of the lands in question.

S. 1665

S. 1665 is identical to H.R. 2582 as reported by the House Natural Resources Committee on September 12, 2017. S. 1665 authorizes the State to select certain BLM-managed public lands in Utah County, Utah, in fulfillment of the land grants made under sections 6, 8, and 12 of the Utah Enabling Act and as generally depicted on the legislative map. In addition, the bill exempts the lands authorized for selection from the exchange limitation in the Pony Express RMP making further land use planning by the BLM unnecessary. The State selections would be subject to valid existing rights.

The Department has no objection to the State's selection of these lands, which we understand correspond to the State's 1998 and 2004 applications and would be for the purpose of supporting Utah State University. The Department believes S. 1665 represents a creative solution to a complex issue. We recommend the inclusion of language further clarifying that the lands to be selected would be used for the support of Utah State University, as intended under the Utah Enabling Act of 1894.

In addition, the Department notes that the lands authorized for selection contain several inactive community rock pits, where the BLM could authorize the sale of landscape rock. These lands also contain a number of existing rights-of-way, including highways and roads, natural gas pipelines, fiber optic lines, and communication sites. Additionally, we note that there are a number of identified ancient petroglyph sites known to exist on some of the lands to be authorized for selection. The Department understands that

the State would be required to work with the State Historic Preservation Office to ensure protection of these and other cultural resources that may be present on these lands. Finally, the Department notes that these lands are part of two grazing allotments. State selection of these parcels would reduce acreage in the allotments and the amount of forage available to two permittees.

Conclusion

Thank you again for the opportunity to testify in support of S. 1665, the Confirming State Land Grants for Education Act. We appreciate the work of Senator Hatch on this legislation, and we look forward to collaborating with him and the Subcommittee as the bill moves through the legislative process.

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 as ordered reported.