

Calendar No. 393

109TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 109-231

BOY SCOUTS OF AMERICA LAND TRANSFER ACT OF 2006

APRIL 20, 2006.—Ordered to be printed

Filed, under authority of the order of the Senate of April 7, 2006

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

R E P O R T

[To accompany S. 476]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 476) to authorize the Boy Scouts of America to exchange certain land in the State of Utah acquired under the Recreation and Public Purposes Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Boy Scouts of America Land Transfer Act of 2006”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **BOY SCOUTS.**—The term “Boy Scouts” means the Utah National Parks Council of the Boy Scouts of America.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 3. BOY SCOUTS OF AMERICA LAND EXCHANGE.

(a) **AUTHORITY TO CONVEY.**—

(1) **IN GENERAL.**—Subject to subsection (c) and notwithstanding the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.), the Boy Scouts may convey to Brian Head Resort, subject to valid existing rights and, except as provided in paragraph (2), any rights reserved by the United States, all right, title, and interest granted to the Boy Scouts by the original patent to the parcel described in subsection (b)(1) in exchange for the conveyance by Brian Head Resort to the Boy Scouts of all right, title, and interest in and to the parcels described in subsection (b)(2).

(2) **REVERSIONARY INTEREST.**—On conveyance of the parcel of land described in subsection (b)(1), the Secretary shall have discretion with respect to whether or not the reversionary interests of the United States are to be exercised.

(b) **DESCRIPTION OF LAND.**—The parcels of land referred to in subsection (a) are—

(1) the 120-acre parcel that is part of a tract of public land acquired by the Boy Scouts under the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.) for the purpose of operating a camp, which is more particularly described as the $W\frac{1}{2}SE\frac{1}{4}$ and $SE\frac{1}{4}SE\frac{1}{4}$ sec. 26, T. 35 S., R. 9 W., Salt Lake Base and Meridian; and

(2) the 2 parcels of private land owned by Brian Head Resort that total 120 acres, which are more particularly described as—

(A) $NE\frac{1}{4}NW\frac{1}{4}$ and $NE\frac{1}{4}NE\frac{1}{4}$ sec. 25, T. 35 S., R. 9 W., Salt Lake Base and Meridian; and

(B) $SE\frac{1}{4}SE\frac{1}{4}$ sec. 24, T. 35. S., R. 9 W., Salt Lake Base and Meridian.

(c) CONDITIONS.—On conveyance to the Boy Scouts under subsection (a)(1), the parcels of land described in subsection (b)(2) shall be subject to the terms and conditions imposed on the entire tract of land acquired by the Boy Scouts for a camp under the Bureau of Land Management patent numbered 43-75-0010.

(d) MODIFICATION OF PATENT.—On completion of the exchange under subsection (a)(1), the Secretary shall amend the original Bureau of Land Management patent providing for the conveyance to the Boy Scouts under the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.) numbered 43-75-0010 to take into account the exchange under subsection (a)(1).

PURPOSE

The purpose of S. 476 is to authorize the Utah National Parks Council of the Boy Scouts of America to exchange 120 acres of land in the State of Utah acquired under the Recreation and Public Purposes Act for 120 acres of land owned by the Brian Head Resort. S. 476 places a condition that the lands conveyed to the Boy Scouts, shall be subject to the same terms and conditions imposed on the entire tract in the original patent.

BACKGROUND AND NEED

S. 476 will allow the exchange of two small parcels of land between the Utah National Parks Council of the Boy Scouts of America and Brian Head Ski Resort (120 acres in each parcel).

During the 1970s, the Bureau of Land Management granted roughly 1,400 acres to the Utah National Parks Council of the Boy Scouts of America to be used as a Boy Scout camp. The camp, known as Camp Thunder Ridge, is situated in the mountains adjacent to Brian Head Ski Resort and near Cedar Breaks National Monument.

The lands were conveyed pursuant to the Recreation and Public Purposes Act and included a reversionary clause restricting the sale, transfer or exchange of the lands.

At the time the land patents were granted, a local rancher owned a parcel of land adjacent to the camp and another parcel in the middle of the camp. Several years ago, the rancher transferred those lands to Brian Head Ski Resort. The Boy Scouts would like to obtain the land, totaling 120 acres, from Brian Head. However, under the terms of the patent, the land cannot be sold or exchanged without an Act of Congress.

While Camp Thunder Ridge is located in a steep, rough, mountainous area, much of the land the Boy Scouts seek is flat, making it particularly important for the camp. Obtaining the land would make it possible for the Scouts to make the camp's shooting area and archery range safer and would allow them to improve and expand their camping facilities. It also would allow for the installation of much-needed septic tanks.

In addition, Brian Head Ski Resort is seeking to expand its operations and has received preliminary approval from local officials.

The county planning commission, however, has required the resort to build an emergency exit from its property. The only place to build such a road is through land owned by the Boy Scouts. The exchange will allow Brian Head to construct the access road and comply with county fire safety regulations.

S. 476 will allow both parties to complete their land exchange, while insuring the protection of the Federal Government's reversionary interest by transferring it to the property acquired by the Boy Scouts.

LEGISLATIVE HISTORY

S. 476 was introduced by Senators Hatch and Bennett on March 1, 2005. The Subcommittee on Public Lands and Forests held a hearing on S. 476 on March 8, 2005. At the business meeting on March 15, 2006, the Committee on Energy and Natural Resources ordered S. 476 favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 15, 2006, by a unanimous voice vote of a quorum present recommends that the Senate pass S. 476 if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 476, the Committee adopted an amendment in the nature of a substitute that strikes the congressional finding, corrects the date in the short title, makes one technical amendment and a number of conforming amendments. The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 and 2 provide the short title and definitions.

Section 3(a) authorizes a land exchange between the Brian Head Resort and the Boy Scouts of America and authorizes the Secretary of the Interior to have discretion whether or not to exercise the reversionary interests of the United States.

Subsection (b) describes the lands to be exchanged.

Subsection (c) provides that upon conveyance to the Boy Scouts, the land described in subsection (b)(2) shall be subject to the same terms and conditions included in the original BLM patent.

Subsection (d) directs the Secretary of the Interior to amend the original BLM patent on the Boy Scout land to take into account the exchange.

COST AND BUDGETARY CONSIDERATIONS

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

S. 476—Boy Scouts of America Land Transfer Act of 2006

S. 476 would authorize a Boy Scout council and a private landowner to exchange two parcels of land in Utah, each of which totals about 120 acres. Under the bill, the Boy Scouts would convey land

originally obtained from the Federal Government in 1983 under the Recreation and Public Purposes Act. Under the terms of the original conveyance, the Federal Government has a reversionary interest in the land in the case of a sale, transfer, or exchange. S. 476 would allow the proposed exchange to go forward and would transfer the Federal Government's reversionary interest, along with other terms and conditions that applied to the original tract, to the new parcel obtained by the Boy Scouts.

Based on information from the Department of the Interior, CBO estimates that allowing the Boy Scouts to exchange this land under S. 476 would not affect the Federal budget. S. 476 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 Megan Carroll. 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. 476. 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. 476, as ordered reported.

EXECUTIVE COMMUNICATIONS

Views of the Administration on S. 476 were included in testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF CHRISTOPHER KEARNEY, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on S. 476, the Boy Scouts of America Land Transfer Act of 2005, introduced by Senator HATCH. The Department of the Interior has a limited role in this legislation and the exchange it facilitates, but does not oppose the legislation.

BACKGROUND

During the 1970s, the BLM patented nearly 1400 acres of public land through four separate Recreation and Public Purposes (R&PP) Act patents to the Utah National Parks Council of the Boy Scouts of America for the purpose of establishing a campground and recreational area for scouting programs. The campground is now known as Camp Thunder Ridge. Among the restrictions placed on the lands under the provisions of the R&PP Act patents is a prohibition on the sale, transfer or exchange of the lands. Absent

this legislation, the Utah National Parks Council of the Boy Scouts would not be able to complete the proposed exchange.

S. 476

S. 476 provides for the exchange of lands between two private parties, the Utah National Parks Council of the Boy Scouts of America and Brian Head Resort. The legislation mandates that the terms and conditions that apply to the original Federal patent for the parcel of land to be exchanged by the Boy Scouts shall be transferred to the parcel of land to be acquired by the Boy Scouts. The bill further stipulates that the lands are of approximately equal value.

Because the land which the Boy Scouts propose to exchange with Brian Head Resort was patented by the Bureau of Land Management (BLM) under the R&PP Act, the Federal Government retains a reversionary interest in the land if the terms and conditions of the original patent are violated. As noted, the legislation would transfer the terms and conditions contained in the original patent to the new parcel of land, creating a reversionary interest in those lands.

The lands proposed for exchange under this bill are in southwestern Utah, near Cedar City in Iron County. It is our understanding that the intent of both parties is to consolidate their respective lands in order to allow for their more efficient use.

Given that the Federal government's interest in this legislation is limited to its reversionary interest, we support the language applying the terms and conditions of the original parcel to the parcel to be acquired. While the BLM does not have independent knowledge of the value of the parcels proposed for exchange, the legislation stipulates that these parcels are of equal value. Ensuring that the parcels to be exchanged are of equal value is critical to protecting the Federal government's interest. Finally, we support the provision in section 3(b)(2) of the bill that provide for Secretarial discretion in the exercise of the Federal government's reversionary interest. Given the potential risks or liabilities that may exist with improvements or hazards on the property, we strongly support this provision.

Thank you for the opportunity to testify, I will be happy to answer any questions.

CHANGES TO 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. 476, as ordered reported.