

## Calendar No. 117

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SENATE

{ REPORT  
113-63

### BLACK HILLS CEMETERY

JUNE 27, 2013.—Ordered to be printed

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

### R E P O R T

[To accompany S. 447]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 447) to provide for the conveyance of certain cemeteries that are located on National Forest System land in Black Hills National Forest, South Dakota, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 447 is to require the Secretary of Agriculture to convey, without consideration, nine cemeteries located on National Forest System lands in the Black Hills National Forest to local entities.

#### BACKGROUND AND NEED

There are nine cemeteries located on National Forest System lands in the Black Hills National Forest in South Dakota that are currently being managed by local entities who are interested in owning the lands outright. They include: (1) the Silver City Cemetery, managed by the Silver City Volunteer Fire Department; (2) the Hayward Cemetery, managed by the Hayward Volunteer Fire Department; (3) the Englewood Cemetery, managed by the City of Lead; (4) the Mountain Meadow Cemetery, managed by the Mountain Meadow Cemetery Association; (5) the Roubaix Cemetery, managed by the Roubaix Cemetery Association; (6) the Nemo Cemetery, managed by the Nemo Cemetery Association; (7) the Galena Cemetery, managed by the Galena Historical Society; (8) the Rockerville Cemetery, managed by the Rockerville Community

Club; and (9) the Cold Springs Cemetery, managed by the Cold Springs Historical Society.

#### LEGISLATIVE HISTORY

S. 447 was introduced by Senators Thune and Johnson of South Dakota on March 5, 2013. A hearing was held on S. 447 by the Public Lands, Forests, and Mining Subcommittee on April 25, 2013. At its business meeting on May 16, 2013, the Committee ordered the bill favorably reported.

In the 112th Congress, similar legislation was introduced in the House of Representatives, H.R. 3874. The House Subcommittee on National Parks, Forests, and Public Lands held a hearing on H.R. 3874 on April 17, 2012 and favorably reported the bill on April 25, 2012 (H. Rept. 112–475). The bill was passed by the House of Representatives on May 15, 2012 by a vote of 400–1. The legislation has not been previously considered by the Senate.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 16, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 447.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the “Black Hills Cemetery Act”.

*Section 2(a)* requires the Secretary of Agriculture to convey certain community cemeteries to the local communities in South Dakota that are currently managing and maintaining those cemeteries. The Secretary is also required to convey an additional two acres adjoining each cemetery to accommodate unmarked gravesites and expansion.

Subsection (b) names the recipients of each property.

#### COST AND BUDGETARY CONSIDERATIONS

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

##### *S. 447—Black Hills Cemetery Act*

S. 447 would direct the Secretary of Agriculture to convey nine cemeteries and associated public lands in western South Dakota to local organizations for no consideration. CBO estimates that implementing S. 447 would have no significant impact on the federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Based on information from the Forest Service, CBO expects that the recipients of the affected lands would be required to pay for any surveying costs associated with the land conveyances. In addition, most of the lands to be conveyed under S. 447 are already used as cemeteries, and none of the affected lands are expected to generate receipts over the next 10 years.

S. 447 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On April 1, 2013, CBO transmitted a cost estimate for H.R. 291, the Black Hills Cemetery Act, as ordered reported by the House

Committee on Natural Resources on March 20, 2013. The two bills are similar, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, 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. 447.

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. 447, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 447, as 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 U.S. Forest Service at the April 25, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 447 follows:

STATEMENT OF JAMES M. PEÑA, ASSOCIATE DEPUTY CHIEF,  
NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S. 447, the Black Hills Cemetery Act.

S. 447, the Black Hills Cemeteries Act, would require the Secretary to convey, without consideration, nine parcels of National Forest System Land containing cemeteries located on National Forest System land in the Black Hills National Forest to local entities. The conveyance of these nine cemeteries is consistent with the Land and Resource Management Plan for the Black Hills National Forest. The Department does not object to making the Federal land available for use as cemeteries, but it does not support conveyance of National Forest System lands without consideration. It is long standing policy that the United States receive market value for the sale, exchange, or use of National Forest System land. This policy is well established in law, including the Independent Offices Appropriation Act (31 U.S.C. 9701), section 102(9) of FLPMA, as well as numerous land exchange authorities.

In addition, we would like the committee to consider a provision that would require the recipient of each parcel to

cover the cost for heritage recordation and evaluation of significance for the National Register in addition to covering the land survey costs. The Forest Service would prepare the land survey instructions for the recipient's land surveyor.

This concludes our testimony and I would be happy to answer any questions that you 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 S. 447, as ordered reported.

