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BLACK HILLS NATIONAL CEMETERY BOUNDARY EXPANSION ACT

SEPTEMBER 6, 2016.—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 S. 2223]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2223) to transfer administrative jurisdiction over certain Bureau of Land Management land from the Secretary of the Interior to the Secretary of Veterans Affairs for inclusion in the Black Hills National Cemetery, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

1. Strike section 4.

PURPOSE

The purpose of S. 2223 is to transfer administrative jurisdiction over certain Bureau of Land Management land from the Secretary of the Interior to the Secretary of Veterans Affairs for inclusion in the Black Hills National Cemetery.

BACKGROUND AND NEED

The Black Hills National Cemetery (Cemetery) is located just outside of Sturgis, South Dakota. Established in 1948, it currently houses 20,000 interments within its 106-acre footprint. S. 2223 would provide for a permanent transfer of approximately 200 acres for the purpose of expanding the Cemetery. The land would be transferred from the Bureau of Land Management to the Department of Veterans Affairs, and would provide for necessary accommodation to properly honor veterans with a dignified burial for generations to come.

LEGISLATIVE HISTORY

Senator Thune introduced S. 2223 on October 29, 2015. The Subcommittee on Public Lands, Forests, and Mining held a hearing on April 21, 2016, to consider S. 2223.

In the House of Representatives, Representative Noem introduced a companion bill, H.R. 3839, on October 27, 2015. The Subcommittee on Federal Lands held a hearing on May 12, 2016, and the Committee on Natural Resources ordered the bill to be reported with amendments on June 15, 2016.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 2223 favorably reported as amended.

COMMITTEE AMENDMENT

During its consideration of S. 2223, the Committee adopted an amendment to delete section 4, which established a process for the potential return of the public land transferred by the bill.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass S. 2223, if amended as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides a short title for the measure.

Section 2. Definitions

Section 2 defines key terms.

Section 3. Transfer and withdrawal of Bureau of Land Management land for Cemetery use

Section 3(a) transfers administrative jurisdiction of the subject land from the Secretary of the Interior to the Secretary of Veterans Affairs, requires publication and availability of the legal description, and requires the Secretary of Veterans Affairs to reimburse the Secretary of the Interior for reasonable costs incurred for carrying out this section.

Subsection (b) withdraws the subject land from all forms of appropriation, and requires the property to be treated as property as defined in section 102(9) of title 40, United States Code.

Subsection (c) modifies the boundary of the Cemetery to include the Federal land.

Subsection (d) modifies the existing Public Land Order 2112, dated June 6, 1960 (25 Fed. Reg. 5243) to exclude the Federal land.

COST AND BUDGETARY CONSIDERATIONS

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

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S. 2223 would require the Bureau of Land Management (BLM) to transfer 200 acres of land to the Department of Veterans Affairs (VA) to expand a national cemetery. Based on information provided by the affected agencies, CBO estimates that enacting the legislation would have no significant effect on the federal budget.

Because enacting the bill would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 2223 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Under the bill, the affected lands would be withdrawn from mining and mineral leasing activities. Based on information provided by BLM, CBO expects that those activities would not occur over the next 10 years and we estimate that withdrawing the lands would not affect the federal budget. In addition, CBO estimates that implementing S. 2223 would have insignificant costs for VA to cover administrative expenses associated with the transfer and make improvements to the Black Hills National Cemetery.

S. 2223 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On August 30, 2016, CBO transmitted a cost estimate for H.R. 3839, the Black Hills National Cemetery Boundary Expansion Act, as ordered reported by the House Committee on Natural Resources on June 15, 2016. H.R. 3839 contains a provision that would require VA to pay any costs to decontaminate land that the agency transfers back to BLM if it is not required for the cemetery. CBO determined that it could not estimate the cost of that provision. CBO's estimated costs to carry out other provisions in the two bills are the same.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, 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. 2223. 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. 2223, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2223, 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 Bureau of Land Management at the April 21, 2016, Subcommittee on Public Lands, Forests, and Mining hearing on S. 2223 follows:

STATEMENT OF MIKE POOL, ACTING DEPUTY DIRECTOR BUREAU OF LAND MANAGEMENT DEPARTMENT OF THE INTERIOR

Thank you for inviting the Department of the Interior to testify on S. 2223, the Black Hills National Cemetery Boundary Expansion Act, which transfers administrative jurisdiction of approximately 200 acres of public land currently managed by the Department's Bureau of Land Management (BLM) to the Department of Veterans Affairs' (VA) National Cemetery Administration (NCA) for inclusion in the Black Hills National Cemetery in Meade County, South Dakota. The Department of the Interior supports S. 2223.

BACKGROUND

The Black Hills National Cemetery is located three miles southeast of Sturgis, South Dakota, near the Black Hills. Established in 1948, the cemetery currently encompasses 106 acres and has had over 20,000 interments. The BLM understands that the NCA would use the additional land provided under S. 2223 to expand the Black Hills National Cemetery to provide burial space for future needs. The BLM and the NCA have discussed such a transfer for several years, but the BLM has determined that no general authority exists for the agency to grant a perpetual transfer of jurisdiction as required by the NCA for a cemetery.

S. 2223

S. 2223 directs the Secretary of the Interior to transfer administrative jurisdiction of approximately 200 acres of public land to the Secretary of Veterans Affairs to be incorporated into the existing Black Hills National Cemetery, subject to valid existing rights. The Secretary of Veterans Affairs would be required to pay all survey costs and other reasonable costs associated with the transfer. The Federal land to be transferred would be withdrawn from all forms of appropriation under the public land laws, including the mining, mineral leasing, and geothermal leasing laws. Under the bill, should the NCA ever determine that it no longer needs any portion of the additional land, the Secretary of the Interior could restore the unneeded land to the public domain. The Secretary of Veterans Affairs would be responsible for costs of any decontamination necessary for restoration to public land status.

The Department of the Interior supports S. 2223 and the transfer of administrative jurisdiction. We note that the expansion area is currently part of the Fort Meade Recreation Area / Area of Critical Environmental Concern

(ACEC) and that the Centennial Trail runs along the northern boundary of the expansion area. We suggest adding bill language to provide a 100-foot setback boundary from the centerline of the trail. The Administration would also like to work with the sponsor and the Committee to clarify the provisions related to decontamination and restoration of the land to public land status.

CONCLUSION

Thank you again for the opportunity to testify in support of S. 2223, the Black Hills National Cemetery Boundary Expansion Act. We appreciate the work of the South Dakota congressional delegation on this legislation, and we look forward to collaborating with them and the Committee to meet the needs of the Black Hills National Cemetery.

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.

