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SENATE

{ REPORT  
{ 115-368

### GOLDEN SPIKE 150TH ANNIVERSARY ACT

NOVEMBER 15, 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 S. 2831]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2831) to redesignate Golden Spike National Historic Site and to establish the Transcontinental Railroad Network, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Golden Spike 150th Anniversary Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **PARK.**—The term “Park” means the Golden Spike National Historical Park designated by section 3(a).

(2) **PROGRAM.**—The term “Program” means the program to commemorate and interpret the Transcontinental Railroad authorized under section 4.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

(4) **TRANSCONTINENTAL RAILROAD.**—The term “Transcontinental Railroad” means the approximately 1,912-mile continuous railroad constructed between 1863 and 1869 extending from Council Bluffs, Iowa, to San Francisco, California.

#### SEC. 3. REDESIGNATION.

(a) **REDESIGNATION.**—The Golden Spike National Historic Site designated April 2, 1957, and placed under the administration of the National Park Service under Public Law 89–102 (54 U.S.C. 320101 note; 79 Stat. 426), shall be known and designated as the “Golden Spike National Historical Park”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Golden Spike National Historic Site shall be considered to be a reference to the “Golden Spike National Historical Park”.

**SEC. 4. TRANSCONTINENTAL RAILROAD COMMEMORATION AND PROGRAM.**

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall establish within the National Park Service a program to commemorate and interpret the Transcontinental Railroad.

(b) STUDY.—Before establishing the Program, the Secretary shall conduct a study of alternatives for commemorating and interpreting the Transcontinental Railroad that includes—

- (1) a historical assessment of the Transcontinental Railroad;
- (2) the identification of—
  - (A) existing National Park System land and affiliated areas, land managed by other Federal agencies, and Federal programs that may be related to preserving, commemorating, and interpreting the Transcontinental Railroad;
  - (B) any properties relating to the Transcontinental Railroad—
    - (i) that are designated as, or could meet the criteria for designation as, National Historic Landmarks; or
    - (ii) that are included, or eligible for inclusion, on the National Register of Historic Places;
  - (C) any objects relating to the Transcontinental Railroad that have educational, research, or interpretative value; and
  - (D) any governmental programs and nongovernmental programs of an educational, research, or interpretive nature relating to the Transcontinental Railroad; and
- (3) recommendations for—
  - (A) incorporating the resources identified under paragraph (2) into the Program; and
  - (B) other appropriate ways to enhance historical research, education, interpretation, and public awareness of the Transcontinental Railroad.

(c) REPORT.—Not later than 3 years after the date on which funds are made available to carry out the study under subsection (b), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the findings and recommendations of the study.

(d) FREIGHT RAILROAD OPERATIONS.—The Program shall not include any properties that are—

- (1) used in active freight railroad operations (or other ancillary purposes); or
- (2) reasonably anticipated to be used for freight railroad operations in the future.

(e) ELEMENTS OF THE PROGRAM.—In carrying out the Program under this section, the Secretary—

- (1) shall produce and disseminate appropriate education materials relating to the history, construction, and legacy of the Transcontinental Railroad, such as handbooks, maps, interpretive guides, or electronic information;
- (2) may enter into appropriate cooperative agreements and memoranda of understanding and provide technical assistance to the heads of other Federal agencies, States, units of local government, regional governmental bodies, and private entities to further the purposes of the Program and this Act; and
- (3) may—
  - (A) create and adopt an official, uniform symbol or device to identify the Program; and
  - (B) issue guidance for the use of the symbol or device created and adopted under subparagraph (A).

2. Amend the title so as to read: “A bill to redesignate the Golden Spike National Historic Site and to establish a program to commemorate and interpret the Transcontinental Railroad.”.

PURPOSE

The purpose of S. 2831, as ordered reported, is to redesignate the Golden Spike National Historic Site as the Golden Spike National Historical Park, and to establish a program to commemorate and interpret the Transcontinental Railroad.

#### BACKGROUND AND NEED

On May 10, 1869, the first transcontinental railroad was completed as the final spike was driven into the ground in Promontory Summit in northern Utah. The Central Pacific and Union Pacific railroads built 1,776 miles of hand-made line, which met on this site. The significance of the railroad itself is well known, but the site of its completion is less so. In 1965, the location was designated as a National Historic Site (54 U.S.C. 320101 note). The site features a visitor center built in 1969, as well as two fully functional replicas of the original locomotives that met at Promontory Summit.

S. 2831 redesignates the National Historic Site as a National Historical Park. The bill will also establish within the National Park System (NPS) a program to commemorate and interpret the Transcontinental Railroad. Prior to establishing the program, the Secretary of the Interior (Secretary) is directed to conduct a study of alternatives to commemorate and interpret the Transcontinental Railroad.

#### LEGISLATIVE HISTORY

S. 2831 was introduced on May 10, 2018, by Senators Hatch and Lee.

Representatives Bishop, Curtis, Love, and Stewart introduced companion legislation, H.R. 5751, in the House of Representatives on May 10, 2018. H.R. 5751 was ordered reported, as amended, by the Natural Resources Committee on June 6, 2018 (H. Rept. 115-782) and passed the House of Representatives by voice vote on June 25, 2018.

The Subcommittee on National Parks held a hearing on S. 2831 and H.R. 5751 on August 15, 2018.

The Committee on Energy and Natural Resources met in open business session on October 2, 2018, and ordered S. 2831 favorably reported, as amended.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on October 2, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass S. 2831, if amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of S. 2831, the Committee adopted an amendment in the nature of a substitute. The substitute amendment modified the definitions and removed language regarding the Transcontinental Railroad Network in section 4, historical crossings in section 5, and exotic or invasive species control in section 6. The substitute amendment also added a new program to commemorate and interpret the Transcontinental Railroad.

The Committee also adopted an amendment to the title to reflect the program established to commemorate and interpret the Transcontinental Railroad. The amendment to the title reflects the changes made by the substitute relating to the Transcontinental Railroad.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Section 1 contains the short title.

*Section 2. Definitions*

Section 2 contains key definitions.

*Section 3. Redesignation*

Section 3 redesignates the Golden Spike National Historical Site as the Golden Spike National Historical Park and updates any applicable references accordingly.

*Section 4. Transcontinental Railroad commemoration and program*

Subsection (a) directs the Secretary, subject to subsection (b), to establish a program within the NPS to commemorate and interpret the Transcontinental Railroad.

Subsection (b) requires the Secretary to study alternatives for commemorating and interpreting the Transcontinental Railroad before establishing the program. The study must include a historical assessment of the Transcontinental Railroad. It must also include the identification of existing National Park System land and affiliated areas, Federally-managed land, and Federal programs that may relate to the Transcontinental Railroad; any related properties that are designated as a National Historic Landmark or included on the National Register of Historic Places, or could meet the criteria for such designation or inclusion; any related objects that have educational, research, or interpretative value; and any related governmental and nongovernmental programs of an educational, research, or interpretative nature. The study is to include recommendations for incorporating these identified resources into the program and for other ways to enhance historical research, education, interpretation, and public awareness of the Transcontinental Railroad.

Subsection (c) requires the Secretary to submit a report with the study's findings and recommendations to the House Natural Resources Committee and the Senate Energy and Natural Resources Committee within three years of funds being made available to conduct the study.

Subsection (d) exempts from the program any properties that are used in active freight railroad operations (or other ancillary purposes) or properties that may be reasonably anticipated to be used for future freight railroad operations.

Subsection (e) directs the Secretary to produce and disseminate appropriate education materials relating to the history, construction, and legacy of the Transcontinental Railroad. This subsection also authorizes the Secretary to enter into appropriate cooperative agreements and memoranda of understanding and provide technical assistance to the heads of other Federal agencies, States, units of local governments, regional governmental bodies, and private entities to further the purposes of the legislation and the program. This subsection further authorizes the Secretary to create and adopt an official uniform symbol or device to identify the program and issue any related guidance.

### COST AND BUDGETARY CONSIDERATIONS

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

S. 2831 would redesignate the Golden Spike National Historic Site in Promontory, Utah, as the Golden Spike National Historical Park. The bill also would direct the National Park Service (NPS) to establish the Transcontinental Railroad Network, which would comprise existing units and programs of the NPS related to the history of the Transcontinental Railroad as well as the properties and programs of other federal, state, local, and private entities that join the network.

Redesignating the Golden Spike National Historic Site may require the NPS to update maps, informational materials, and signage. Based on the costs of similar tasks, CBO estimates that those costs would be insignificant and would be subject to the availability of appropriated funds.

As part of establishing the Transcontinental Railroad Network, the NPS would produce and distribute maps and interpretive guides, create and adopt an official symbol for the network, and provide assistance to participating entities. Using information from the NPS about the costs of administering similar efforts and based on the expected scope of the program, CBO estimates that the agency would need less than \$500,000 in the first year following enactment for basic planning, developing educational materials, and coordinating activities with participating entities. In subsequent years, CBO estimates that the NPS would require about \$1 million each year to manage the network and provide technical assistance to participating entities through cooperative agreements.

In total, CBO estimates that implementing S. 2831 would cost about \$4 million over the 2019–2023 period; such spending would be subject to availability of appropriated funds.

Enacting S. 2831 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2831 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 2831 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On June 22, 2018, CBO transmitted a cost estimate for H.R. 5751, the Golden Spike 150th Anniversary Act, as ordered reported by the House Committee on Natural Resources on June 6, 2018. The two pieces of legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Jon Sperl. 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 S. 2831. 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. 2831, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 2831, 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 August 15, 2018, hearing on S. 2831 follows:

##### STATEMENT OF P. DANIEL SMITH, DEPUTY DIRECTOR, EXERCISING THE AUTHORITY OF THE DIRECTOR OF THE NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Chairman Daines, Ranking Member King, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views on H.R. 5751 and S. 2831, bills to redesignate Golden Spike National Historic Site and to establish the Transcontinental Railroad Network.

The Department supports redesignating Golden Spike National Historic Site as Golden Spike National Historical Park, which is in keeping with Secretary Zinke's commitment to highlight less-visited units of the National Park System (System). As we approach the celebration of the 150th anniversary of the May 10, 1869, "Last Spike" ceremony marking the completion of the first transcontinental railway, this is a fitting time to enact this redesignation. The Department supports the goals of the other provisions of H.R. 5751 and S. 2831, but has concerns, as explained in this statement, and would like to work with the Committee on amendments to address those concerns.

Section 3 of both bills would redesignate Golden Spike National Historic Site (Site) as Golden Spike National Historical Park (Park) and include it in the Transcontinental Railroad Network that would be established by Section 4. The Site preserves 2,735 acres of land where the Union Pacific Railroad and the Central Pacific Railroad came together to form the first transcontinental railroad, linking the United States politically, economically and physically. Set in a vast open landscape mostly unchanged from 1869, the Site retains an unparalleled concentration of historic transcontinental railroad engineering features, archeological sites, and associated cultural landscape elements. It is the only System unit that preserves physical evidence of the technology and methods involved in construction, completion, and maintenance of the transcontinental railroad. The National Park Service (NPS) operates replica locomotives "Jupiter" and "No. 119" daily in the summer.

These provide visitors with a unique opportunity to learn about the transcontinental railroad.

The transcontinental railroad was among the greatest technological feats of the 19th Century and represents one of the most ambitious and expensive projects ever undertaken by the federal government. The daunting task of construction across vast expanses of the country, within a relatively short time frame, required the government to forge creative partnerships with private corporations to accomplish this unprecedented construction feat. The legacy of this government corporate partnership, and the fierce competition it spawned between rival railroad companies, is clearly reflected in the parallel grades and other features. Thousands of people, including Civil War veterans, Buffalo Soldiers, Mormons, and American Indians, as well as immigrants from Ireland, China, and other nations, were employed in the railroad's construction, often toiling under the harshest of conditions in some of the most remote and difficult landscapes of the West. The Site offers a walking trail and two opportunities to drive the transcontinental railroad grade and see what workers were building in 1869, including the "10 Miles of Track, Laid in One Day" sign where the Central Pacific Railroad built 10 miles and 56 feet of track on April 28, 1869.

Golden Spike National Historic Site was first designated a national historic site on April 2, 1957, by Secretary of the Interior Fred Seaton using the authority of the 1935 Historic Sites Act. The Site consisted of seven acres of land owned by the Central Pacific Railway Company. Eight years later, through Public Law 89-102, enacted July 30, 1965, Congress authorized the acquisition of approximately 2,200 acres of land for the Site and placed it under the administration of the NPS. Most of the land acquisition, which included 15 miles of historic railroad grade and associated archeological features that remained from the construction, was completed in 1966 and 1967. The Site's boundary was expanded by 532 acres through Public Law 96-344, enacted September 8, 1980, mainly to protect additional cultural features.

The NPS encourages Congress to follow a standard pattern of nomenclature for units of the System, and prefers that the term "national historical park" be reserved for units of greater physical extent and complexity than typical national historic sites, which are sometimes smaller than one acre with a single historic structure. Today, among System units that are designated "national historic sites," Golden Spike, at 2,735 acres, is second in size only to the Sand Creek Massacre National Historic Site. Given the Site's size and the complexity of the resources that are managed at the Site, the Department believes that it is wholly appropriate to redesignate Golden Spike National Historic Site as Golden Spike National Historical Park.

Section 4 of both bills would establish a Transcontinental Railroad Network program (Network). The Department supports the goal of raising the profile of other

transcontinental railroad sites and resources and promoting opportunities for visitors to learn about this chapter in our nation's history. However, we note that there has been no study conducted to determine the most appropriate way to commemorate and interpret transcontinental railroad sites and resources nor to define the significance of the objects or sites to be commemorated and interpreted. At a time when the Department is focusing resources on reducing the NPS's \$11.6 billion deferred maintenance backlog and addressing other critical national park needs, the Network and the infrastructure needed to support it will be difficult to prioritize.

Section 5 of both bills would create Park-specific processes and timelines for authorizing adjacent landowners to undertake certain activities in historical crossings. NPS superintendents currently have the delegated authority to approve or deny requests from stakeholders related to many types of activities on NPS lands, including issuing special use permits, approval of amendments, and renewals of existing rights-of-way, pursuant to Director's Order #53: Special Park Uses. Authority to approve new requests for rights-of-way is delegated to NPS regional directors, also pursuant to Director's Order #53. Similarly, Section 6 of both bills would create Park-specific processes and timelines for adjacent landowners to participate in the eradication of invasive species on NPS land. NPS superintendents currently have the delegated authority to approve or deny requests from stakeholders to participate in eradication of invasive species, pursuant to Director's Order #7: Volunteers-in-Parks. The Department is concerned that sections 3, 5 and 6 would create unnecessary new processes that are too broad and do not align with laws, regulations, and policies that generally apply to all units of the System.

As introduced, H.R. 5751 and S. 2831 contained identical text. As amended and passed by the House, H.R. 5751 contains notable differences from the bills as introduced. Changes to H.R. 5751 include:

- Clarifications to the definition of "historical crossing";
- Clarifications related to the initial establishment and administration of Golden Spike National Historic Site;
- A requirement for a study to identify sites, facilities, and programs suitable for inclusion in the Transcontinental Railroad Network;
- A requirement to identify opportunities to enhance the recognition of immigrant laborers' contributions to the history, construction, and legacy of the Transcontinental Railroad in carrying out the Transcontinental Railroad Network;
- A requirement for entering into a programmatic agreement with the Utah State Historic Preservation Office and other consulting parties and a Park-specific



process for authorizing adjacent landowners to undertake certain activities in historical crossings; and

- Clarifications related to invasive species control.

We appreciate the changes the House made to H.R. 5751 after the bill's introduction. However, the Department has additional concerns that remain unaddressed. As the Committee moves forward on this legislation, we would like to work with the Committee and the bills' sponsors to resolve remaining issues.

With visitation at Golden Spike National Historic Site on the rise for several years now, the NPS looks forward to working with partners to host a grand and memorable 150th anniversary event. The sesquicentennial year presents unique opportunities to increase partnerships in support of the park, as well as increase awareness and understanding of the transcontinental railroad's significant role in our nation's history.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2831, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### PUBLIC LAW 89-102

#### AN ACT

To authorize the Secretary of the Interior to acquire lands for, and to develop, operate, and maintain the **Golden Spike National Historic Site** *Golden Spike National Historical Park*.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior shall acquire on behalf of the United States by gift, purchase, condemnation, or otherwise, such lands and interest in land, together with any improvements thereon, as the Secretary may deem necessary for the purpose of establishing a national historic site commemorating the completion of the first transcontinental railroad across the United States on the site described on a map entitled "Proposed **Golden Spike National Historic Site** *Golden Spike National Historical Park*, Utah", prepared by the National Park Service, Southwest Region, dated February 1963. In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property within the area depicted on such drawing, and in exchange therefor he may convey to the grantor of such property any federally owned property in the State of Utah under his jurisdiction which he classifies as suitable for exchange or other disposal. The properties so exchanged shall be of approximately equal value, but the Secretary may accept cash from, or pay cash to, the grantor in order to equalize the values of the properties exchanged.

SEC. 2. (a) The property acquired under the provisions of the first section of this Act shall be designated as the “[Golden Spike National Historic Site] *Golden Spike National Historical Park*” and shall be set aside as a public national memorial. The National Park Service, under the direction of the Secretary of the Interior, shall administer, protect, and develop such historic site, subject to the provisions of the Act entitled, “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (39 Stat. 525), as amended and supplemented, and the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes”, approved August 21, 193 missing (49 Stat. 666), as amended.

(b) In order to provide for the proper development and maintenance of such national historic site, the Secretary of the Interior is authorized to construct and maintain therein such markers, buildings, and other improvements, and such facilities for the care and accommodation of visitors, as he may deem necessary.

SEC. 3. There are hereby authorized to be appropriated such sums, but not more than \$1,168,000, as may be necessary for the acquisition of land and interests in land and for the development of the [Golden Spike National Historic Site] *Golden Spike National Historical Park* pursuant to this Act.

