

EDUCATION LAND GRANT ACT

MAY 10, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 150]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 150) to amend the Act popularly known as the Recreation and Public Purposes Act to authorize disposal of certain public lands or national forest lands to local education agencies for use for elementary or secondary schools, including public charter schools, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are 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 “Education Land Grant Act”.

SEC. 2. CONVEYANCE OF NATIONAL FOREST SYSTEM LANDS FOR EDUCATIONAL PURPOSES.

(a) **AUTHORITY TO CONVEY.**—Upon application, the Secretary of Agriculture may convey National Forest System lands for use for educational purposes if the Secretary determines that—

(1) the entity seeking the conveyance will use the conveyed land for a public or publicly funded elementary or secondary school, to provide grounds or facilities related to such a school, or for both purposes;

(2) the conveyance will serve the public interest;

(3) the land to be conveyed is not otherwise needed for the purposes of the National Forest System; and

(4) the total acreage to be conveyed does not exceed the amount reasonably necessary for the proposed use.

(b) **ACREAGE LIMITATION.**—A conveyance under this section may not exceed 80 acres. However, this limitation shall not be construed to preclude an entity from submitting a subsequent application under this section for an additional land conveyance if the entity can demonstrate to the Secretary a need for additional land.

(c) COSTS AND MINERAL RIGHTS.—A conveyance under this section shall be for a nominal cost. The conveyance may not include the transfer of mineral rights.

(d) REVIEW OF APPLICATIONS.—When the Secretary receives an application under this section, the Secretary shall—

(1) before the end of the 14-day period beginning on the date of the receipt of the application, provide notice of that receipt to the applicant; and

(2) before the end of the 120-day period beginning on that date—

(A) make a final determination whether or not to convey land pursuant to the application, and notify the applicant of that determination; or

(B) submit written notice to the applicant containing the reasons why a final determination has not been made.

(e) REVERSIONARY INTEREST.—If at any time after lands are conveyed pursuant to this section, the entity to whom the lands were conveyed attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than the use for which the lands were conveyed, without the consent of the Secretary, title to the lands shall revert to the United States.

Amend the title so as to read:

A bill to authorize the Secretary of Agriculture to convey National Forest System lands for use for educational purposes, and for other purposes.

PURPOSE OF THE BILL

The purpose of H.R. 150 is to authorize the Secretary of Agriculture to convey National Forest System lands for use for educational purposes, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In 1954 Congress passed the Recreation and Public Purposes Act (R&PPA) which authorized the sale or lease of Bureau of Land Management (BLM) land to State and local governments and qualified non-profit organizations for public purposes. Typically, the R&PPA has been used for schools, parks, fairgrounds, campgrounds, historic monument sites, hospitals, and municipal facilities.

The R&PPA served the public well and has allowed many communities to build needed public facilities that couldn't have been built otherwise. Unfortunately, many of the "landlocked" towns of the west (those that are completely surrounded by Federal land) are surrounded by Forest Service land, not BLM land. Since Forest Service land may not be conveyed by under the R&PPA, these towns are at a disadvantage. Because private land within National Forests is so scarce, it is becoming extremely expensive, and often school districts cannot afford to purchase private land for schools.

On several occasions Congress has passed individual bills to transfer Forest Service land to local governments or education agencies for public purposes. Unfortunately, for Congress to pass an individual bill for each small western community that needs Forest Service land is labor intensive and cost prohibitive. The obvious solution is to give the Forest Service the statutory authority to discretionarily make such transfers. H.R. 150 was designed for this purpose, and would have originally accomplished it by bringing Forest Service land under the R&PPA.

COMMITTEE ACTION

H.R. 150 was introduced on January 6, 1999, by Congressman J.D. Hayworth (R-AZ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Na-

tional Parks and Public Lands and to the Subcommittee on Forests and Forest Health. On February 4, 1999, the Subcommittee on National Parks and Public Lands held a hearing on the bill, where witnesses from several small western communities testified in support of H.R. 150. The Forest Service testified that the Administration did not support the bill as currently constituted, but expressed a willingness to work with the Committee to craft an acceptable substitute. On February 25, 1999, the Subcommittee on National Parks and Public Lands met to mark up the bill. Both Subcommittee Chairman Jim Hansen (R-UT) and Ranking Member Carlos Romero-Barceló (D-PR) offered amendments in the nature of a substitute. These amendments were subsequently withdrawn with the agreement that the Majority and Minority would work together to craft an acceptable amendment to offer at Full Committee. The bill was then ordered favorably reported to the Full Committee by voice vote. On April 28, 1999, the Full Resources Committee met to consider the bill. The Subcommittee on Forests and Forest Health was discharged from further consideration of the bill by unanimous consent. Congressman Hansen offered an amendment in the nature of a substitute that created a free-standing program that would allow the Forest Service to transfer land for educational purposes at nominal cost. Delegate Romero-Barceló then offered an amendment to the amendment that changed some of the reversionary language. The amendment to the amendment was adopted by voice vote. And the Hansen amendment, as amended, was adopted by voice vote. The bill was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section designates the title of the Act as the “Education Land Grant Act.”

Section 2. Conveyance of National Forest System lands for educational purposes

Subsection (a) authorizes the Secretary of Agriculture to convey Forest Service Lands for educational purposes if the Secretary determines that certain conditions are met:

Subsection (a)(1) requires that the entity seeking the conveyance will use the conveyed land for a public or publicly funded elementary or secondary school, to provide grounds or facilities related to such a school, or for both purposes. The original bill specified that conveyances could be made to charter schools. During negotiations between the Majority and Minority on H.R. 150 it was agreed that this language should be dropped since “charter school” is a vague term that will likely differ from State to State. The Committee instead chose to adopt the term “public or publicly funded.” The Committee did not feel it was the appropriate role of Congress to inject itself into State policy debates on charter schools, vouchers, and various other programs that provide public funds to schools. Nor did the Committee feel that it was appropriate for Congress to force the Secretary of Agriculture to promulgate regulations defining “charter school.” The phrase “publicly funded” was therefore

substituted to avoid these problems. This preserves the intent of the original bill. The intent of the Act is to help provide education to young people, not to split hairs over semantics.

Subsection (a)(2) requires that the conveyance will serve the public interest.

Subsection (a)(3) requires that the land to be conveyed is not otherwise needed for the purposes of the National Forest System. This phrase should not be interpreted too literally. Almost any parcel of National Forest land could be said to be “needed” for habitat protection, watershed enhancement, timber production, etc. The intent of this subsection is to insure that the Secretary does not transfer lands that have extraordinary features or values that might be lost if the parcels were used for school purposes. The section should be interpreted in light of the importance of elementary and secondary education to society and may often, therefore, require the Secretary to perform a cost benefit analysis.

Subsection (a)(4) requires that the total acreage to be conveyed not exceed the amount reasonably necessary for the proposed use. This section insures that the Secretary not transfer more Forest Service land than is needed for school purposes. Schools and related facilities are often built in phases as funds become available or as enrollment rises. It is often desirable to transfer the land for these schools all at once instead of in phases to provide certainty for funding purposes. When applicants make these issues known, the Secretary should be sensitive to these concerns. Transfers for school-related facilities such as playgrounds, ball fields, parks, etc. are also anticipated and approved of by this Act.

Subsection (b) limits the acreage of conveyances under this Act to 80 acres. This should be more than enough land for most schools and facilities. The Act does anticipate that there may be rare cases where additional transfers may be warranted and provides for additional transfers if the entity seeking the additional conveyance can demonstrate such a need to the Secretary.

Subsection (c) provides that conveyances under this Act shall be for a nominal cost. The phrase “nominal” was specifically chosen over the term “discount,” reflecting the desire of Congress that appraised value not be an issue in such transfers. The regulations for the R&PPA provide that such transfers be made at \$10 per acre and the Committee feels that similar pricing would be appropriate under the Education Land Grant Act. Subsection (c) also prohibits the Secretary from transferring mineral rights to parcels of land transferred pursuant to this Act.

Subsection (d) would require expedited review of applications under this Act. The Secretary would be required to acknowledge within 14 days that the application has been received. The Secretary would then be required to make a final determination whether to convey the land pursuant to the application and notify the applicant within 120 days. If the Secretary cannot make a determination within the 120 day period, the Secretary is required to submit written notice to the applicant containing the reasons why the final determination has not been made.

Subsection (e) addresses the reversionary interest of the United States in land transferred pursuant to the Education Land Grant Act. The Act requires that land transferred pursuant to this Act be

used for education purposes. As such, a reversionary interest in the land will be retained by the United States. The Committee recognizes, however, that land use patterns change over time. The Committee spends a good portion of its time going through the arduous legislative process to pass individual public laws to relinquish reversionary interests held by the United States in parcels of land transferred often as much as over a century ago. This is not a productive use of Congressional time, especially if there is any way to avoid it. The Committee, therefore, chose to vest in the Secretary discretion over the disposal of the reversionary interest retained in Education Land Grant Act transfers.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and article IV, section 3, of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation.—Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act.—As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill could result in a loss of offsetting receipts but any such loss would total less than \$500,000 per year.

3. Government Reform Oversight Findings.—Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate.—Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 5, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 150, a bill to authorize the Secretary of Agriculture to convey National Forest System lands for use for educational purposes, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria Heid Hall.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 150—A bill to authorize the Secretary of Agriculture to convey National Forest System lands for educational purposes, and for other purposes

CBO estimates that enacting H.R. 150 would have no significant impact on the federal budget. Because the bill could result in a loss of offsetting receipts, pay-as-you-go procedures would apply; however, CBO estimates that any such effects would total less than \$500,000 each year. H.R. 150 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. This bill would benefit some local governments by giving them the opportunity to acquire National Forest land for public schools at a nominal cost.

H.R. 150 would authorize the Secretary of Agriculture to convey up to 80 acres of land in the National Forest System (NFS) for use by public or publicly funded schools for a nominal payment. Once land not otherwise needed for NFS purposes would be made available, and any such conveyances would not include the transfer of mineral rights. Title to the land would revert to the federal government if the recipient attempts to transfer it or use it for other than educational purposes. The bill would require the Secretary to notify an applicant within 120 days of receiving the application as to whether the land will be conveyed, or provide a written explanation as to why such a determination has not been made.

CBO estimates that enacting H.R. 150 would result in forgone offsetting receipts if land that the Secretary would likely sell at fair market value under current law would, under the bill, be conveyed at a discount. However, CBO estimates that any such loss of receipts from land sales would total less than \$500,000 each year. While the opportunity to use NFS land for schools at a nominal cost might be a popular option if H.R. 150 were enacted, such NFS land is rarely sold under current law. Thus, we expect that enacting the bill would not result in any significant loss of federal receipts.

The CBO staff contact is Victoria Heid Hall. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

