

Calendar No. 793

110TH CONGRESS }
2d Session }

SENATE

{ REPORT
110-361

MONTANA CEMETERY ACT

JUNE 16, 2008.—Ordered to be printed

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

R E P O R T

[To accompany S. 2124]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2124) to direct the Secretary of Agriculture to convey certain land in the Beaverhead-Deerlodge National Forest, Montana, to Jefferson County, Montana, for use as a cemetery, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 2124 is to direct the Secretary of Agriculture to convey approximately 10 acres of the Beaverhead-Deerlodge National Forest to Jefferson County, Montana, for continued use as a cemetery.

BACKGROUND AND NEED

The Elkhorn Cemetery is located in the mountains of Jefferson County, Montana, near the historic mining town of Elkhorn. The Elkhorn Cemetery has been used as a cemetery since at least the 1880s, when up to 2,500 people lived in Elkhorn. The price of silver collapsed in the early 1890s, and the town ultimately was abandoned.

The cemetery still is used by local families who homesteaded and worked the mines in the area, and it is visited by many sightseers as well. S. 2124 directs the Secretary of Agriculture to convey approximately 10 acres of the Beaverhead-Deerlodge National Forest, including the cemetery, to the County.

LEGISLATIVE HISTORY

S. 2124 was introduced on October 1, 2007, by Senators Baucus and Tester. The Subcommittee on Public Lands and Forests held a hearing on S. 2124 on April 15, 2008. At its business meeting on May 7, 2008, the Committee on Energy and Natural Resources ordered S. 2124 favorably reported, without amendment. An identical bill (S. 997, as amended) was reported by the Committee and passed by the Senate in the 109th Congress.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on May 7, 2008, by voice vote of a quorum present, recommends that the Senate pass S. 2124.

SECTION-BY-SECTION ANALYSIS

Sections 1 and 2 contain the short title and definitions for the bill.

Section 3(a) directs the Secretary of Agriculture to convey 9.67 acres of the Beaverhead-Deerlodge National Forest to Jefferson County, Montana. This subsection also specifies that the conveyance shall be subject to valid existing rights and the reversionary interest described in subsection (e), and (subject to the other provisions of the Act) shall take place not later than 180 days after enactment of this Act.

Subsection (b) describes the land to be conveyed by the Secretary.

Subsection (c) states that Jefferson County must agree, as a precondition of the conveyance, to use the land as a cemetery and to manage the cemetery with due consideration and protection for the historic and cultural values of the cemetery. This subsection also makes clear that the conveyance is dependant on the Secretary and Jefferson County agreeing to terms and conditions to protect the historic and cultural values of the cemetery.

Subsection (d) directs the Secretary to convey, in accordance with applicable law, an easement over National Forest System land to provide access to the conveyed land.

COST AND BUDGETARY CONSIDERATIONS

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

S. 2124—Montana Cemetery Act of 2008

S. 2124 would direct the Secretary of Agriculture to convey to Jefferson County, Montana, for no consideration, about 10 acres of land in the Beaverhead-Deerlodge National Forest. The land is the site of the Elkhorn Cemetery. CBO estimates that enacting S. 2124 would have no significant impact on the federal budget.

Based on the cost of similar conveyances, we estimate that the agency would spend less than \$50,000 in 2009 to complete the proposed conveyance, assuming the availability of appropriated funds. The land to be conveyed under S. 2124 is already used by Jefferson County as a cemetery and currently generates no receipts; thus, CBO estimates that enacting S. 2124 would not affect direct spending of revenues.

S. 2124 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.

The CBO staff contact for this estimate is Tyler Kruzich. This estimate was approved by Peter H. Fontaine, 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. 2124.

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. 2124.

CONGRESSIONALLY DIRECTED SPENDING

S. 2124 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 views of the Administration were included in testimony received by the Committee at a hearing on S. 2124 on April 15, 2008.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

This legislation directs the Secretary to convey for no consideration, all right, title, and interest in 10 acres of land within the Beaverhead-Deerlodge National Forests to Jefferson County, Montana to be used for cemetery purposes. The Department is supportive of S. 2124, but would recommend that this bill provide consideration to the Federal government for the conveyance.

The parcel to be conveyed to Jefferson County is currently being used for cemetery purposes but a special use authorization has never been issued for this purpose. The 10-acre conveyance will provide a sufficient amount of land to accommodate all known grave sites and any additional sites that may be outside of the concentration of known sites. In addition the conveyance is of adequate size to include the cemetery parking lot so that it will be located on private property. The parcel to be conveyed is a National Register eligible property that contributes to the significance of the Elkhorn town site and the Elkhorn historic mining district. The bill provides for the continued protection of the historic and cultural values associated with the site but does not exempt the Forest Service from its obliga-

tions to comply with the National Historic Preservation Act, or any other law, at the time of transfer.

We are concerned about conveying public land to other jurisdictions without any form of consideration. The Department does not object to making the Federal land available for use as a cemetery, but requests that the conveyance of the public land estate include consideration for the market value of the property and for the administrative costs associated with the conveyance. The Department does not support the reversion of the lands back to the Secretary should this bill be enacted.

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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 S. 2124 as ordered reported.

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