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TO REMOVE THE USE RESTRICTIONS ON CERTAIN LAND TRANSFERRED TO ROCKINGHAM COUNTY, VIRGINIA, AND FOR OTHER PURPOSES

MAY 3, 2017.—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. 331]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 331) to remove the use restrictions on certain land transferred to Rockingham County, Virginia, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 331 is to remove the use restrictions on certain land transferred to Rockingham County, Virginia.

BACKGROUND AND NEED

In 1989, the Department of the Interior deeded a small parcel of land to Rockingham County, Virginia, for public purposes. This land includes a garage that had previously been used by the National Park Service. The County allows the non-profit Plains Area Day Care Center in Broadway, Virginia to use the garage as a child care center.

In 1990, Congress enacted legislation to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center (Public Law 101–479). The law authorized the County of Rockingham, Virginia, to permit the use of approximately 3.03 acres of land for the purpose of a child care center. The Act further specified that use should be confined to the building in existence

as of the date of enactment; involve fencing or enclosing of no more than 3,500 square feet of the open space portions of the lands; and not preclude use of any of the land for other permissible purposes (subject to reasonable restrictions necessary to allow a use authorized under the Act).

Because of the deed restrictions resulting from Public Law 101–479, the non-profit that operates the day care is unable to obtain loans to make improvements and renovations to the property. S. 331 would release the deed restrictions on a one-acre portion of the property already authorized by law to be used for a child care facility. The other two acres would continue to be subject to the existing deed's use restriction and reversionary clause.

LEGISLATIVE HISTORY

S. 331 was introduced by Senator Kaine on February 7, 2017.

In the 114th Congress, H.R. 2288 was introduced by Representative Goodlatte on May 13, 2015. On September 10, 2015, the House Committee on Natural Resources ordered H.R. 2288 to be reported, as amended, by unanimous consent. The House of Representatives passed H.R. 2288 by a vote of 407–0 on November 30, 2015. H.R. 2288 was received in the Senate and referred to the Committee on Energy and Natural Resources on December 1, 2015.

Senator Kaine introduced a similar bill, S. 1329, on May 13, 2015. The Subcommittee on National Parks held a hearing on both S. 1329 and H.R. 2288 on March 17, 2016. The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered H.R. 2288 favorably reported.

In the 115th Congress, an identical bill, H.R. 954, was introduced in the House of Representatives by Representative Goodlatte on February 7, 2017.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017 and ordered the S. 331 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass S. 331.

SECTION-BY-SECTION ANALYSIS

Section 1. Removal of use restrictions

Section 1 amends Public Law 101–479 by striking the use restriction provision in section 2(d) and inserting a new section 4. The new section 4 removes the land use restrictions on approximately one acre of land that is used for purposes of a child care center and requires the Secretary to execute an instrument to enact this section upon the Act's enactment.

COST AND BUDGETARY CONSIDERATIONS

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

S. 331 would remove restrictions in the deed for a parcel of land that was conveyed by the National Park Service (NPS) to Rocking-

ham County, Virginia. That restriction stipulates that the land can only be used for a public park and a child care center. Based on information provided by the NPS, CBO estimates that implementing the bill would have no effect on the federal budget.

Enacting S. 331 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 331 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.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papanfuss, 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. 331. 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. 331, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 331, 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

Because S. 331 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by the National Park Service at the hearing before the Subcommittee on National Parks on March 17, 2016, follows:

> STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR FOR OPERATIONS, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR
>
> Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Department of the Interior's views on S. 1329 and H.R. 2288, bills to remove the use restrictions on certain land transferred to Rockingham County, Virginia, and for other purposes.
>
> The Department supports H.R. 2288 and would support S. 1329 if amended to conform to H.R. 2288. H.R. 2288 as passed by the House addresses the concerns the Department had with the bills as introduced about the potential loss of public park and recreation land in Rockingham

County. The Department appreciates the work of Senator Kaine and Representative Goodlatte in making the changes in the legislation that are reflected in the House-passed bill.

S. 1329 and H.R. 2288 as introduced would require the removal of all deed restrictions imposed by the transfer of the surplus federal property formerly known as the Broadway Work Center A–VA–681 in Rockingham County, Virginia, under the terms of the National Park Service's Federal Lands to Parks (FLP) Program. In 1989, the National Park Service conveyed this 3.03-acre property at no cost to Rockingham County under the authority of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 550(b) and (e)) on the condition that it be used in perpetuity for public park and recreation purposes.

The purpose of the FLP program is to help communities increase opportunities for public recreation by increasing park and recreation areas. By conveying this land at no cost, the federal government provided a public benefit to the citizens of Rockingham County by increasing the quantity of the county's public park land.

Public Law 101–479, enacted in 1990, allowed a specified portion of 3.03 acres of the transferred land to be used for a child care center. However, it left in place the use restriction (enforced by a reverter clause) that was part of the deed. As introduced, H.R. 2288 and S. 1329 would release the entire property from the use restriction in the deed in an effort to enhance the child care center operator's ability to finance repairs even though, consistent with the terms of Public Law 101–479, only about 1 acre of the 3-acre site is used for the facility. As passed by the House, H.R. 2288 would limit the deed release to the 1-acre portion of the property already authorized by law to be used for a child care facility. The other 2 acres would continue to be subject to the existing deed's use restriction and reverter clause.

By limiting the deed release to the portion of the property already determined by Congress to be appropriate for a child care facility, the amended legislation would accomplish its intent while also ensuring that a community that received Federal land at no cost for the purpose of public recreation would continue to benefit from having the land dedicated to that purpose. This solution helps protect the integrity of the FLP program and avoids setting a precedent for other communities that may want a legislated release from obligations for use of federally conveyed land.

H.R. 2288 as passed by the House also eliminates the requirement in section 2(d) of Public Law 101–479 for Rockingham County to report biennially to the Secretary of the Interior about the use of the property for a child care center, as well as other language in that section that is inconsistent with releasing the center from the deed restriction.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or any 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 the original bill, 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 101–479

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SEC. 2. REQUIREMENTS.

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[(d)(1) If the county, pursuant to this Act, authorizes use of the lands for a child care center, the county shall include information concerning such use in the biennial reports to the Secretary of the Interior required under the terms of the conveyance of the land to the county by the United States and shall also provide a copy of such information to appropriate officials of the United States and the Commonwealth of Virginia responsible for implementation of laws concerning the operation of child care centers.

[(2) Any violation of the provisions of this Act shall be deemed to be a breach of the conditions and covenants under which the lands were conveyed to the county by the United States, and shall have the same effect, as provided in the deed whereby the United States conveyed the lands to the county.]

SEC. 3. LAND DESCRIPTION.

The land referred to in sections 1 and 2 is that parcel comprised of approximately 3.03 acres of land transferred by the United States on April 11, 1989, to the county of Rockingham, Virginia, in deed book number 953 at page 600, together with improvements thereon.

SEC. 4. REMOVAL OF USE RESTRICTION.

(a) The approximately 1-acre portion of the land referred to in section 3 that is used for purposes of a child care center, as authorized by this Act, shall not be subject to the use restriction imposed in the deed referred to in section 3.

(b) Upon enactment of this section, the Secretary of the Interior shall execute an instrument to carry out subsection (a).

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