Calendar No. 528

105TH CONGRESS, 2d Session | SENATE | REPORT 105–291

SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT OF 1997

AUGUST 25, 1998.—Ordered to be printed

Filed under authority of the order of the Senate of July 31, 1998

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

REPORT

[To accompany H.R. 449]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 449) to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada, having considered the same, reports favorably thereon without amendment and recommends that the Act, do pass.

PURPOSE OF THE MEASURE

H.R. 449, as ordered reported, would provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and for the acquisition of environmentally sensitive lands in the State of Nevada.

BACKGROUND AND NEED

Clark County, Nevada, and its municipalities of Las Vegas, North Las Vegas, and Henderson, comprise one of the fastest growing metropolitan areas in the United States. There is, however, a growing sparsity of undeveloped land available for the construction of housing for new residents. The unprecedented growth has placed extraordinary demands on the largest landowner in the County—the Bureau of Land Management (BLM). The large number and scale of land exchanges conducted by BLM, the pressurized workload which they have generated for the agency, and the complex-

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ities of the exchange process have fostered concerns about the existing procedures. The purpose of H.R. 449 is to establish, and authorize the BLM to implement, an improved process for public/private land transactions throughout Nevada.

H.R. 449 builds on the existing Santini-Burton Act which provides for the sale of Bureau of Land Management (BLM) lands in Clark County, Nevada, and use those funds to purchase environmentally sensitive land sin Nevada.

Driven by sustained growth, the Las Vegas/Clark County area has been the fastest growing urban area in the United States for the past five years. In 1994, the Las Vegas area experienced a gain in average annual employment of 53,900, and local government issued 25,570 residential building permits. During 1994 and 1995, several large casino/resorts opened in Las Vegas, adding 20,100 jobs to the area's economy. Over the past eight years, local governments have issued over 160,000 residential building permits. Clark County now has an estimated population of over one million. While the growth rate settled at 5.5 percent in 1995 compared with 9.6 percent in 1994, the area continues to be the most rapidly growing area in the United States.

Clark County and other units of local governments are currently impacted by the privatization of Federal land through the land exchange and land sale processes. Large tracts of land in the Las Vegas valley continue to be privatized in exchange for land elsewhere in the state that is deemed to be environmentally sensitive. Most of the land transferred to Federal ownership through these exchanges is outside Clark County. In the last decade, the BLM has privatized approximately 17,380 acres of land in Clark County. The sale and privatization of these Federal lands through land exchanges has forced the local governments to shoulder the burden of providing essential infrastructure, such as roads, water delivery, and electricity.

H.R. 449 establishes a process to provide for the orderly disposal of Federal lands in Clark County and to provide for the acquisition of environmentally sensitive lands in the State of Nevada. The Secretary of the Interior and the unit of local government in whose jurisdiction the lands are located shall jointly select lands to be offered for sale or exchange.

LEGISLATIVE HISTORY

H.R. 449 was introduced in the House of Representatives by Congressman John Ensign on January 20, 1997. A hearing on H.R. 449 was held before the House Resource Committee on March 13, 1997. The bill was favorably reported from the Resource Committee on April 16, 1997. The House passed H.R. 449, as reported, by voice vote on April 23, 1997.

H.R. 449 was referred to the Senate Committee on Energy and Natural Resources where a hearing on the bill was held in the Subcommittee on Forests and Public Lands on May 6, 1998.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 24, 1998, by unanimous vote of a

quorum present recommends that the Senate pass H.R. 449 without amendment.

The roll call vote on reporting the measure was 20 yeas, no nays as follows:

YEAS	NAYS
Mr. Murkowski	
Mr. Domenici [1]	
Mr. Nickles [1]	
Mr. Craig	
Mr. Campbell	
Mr. Thomas	
Mr. Kyl [1]	
Mr. Grams	
Mr. Smith	
Mr. Gorton	
Mr. Burns	
Mr. Bumpers [1]	
Mr. Ford	
Mr. Bingaman [1]	
Mr. Akaka [1]	
Mr. Dorgan	
Mr. Graham [1]	
Mr. Wyden [1]	
Mr. Johnson	
Ms. Landrieu	

[1] Indicates vote by proxy.

SECTION-BY-SECTION ANALYSIS

Section 2(a)(1) states that BLM ownership of large parcels of land interspersed with private land in Las Vegas Valley, Nevada complicates the management process to such a degree as to make disposal of those public lands appropriate.

Section 2(a)(2) states that certain Federal land should be sold, based on recommendations by the local government and public.

Section 2(a)(3) notes that the significant growth in the Las Vegas metropolitan area has adversely impacted surrounding National Recreation and Conservation areas.

Section 3(2) specifies that the term "unit of local government" refers to Clark County, the city of Las Vegas, the city of North Las Vegas, or the city of Henderson, all in the State of Nevada.

Section 3(3) clarifies the term "Agreement" as used in the Act as referencing "The Interim Cooperative Management Agreement between the United States Department of the Interior and the Bureau of Land Management and Clark County", dated November 4, 1992.

Section 3(5) offers the clarification that the term "Recreation and Public Purposes Act" refers to the Act entitled "An Act to authorize acquisition or use of public lands by states, counties, or municipalities for recreational purposes", approved June 14, 1926.

Section 4(a) states that the Secretary is authorized to dispose of lands within the boundary of an area under the jurisdiction of the Director of the Bureau of Land Management in Clark County, Ne-

vada, as generally depicted on the map entitled "Las Vegas Valley, Nevada, Land Disposal Map", dated April 10, 1997.

Section 4(b)(1) specifies that the State of Nevada or a unit of local government may elect to obtain any lands within the disposal area for local public purposes thirty days before offering the lands for sale or exchange, pursuant to the Recreation and Public Purposes Act.

Section 4(b)(2) states that, upon application, the Secretary shall in accordance with this and other applicable law, issue right-of-way grants on Federal lands in Clark County, Nevada for all reservoirs, canals, channels, ditches, pipes, pipelines, tunnels, and other facilities needed for certain identified water related purposes. These grants shall be valid in perpetuity and shall not require the payment of rental fees.

Section 4(d)(1) states that the Secretary and the units of local government in whose jurisdiction the lands are located shall jointly select lands to be offered for sale or exchange. The Committee supports the principal of local government input into the exchange process. The Committee further finds it is advantageous when local governments are able to engage in partnerships with the developers for the acquisition of Federal lands so as to help mitigate the problems encountered by the rapid growth experienced in the Las Vegas valley and to better plan the long term economic impact and community planning priorities. The North Las Vegas partnership is demonstrative of the type of partnership the Committee finds valuable.

The Committee also finds that it is prudent in avoiding local controversy where multiple local jurisdictions occupy Federal land, that the jurisdiction which will provide the primary government and safety services to the Federal property upon private acquisition, should be the unit of local government which provides the principal input to the Federal Government regarding acquisition priorities.

Section 4(e) deals with the distribution of the proceeds, including the payment, by the non-Federal exchange party, of fifteen percent of the value of the public lands involved to the State and local government. This section sets forth that five percent of the gross proceeds of sales of land in each fiscal year shall be paid directly to the State of Nevada for use in the State's education program, ten percent shall be paid directly to the Southern Nevada Water Authority, and the remainder shall be deposited in a special account in the Treasury of the United States.

Section 4(e)(2)(A) provides that in the case of land exchanges under this section, the non-Federal party shall provide to the State of Nevada and the Southern Nevada Water authority such cash payments as directed in section 4(e)(1).

The language contained in subsection 4(e)(2)(B) governs the so-called pending exchanges that are currently being processed where the initial "agreement to initiate exchange" was signed prior to February 29, 1996. The Committee is aware that certain of these pending land exchanges utilize a document styled a "non-binding statement of intent" which was used prior to the BLM's current "agreement to initiate exchange" document and the Committee considers pending exchanges using either of the two documents to be

equivalent for purposes of subsection 4(e)(2)(B) of this Act. The Committee expects BLM to proceed with these pending exchanges and to bring them to finality on an expedited basis.

Most of the provisions of this act do not apply to these pending land exchange transactions. The provisions that do apply are contained in subsections (a), (b), and (e) of section 4. Subsections (a) and (b) authorize the disposal of lands and recognize certain authorization opportunities for recreation and public purposes and rights-of-way. In applying subsection (b) to pending exchanges, the Committee intends to facilitate these pending exchanges and does not intend to create opportunity to subvert, upset, or in any way interfere with the pending exchanges. Consequently, to the maximum extent possible, BLM shall respect and adhere to the understandings developed prior to this legislation between the BLM or the respective exchange party on the one hand and local government on the other relating to public use of the exchange property by local government.

It is the intent of the Committee that a pending exchange proponent will provide fifteen percent of the value of the selected public lands to the state and local governments pursuant to subsection (e)(2)(A) of section 4, regardless of whether the "agreement to initiate exchange" or the "non-binding statement of intent" entered into prior to enactment of this Act so provides. It is also the Committee's intent that BLM shall provide one hundred percent of the value of the exchange proponents in the form of land or cash equalization. Specifically, it is not necessary for the language regarding such compensation to appear in the actual "agreement to initiate exchange" or "non-binding statement of intent" for it to apply to these pending exchanges. To do otherwise would defeat the purpose of subsection 4(e)(2)(B) which is designed to facilitate and expedite these pending exchanges which were set in motion prior to enactment of this Act. The Committee is aware that pending exchanges may have experienced delays pending the expected enactment of H.R. 449 and that, as a consequence, the documentation may need to be supplemented, reworked, or replaced in the near future if final processing of these prospective transactions is not completed promptly after enactment. The Committee urges the relevant land management agencies to give priority to such processing so as to avoid this additional paperwork and staffing burden.

Section 4(e)(3) states that funds deposited in the special account may be expended by the Secretary for: (1) acquisition of environmentally sensitive land; (2) capital improvements; (3) development of habitat conservation in Clark County, Nevada; (4) development of parks, trails and natural areas in that county; and reimbursement of costs incurred by the local offices of the BLM.

Section 4(e)(3)(B) establishes that the Secretary shall coordinate the use of the special account with the Secretary of Agriculture, the State of Nevada, local governments, and other interested persons.

Section 4(e)(3)(C) mandates that no more than twenty-five percent of the special account may be used in any fiscal year for capitol improvements at certain federally designated conservation and recreation areas.

Section 4(g) mandates that the Secretary shall transfer all right, title, and interest of the United States in and to the lands identified in the Agreement to Clark County, Nevada, subject to the stipulations in the Act.

Section 4(g)(4) stipulates that if the lands or interests therein are sold, leased, or otherwise conveyed at fair market value, Clark County shall notify the BLM immediately after such a transaction occurs. Proceeds are then dispersed as follows: eighty-five percent of the gross proceeds must go to the special account, five percent directly to the State of Nevada for the benefit of its education program, and the remainder shall be available for the Clark County Department of Aviation for airport development and the Noise Compatibility Program.

Section 5(a) sets forth the definition of "environmentally sensitive land" as land that would promote preservation of natural, scientific, aesthetic, historical, cultural, or wildlife values, would enhance recreational opportunities, or would provide the opportunity to achieve better management of public land.

Section 5(c) clarifies that market value shall be determined pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

Section 6 mandates that the Secretary shall submit an annual report on all transactions carried out under this Act to the Senate Committee on Energy and Natural Resources and the Resource Committee of the House of Representatives.

Section 7 states that the Secretary may transfer the reversionary interest in lands within Clark County to other non-federal lands, provided those lands are of equal value.

Section 7(b) states that under such terms and conditions as the Secretary may choose, he may make available Federal land in the State of Nevada at less than fair market value for affordable housing purposes. These lands shall be made available only to state and local government entities.

Section 8 amends section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 to read "The conservation area shall consist of approximately 195,780 acres as generally depicted on the map entitled 'Red Rock Canyon National Conservation Area Administrative Boundary Modification', August 8, 1996."

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 449, the Southern Nevada Public Land Management Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs), and Susan Sieg (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 449.—Southern Nevada Public Land Management Act of 1997

Summary: H.R. 449 would authorize the Secretary of the Interior to dispose of certain federally owned lands in Clark County, Nevada, and use the proceeds to purchase environmentally sensitive land and for certain other activities. CBO estimates that enacting the act would increase offsetting receipts to the government from asset sales by about $70 million in fiscal year 1999 and by a total of about $350 million over the 1999–2003 period. In addition, we estimate that enacting the act would increase other direct spending by $20 million in fiscal year 1999 and by $287 million over the 1999–2003 period. Over the next five years, the act would decrease direct spending by a total of $63 million. Over the long term, however, the bill would increase direct spending.

Because enacting H.R. 449 would affect direct spending, pay-as-you-go procedures would apply to the act. H.R. 449 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. The state of Nevada, Clark County, and the Southern Nevada Water Authority would benefit from various provisions of this act.

Description of the act's major provisions: H.R. 449 would:

provide that 85 percent of the gross proceeds from the sale of certain federal lands in Clark County, Nevada, be placed in a special account in the Treasury; interest on the principal would be added to that account, and amounts in the special account would be available to the Secretary of the Interior, without further appropriation, to acquire environmentally sensitive land and for certain other purposes;

provide that of the gross proceeds from sale of those lands, 5 percent shall be paid directly to the state of Nevada and 10 percent shall be paid directly to the Southern Nevada Water Authority for certain purposes;

require that the nonfederal party pay the state of Nevada and the Southern Nevada Water Authority 5 percent and 10 percent (respectively) of the fair market value of the federal lands exchanged under section 4;

waive the fees for right-of-way grants issued on federal lands in Clark County, Nevada, upon application by a unit of local government or regional government entity;

direct the Secretary to offer, within 30 days after a request by Clark County, Nevada, certain land for the construction of youth activity facilities;

direct the Secretary to transfer without consideration, upon the request of Clark County, Nevada, all right, title, and interest of the United States in and to the airport environs overlay district lands identified in an agreement between the Bureau of Land Management (BLM) and Clark County; if the county

subsequently conveys that land to a third party, the county would be required to contribute 85 percent of the gross proceeds from the conveyance to the BLM special account;

provide that any land acquired by the federal government under section 5 of H.R. 449 be included in the payments in lieu of taxes (PILT) calculation;

authorize the Secretary to transfer the reversionary interest in federal lands in Clark County, Nevada, subject to a lease or patent under the Recreation and Public Purposes Act to other nonfederal lands; if the fair market value of the nonfederal lands were less than that of the federal lands under the original lease or patent, the act would require the unit of local government to pay the difference to the Secretary of the Interior;

authorize the Secretary to make available any federal land in Nevada at less than fair market value for affordable housing purposes; and

modify the boundaries of the Red Rock Canyon National Conservation Area to include additional acreage.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 449 is shown in the table below. The act also could affect spending subject to appropriation, but CBO estimates that any changes in discretionary spending would be less than $500,000 a year. The costs of this legislation fall within budget function 300 (natural resources and the environment).

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003
CHANGES IN DIRECT SPENDING					
Asset Sale Proceeds: [1]					
Estimated Budget Authority	0	−70	−70	−70	−70
Estimated Outlays	−70	−70	−70	−70	−70
Spending from Proceeds, Including Interest:					
Estimated Budget Authority	70	73	74	74	74
Estimated Outlays	20	50	70	73	74
Net Changes in Direct Spending:					
Estimated Budget Authority	0	3	4	4	4
Estimated Outlays	−50	−20	0	3	4

[1] Under the Balanced Budget Act of 1997, proceeds from nonroutine asset sales may be counted for purposes of pay-as-you-go scorekeeping only if such sales would entail no net financial cost to the government. Because selling BLM lands under H.R. 449 would not entail a net financial cost, the proceeds would be counted for pay-as-you-go purposes.

Basis of estimate: CBO estimates that H.R. 449 would increase offsetting receipts to the government from asset sales by about $350 million over the 1999–2003 period. In addition, we estimate that the act would increase other direct spending by $287 million over that same period.

Direct spending and asset sale receipts: Under current law, the Secretary of the Interior has the authority to dispose of federal lands on the Las Vegas Valley, Nevada, Land Disposal Map specified in H.R. 449. The department's current policy is to dispose of the land by exchanging it for environmentally sensitive land of equal value. Such exchanges generate no receipts to the Treasury. Because the act would authorize the Secretary of the Interior to spend a portion of the proceeds from sale of the land, without further appropriation, enacting H.R. 449 would likely result in sale of the federal lands rather than exchange.

Based on information from BLM and Clark County, roughly 27,000 acres of federal land on the Las Vegas Valley, Nevada, Land Disposal Map specified in H.R. 449 would be suitable for sale, after accounting for local government selections under the Recreation and Public Purposes Act and other restrictions on land within the disposal area. The proceeds from sale of the land are highly uncertain and would depend on many factors including mutual agreement between BLM and the units of local government in selecting the lands to be offered for sale, how quickly the land is sold, the number of acres sold in each transaction, and the general real estate market in Clark County. CBO estimates that proceeds would be about $70 million annually and would total about $350 million over the 1999–2003 period.

Section 4 of the act provides that of the gross proceeds from sale of the land, 5 percent shall be paid directly to the state of Nevada and 10 percent shall be paid directly to the Southern Nevada Water Authority. CBO estimates that these payments would total about $10 million per year, or about $50 million over the 1999–2003 period.

Section 4 would place 85 percent of the gross proceeds from sale of federal land identified on the Las Vegas Valley, Nevada, Land Disposal Map in a special account in the Treasury. The act provides that interest be added to the principal in the special account; such interest payments would not affect receipts to the Treasury, but it would increase the funds available in the special account. Amounts in the special account would be available to the Secretary of the Interior, without further appropriation, to spend for acquisition of environmentally sensitive land, capital improvements at certain national recreation areas and refuges, development of a conservation plan in Clark County, development of parks and trails, and reimbursement of the agency costs incurred in arranging the land disposal. CBO estimates that spending from the special account would total $10 million in fiscal year 1999 and $237 million over the 1999–2003 period. The act would result in net savings over the next five years because spending to acquire new land is likely to lag behind the proceeds from sales; over the long term, however, the provision that would allow spending of the interest on the proceeds would result in a net increase in direct spending.

A number of other provisions in the act could affect direct spending, but CBO estimates that for most of those other provisions any change in direct spending would be insignificant. In two cases (described below), the impact could be significant, but we have no basis for estimating the amounts of potential changes.

Section 4 would direct the Secretary of the Interior to offer to Clark county, Nevada, the land depicted on the map entitled "Vicinity Map Parcel 177–28–101–020 dated August 14, 1996," for the construction of youth activity facilities. Section 4 also provides that, upon request of Clark County, the Secretary shall transfer to the county certain land in the Airport Environs Overlay District. Based on information from BLM, under current law these federal lands will be unlikely to generate receipts to the Treasury. Therefore, CBO estimates that enacting these provisions probably would not affect direct spending. If the county subsequently conveys the land in the airport Environs Overlay District, the conveyance must be

at fair market value, and the county must contribute 85 percent of the gross proceeds from the conveyance to the special account in the Treasury. This provision could affect offsetting receipts, but CBO cannot predict if or when such a conveyance might occur.

Section 7 would authorize the Secretary of the Interior, in consultation with the Secretary of Housing and Urban Development, to make available any land in the state of Nevada at less than fair market value for affordable housing purposes. Enacting this provision could result in a loss of receipts if federal land which would have been sold at fair market value were now sold for something less than fair market value; the provision could also increase receipts if it caused additional sales. CBO has no basis for predicting which federal lands might be sold under this provision or the price at which they might be sold. Therefore, we cannot estimate the budgetary effect of this provision.

Spending subject to appropriation: H.R. 449 provides that the entitlement lands used to calculate payments in lieu of taxes (PILT) to units of local government include any lands acquired by the federal government under section 5 of the act. Calculation of PILT is based on the amount of federally owned acreage, subject to a population cap. Enacting H.R. 449 could increase the total number of federally owned acres, since the fair market value of the BLM land to be disposed of in Clark County may be higher than that of the environmentally sensitive land acquired under this act, but according to BLM, Clark County's PILT is already subject to a population cap. Therefore, we estimate that enacting H.R. 449 would not affect PILT to Clark County. Since the act would direct the Secretary of the Interior to give priority to the acquisition of environmentally sensitive lands in Clark County, we estimate that the act would be unlikely to affect PILT to other units of local government significantly. Any changes to PILT would be subject to appropriation.

H.R. 449 would modify the boundaries of the Red Rock Canyon National Conservation Area to include additional acreage. Based on information from BLM, CBO estimates that the agency would incur costs to manage the additional acreage, but that any effect on discretionary spending would total less than $100,000 per year.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Under the Balanced Budget Act of 1997, proceeds from nonroutine asset sales may be counted for purposes of pay-as-you-go scorekeeping only if such sales would entail no net financial cost to the government. Selling these BLM lands would not entail a net financial cost; therefore, the proceeds would be counted for pay-as-you-go purposes.

The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	0	−50	−20	0	3	4	4	4	4	4

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in receipts ...	Not applicable										

Estimated impact on State, local, and tribal governments: H.R. 449 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

The state of Nevada, Clark County, and the Southern Nevada Water Authority would benefit from various provisions of this act. As noted above, CBO estimates that payments to the state and to the authority out of the proceeds of land sales would total about $50 million over the 1999–2003 period. In addition, the act would allow local governments in Clark County to receive right-of-way grants on federal lands without paying fees that may be charged under current law. CBO estimates that this provision would allow these governments to avoid fees totaling less than $50,000 per year.

H.R. 449 would give the local government in whose jurisdiction these lands are located (Clark County, in most cases) joint authority, along with the federal government, to select lands to be offered for sale. This would allow local governments to control the pace and direction of private development and limit the demand for public facilities.

Also included in the act are several provisions that would allow the state and local governments in Clark County to obtain federal lands at little or no cost. These include the provision directing the Secretary of the Interior to transfer certain lands in the Airport Environs Overlay District to Clark County. According to county officials, this transfer would ease the administrative burden of managing the development of these lands. In addition, under the terms of this act, the county could convey this land to private parties and retain 15 percent of the proceeds. The remaining proceeds would have to be turned over to the federal government. CBO cannot predict if or when such a conveyance might occur.

Estimated impact on the private sector: This act would impose no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On April 23, 1997, CBO prepared a cost estimate for H.R. 449, the Southern Nevada Public Land Management Act of 1997, as ordered reported by the House Committee on Resources on April 16, 1997. This version of H.R. 449 is similar to the House version and the estimated proceeds from asset sales and spending of those proceeds are the same. However, the estimated budgetary effects for pay-as-you-go purposes are different because of a change to the Balanced Budget and Emergency Deficit Control Act (BBEDCA) regarding nonroutine asset sales.

Under BBEDCA as in effect in April 1997, proceeds from nonroutine asset sales did not count for purposes of pay-as-you-go scorekeeping. As a result, CBO estimated in April 1997 that enacting H.R. 449 would increase direct spending by a total of $287 million over the 1998–2002 period for pay-as-you-go purposes. Net budgetary savings (including asset sale proceeds) would total $63 million over the same five-year period.

Since our previous cost estimate on H.R. 449, the Congress enacted the Balanced Budget Act of 1997. Under that act, which amended BBEDCA, proceeds from nonroutine asset sales may be counted for purposes of pay-as-you-go scorekeeping if they would entail no net financial cost to the government. Because selling BLM lands under H.R. 449 would not entail a net financial cost, the proceeds would now be counted for pay-as-you-go purposes.

Therefore, CBO currently estimates that H.R. 449 would reduce direct spending by $63 million over the next five years.

Estimate prepared by: Federal Costs: Victoria V. Heid. Impact on State, Local, and Tribal Governments: Susan Sieg.

Estimate approved by: Paul N. Van de Water, 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 H.R. 449

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 H.R. 449

EXECUTIVE COMMUNICATIONS

On May 6, 1998, the Committee on Energy and Natural Resources requested executive comment from the Department of the Interior and the Office of Management and Budget setting forth executive views of H.R. 449. These comments had not yet been received at the time H.R. 449 was reported. When the requested reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Land Management at the Subcommittee hearing follows:

STATEMENT OF TOM FRY, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT

Thank you for the opportunity to testify on S. 94 and H.R. 449, the Southern Nevada Public Land Management Act of 1997, regarding land disposal in the Las Vegas Valley. The Bureau of Land Management (BLM) supports the concept behind these bills. We believe that through continuing discussions with the bill's authors in the House and the Senate, a final bill can be produced that would receive the Administration's endorsement.

Let me provide some background and context for this legislation. In many parts of the West, the legacy of settlement has left us with a scattered ownership pattern. The Las Vegas area is a good example. As communities such as Las Vegas expand, the BLM works with local jurisdictions to make public lands available through sale or exchange

and also provide lands for public purposes through Recreation and Public Purpose (R&PP) Act patents and leases. In the Las Vegas Valley, BLM is working with all jurisdictions and private interests to facilitate the disposal of public lands, mostly through exchange. Our program of land exchanges in the Las Vegas Valley is designed to dispose of land with high commercial value, which allows us to acquire resources significant to all Americans including: Prime recreation areas; riparian and wetland habitat; critical habitat for threatened, sensitive and endangered species, and significant historical, archaeological, and cultural sites.

S. 94 and its companion House bill, H.R. 449, specifically affect several thousand acres of public land in the Las Vegas Valley, which are managed by the BLM. In recent years, the Las Vegas Valley has become the fastest growing metropolitan region in the country, but development has been influenced by the presence of public lands in the area. The rapid expansion has also had an impact on the Las Vegas District of BLM, which has experienced an increase in applications for permits to use public lands. These requests have included rights-of-way for power lines and roads, R&PP leases for fire stations and schools, land exchange proposals, and other realty actions. This bill seeks to resolve the future of these public lands by requiring BLM to sell, exchange or transfer public land in the Las Vegas Valley.

Mr. Chairman, the BLM strongly believes that the land ownership pattern in the Las Vegas area needs to be addressed. In fact, our draft Resource Management Plan (RMP) for the area targets the vast majority of BLM-managed lands within the Las Vegas metropolitan area for disposal in order to meet the growth needs of the community. The lands specified in S. 94 and H.R. 449 are nearly identical to those identified for disposal in the RMP.

As part of its planning process, BLM's Las Vegas District works toward partnerships with local governments in southern Nevada. The BLM is a charter member of the Southern Nevada Public Lands Task Force which established the disposal boundary. BLM personnel meet quarterly with the Clark County Planning Director and this task force. In January 1996, BLM initiated the Southern Nevada Land Exchange Strategy Project to improve the effectiveness of the land exchange program and other realty actions in the Las Vegas District. Coordination and communication with local governments continue to be key to success of the project. In the area of land exchanges, our goal is to prioritize land exchange opportunities and move forward with timely completion of high priority land exchanges that meet the public interest and respond to local needs.

One of the best examples of sound legislation that addressed public land disposal is the Santini-Burton Act of 1980. The law gave the Department of the Interior the au-

thority to sell land in the Las Vegas Valley and to use 85% of the revenue to purchase private lands within the National Forest System in the Lake Tahoe Basin. The Federal government shares a portion of the receipts (15%) with Clark County, the City of Las Vegas and the State of Nevada. In return, lands in the magnificent Lake Tahoe Basin have been protected and made available for the enjoyment of the public.

The intent of S. 94 and H.R. 449 is to capture parts of the BLM's land exchange goals, the Santini-Burton Act and the partnerships that have been developed with local government. These bills provide for the disposal, by sale or exchange, of certain Federally owned, BLM-managed lands within a limited area of the Las Vegas valley. Fifteen percent of the proceeds from these land disposals would be distributed to local entities. The balance of the funds would be used for the benefit of natural resource management within Nevada for Federal land acquisition, capital improvements, development of a multi-species habitat conservation plan in Clark County and the development of recreation and natural areas within Clark County. The bill also provides for the transfer of lands to Clark County, at no cost, within the airport management area for McCarran International Airport. Should those lands be sold or leased, the United States would be paid 85% of the fair market value received. These bills also include a provision allowing local governmental entities to select public lands needed under the R&PP Act prior to their conveyance. Local and regional governmental entities may also apply for rights of way for flood control and water treatment purposes which can be granted in perpetuity and at no cost. Additionally, the Secretary is authorized to transfer the R&PP reversionary clause from one parcel of land to another upon request by the owner of those lands.

Nearly two years ago, the BLM acting Director, Mike Dombeck testified in opposition to an earlier version of this bill. At that time, Mr. Dombeck stated, "while we support the goal of disposing of certain public lands within Las Vegas to accommodate the city's growth, the Department strongly opposes this bill." He pointed out that the earlier bill would divert huge amounts of Federal resources and funds to local interests, offering a windfall to a few at the expense of many. Since that hearing two years ago, the Nevada delegation staffs have worked to resolve many of the problems we identified with the bill, as originally introduced in the 104th Congress.

Since H.R. 449 was introduced in the House (and its companion bill S. 94), a number of technical issues have been discussed and resolved between BLM and Congressional staffs. The bill that passed the House of Representatives on April 23, 1997, contained many of the recommended modifications. Those details are unnecessary to pursue here. However, there remain a few issues that are as yet unresolved that need to be remedied before the De-

partment can endorse the bill. For purposes of discussion, I will speak from the bill that was passed by the House, H.R. 449.

First, section 4(a) waives FLPMA sections 202 and 203 for land disposals and section 4(b)(3) waives environmental laws for construction of a youth activity facility. The Administration strongly opposes waivers of environmental laws in legislation. Such waivers undercut the applicability of the laws, undermine enforcement, possibly lead to serious environmental problems and set a dangerous precedent. We urge that these waivers be removed from the bill.

Second, section 4(f) of the bill establishes a special account for 85% of the proceeds of land sales. Creating a special account that makes funds available without further appropriation is a significant departure from current policy. However, for purposes of this situation, the Department could support the establishment of such a fund if its uses were limited to land acquisition within Nevada and reimbursement of costs incurred by the local BLM offices in arranging sales or exchanges.

Third, Section 4(d) of the bill is entitled, "Joint Selection Required." This section appears to require the Secretary to obtain local government concurrence before any land disposal action. The Secretary, just like a corporation or a private homeowner, should have the discretion to dispose of lands without having to wait for the local government to approve that transaction. After all, local government has the ultimate control of land development through planning and zoning. We believe strongly in consultation with local governments, but do not believe they should have veto power. We request that the term joint selection be changed to "consultation."

Fourth, Section 4(g) of the bill transfers 4,600 acres that are located within the Las Vegas Airport noise area to Clark County, at no cost. Specifically, the bill requires the Secretary of the Interior to transfer lands that are identified in a current Memorandum of Agreement (MOA) with the BLM to Clark County, at its request and at no cost. If the lands are later sold or leased, then the Airport Authority is required to pay the Federal government 85% of the value received. Although this approach is superior to the straight donation as designed in earlier versions of the bill, it seems more appropriate to allow the BLM to dispose of the lands subject to a covenant that assures compatibility with the airport noise area. I am sure the airport authority would like to keep this process as simple as possible without creating unnecessary long-term management problems. We would be glad to work with the subcommittee staff and the airport authority on this issue.

The bill contains a provision which allows public lands to be conveyed at less than market value for affordable housing anywhere within Nevada in accordance with local land use planning and zoning. In addition to local planning and zoning, the disposal of these lands must be in ac-

cordance with BLM land use plans. As this bill is a southern Nevada land disposal bill, we recommend that this provision apply only to the lands identified in Section 4(a).

Finally, we point out that the Department does not yet have on file the maps referenced in Section 4(a), section 4(b)(3), and section 8. On March 5, 1998, the District Court for the District of Columbia, in its decision in *Coast Alliance v. Babbitt,* essentially nullified section 220 of the omnibus Parks and Public Lands Management Act of 1996 because maps referenced in that section were not on file on the date of enactment of that act. We, therefore, believe it is essential for the Committee to work with the Department to develop a dated and filed map prior to the markup of this legislation. We were provided preliminary maps from House staff, but have not seen final maps.

CONCLUSION

Mr. Chairman, we all recognize that a population explosion is occurring in many western communities. Las Vegas is seeing an increased migration of people from southern California and large metropolitan areas in the east. Public lands can be part of the solution, and an effective land disposal program can assist in orderly growth. The BLM agrees that we need to move to dispose of much of the urban lands in the Las Vegas area when appropriate. Of the 130,000 acres within the area affected by this legislation, about 20,000 of those acres are public lands. These public lands should be disposed of in harmony with the needs of the local or tribal jurisdiction while protecting public interests. We also believe that all land disposals must benefit both the American people and the local community, as well as our natural resources.

This legislation provides a framework for dealing with the situation in the Las Vegas area. The bill deals with disposal of public land using a nearly identical boundary as developed within the BLM Draft Resource Management Plan. With changes to address the concerns outlined above, as well as some changes of a more technical nature, the Department could support the legislation. We would be happy to work with the Nevada delegation to provide such a solution.

Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee and discuss this bill. I will be glad to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 11 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act H.R. 449, as ordered 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):

SECTION 6901 OF TITLE 31, UNITED STATES CODE

6901. Definitions

In this chapter—

(1) "entitlement land" means land owned by the United States Government—

(A) * * *

* * * * * * *

(F) that is located in the vicinity of Purgatory River Canyon and Pinon Canyon, Colorado, and acquired after December 23, 1981, by the United States Government to expand the Fort Carson military installation; **[**or**]**

(G) that is a reserve area (as defined in section 401(g)(3) of the Act of June 15, 1935 (16 U.S.C. 715s(g)(3)))**[**.**]***; or*

(H) acquired by the Secretary of the Interior or the Secretary of Agriculture under section 5 of the Southern Nevada Public Land Management Act of 1997 that is not otherwise described in subparagraphs (A) through (G)

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SECTION 3 OF THE RED ROCK CANYON NATIONAL CONSERVATION AREA ESTABLISHMENT ACT OF 1990

SEC. 3. ESTABLISHMENT OF THE CONSERVATION AREA.

(a) IN GENERAL.—(1) * * *

* * * * * * *

[(2) The conservation area shall consist of approximately 195,610 acres as generally depicted on a map entitled "Red Rock Canyon National Conservation Area—Proposed Expansion", numbered NV–RRCNCA–002, and dated July 1994.**]**

(2) The conservation area shall consist of approximately 195,780 acres as generally depicted on the map entitled "Red Rock Canyon National Conservation Area Administrative Boundary Modification", dated August 8, 1996.

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