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2d Session }

SENATE

{ REPORT
{ 108-240

SLEEPING BEAR DUNES NATIONAL LAKESHORE

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MARCH 9, 2004.—Ordered to be printed
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Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 408]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 408) to provide for expansion of Sleeping Bear Dunes National Lakeshore, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 408 is to authorize the Secretary of the Interior to acquire approximately 104.45 acres of land by purchase from a willing seller and to revise the boundary of the Sleeping Bear Dunes National Lakeshore to include such land in that park.

BACKGROUND AND NEED

The Sleeping Bear Dunes National Lakeshore was established in 1970 to protect the outstanding natural features along a 35-mile stretch of Lake Michigan's eastern coastline. Since 1986, the owners of the Homestead Resort, which encompasses 6,300 feet of frontage along the Crystal River adjacent to the National Lakeshore, have been trying to develop their site as a golf course and housing development. The site contains wetland, riparian and upland habitat for a variety of species, and appraisals have ranged from \$7 million to \$9 million.

The National Park Service has sought to acquire the Homestead Resort site for inclusion in the Sleeping Bear Dunes National Lakeshore through an exchange of other National Park Service lands. Any exchange of existing National Park Service lands is, however, strongly opposed by local entities, interested organizations, visitors,

and the general public. H.R. 408 authorizes the Secretary of the Interior to acquire the Homestead Resort site for inclusion in the National Lakeshore, but prohibits the Secretary from acquiring the land through exchange or conveyance of lands that are within the boundary of the park on the bill's date of enactment.

LEGISLATIVE HISTORY

H.R. 408 was introduced on January 28, 2003, by Reps. Camp and Stupak and passed the House of Representatives on October 8, 2003 by voice vote. A similar bill, S. 808 was introduced by Senators Levin and Stabenow on April 8, 2003. The Subcommittee on National Parks held a hearing on S. 808 on September 9, 2003. S. Hrg. 108–193. At the business meeting on February 11, 2003, the Committee on Energy and Natural Resources ordered H.R. 408 favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on February 11, 2004, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 408.

The rollcall vote on reporting the measure was 23 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Domenici	
Mr. Nickles	
Mr. Craig	
Mr. Campbell*	
Mr. Thomas	
Mr. Alexander	
Ms. Murkowski	
Mr. Talent	
Mr. Burns	
Mr. Smith*	
Mr. Bunning	
Mr. Kyl*	
Mr. Bingaman	
Mr. Akaka	
Mr. Dorgan*	
Mr. Graham*	
Mr. Wyden*	
Mr. Johnson*	
Ms. Landrieu*	
Mr. Bayh*	
Mrs. Feinstein*	
Mr. Schumer*	
Ms. Cantwell	

* Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1(a) revises the boundary of Sleeping Bear National Lakeshore to include the lands described in subsection 1(b) when the title of those lands has vested in the United States in fee simple.

Subsection (b) describes the 104.45 acres of unimproved land, to be added to the park as referenced on National Park Service map 634/80078, and requires the Secretary of the Interior to keep that map on file and available for public inspection in appropriate offices of the National Park Service.

Subsection (c) authorizes the Secretary to acquire the land described in subsection (b) only by purchase from a willing seller.

Section 2 states that the Secretary may not acquire the land described in section 1(b) through any exchange or conveyance of lands that are within the boundary of the Sleeping Bear Dunes National Lakeshore as of the date of the enactment of this Act.

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, February 24, 2004.

Hon. PETE V. DOMENICI,
*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. 408, a bill to provide for expansion of Sleeping Bear Dunes National Lakeshore.

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

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 408—An act to provide for expansion of Sleeping Bear Dunes National Lakeshore

H.R. 408 would expand the boundary of the Sleeping Bear Dunes National Lakeshore in Michigan to include an adjacent 104-acre tract of undeveloped land located on the Crystal River.

Assuming appropriation of the necessary amounts, CBO estimates that purchasing the proposed addition would cost the federal government between \$8 million and \$10 million during the next year or two. Because the new tract probably would be maintained in its natural state, we estimate that any additional costs to develop or manage it would be insignificant. This estimate is based on information provided by the National Park Service, local tax authorities, and the current landowners.

H.R. 408 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

On October 1, 2003, CBO transmitted a cost estimate for H.R. 408 as ordered reported by the House Committee on Resources on September 24, 2003. The two versions of the legislation are identical, as are the cost estimates.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, 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 H.R. 408. 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. 408, as ordered reported.

EXECUTIVE COMMUNICATIONS

On February 11, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 408. These reports had not been received at the time the report on H.R. 408 was filed. When the 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 National Park Service at the Subcommittee hearing follows:

PREPARED STATEMENT OF RICHARD G. RING, ASSOCIATE DIRECTOR FOR ADMINISTRATION, BUSINESS PRACTICES, AND WORKFORCE DEVELOPMENT, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on s. 808, a bill to provide for the expansion of Sleeping Bear Dunes National Lakeshore to include selected acreage along the Crystal River.

The Department supports efforts to protect Sleeping Bear Dunes National Lakeshore. However, in order to meet the President's Initiative to eliminate the deferred maintenance backlog, we must continue to focus our resources on caring for existing areas in the National Park System (NPS). Therefore, we recommend that the committee defer action on S. 808 during the 108th Congress.

The existing NPS has more demands on it than ever before. Since 1991, 34 new units have been added to the System. These units alone in FY 2003 add \$25.6 million to the System's operating budget, over \$30 million in unfunded operational needs, and over \$265 million in unfunded one-time projects. In addition, we have expanded a number of units over that time period. Expansions also can bring with them increases in operational costs and maintenance needs. These units and expansions include important resources that we as Americans recognize as nationally significant. Our focus now though is to take better care of the

natural, cultural, and historic resources and visitor facilities already in the System.

S. 808 would redraw the boundary of the 71,192.60-acre Lakeshore to include a parcel of land that is contiguous to the existing Lakeshore. The 104.45-acre parcel encompasses 6,300 feet of frontage on the Crystal River and contains wetland, riparian, and upland habitat for a variety of species within mixed northern forests. The land appraisals have not been completed, but the estimated cost of acquiring the private land is between \$7–9 million dollars.

The private landowner first proposed development, including a golf course and homes, on the parcel in the late 1980s. To protect the parcel from development, several land exchange alternatives have since then been considered by the NPS and interested parties. However, for a variety of reasons, an agreed upon exchange could not be reached. The interested parties wished to acquire NPS land that was not suitable for exchange since NPS had previously acquired it through condemnation. In addition, through the General Management Plan scoping process, 87 percent of the 850 comments received expressed opposition to any type of exchange involving NPS lands. Comments were received from local entities, interested organizations, visitors, and the general public. This legislation was proposed as a solution for the protection of the property.

The Department of Justice has advised that Section 1(c)(2) of the bill, as introduced, violates the Recommendations Clause of the Constitution. In addition, the fiscal year 2004 budget request has already been submitted. We recommend that this section be removed.

Mr. Chairman, that concludes my prepared testimony. I would be happy to answer any questions you or the 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, the committee notes that no changes in existing law are made by the Act H.R. 408 as ordered reported.

