AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Calendar No. 661

110TH CONGRESS, 2d Session | SENATE | REPORT 110–309

NATIONAL TROPICAL BOTANICAL GARDEN AUTHORIZATION

APRIL 10, 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. 2220]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2220) to amend the Outdoor Recreation Act of 1963 to authorize certain appropriations, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL TROPICAL BOTANICAL GARDEN.

Chapter 1535 of title 36, United States Code, is amended by adding at the end the following:

"§ 153514. Authorization of appropriations

"(a) IN GENERAL.—Subject to subsection (b), there is authorized to be appropriated to the corporation for operation and maintenance expenses $500,000 for each of fiscal years 2008 through 2017.

"(b) LIMITATION.—Any Federal funds made available under subsection (a) shall be matched on a 1-to-1 basis by non-Federal funds.".

2. Amend the title so as to read: "A bill to authorize appropriations for the National Tropical Botanical Garden, and for other purposes.".

PURPOSE

The purpose of S. 2220, as ordered reported, is to authorize appropriations for the National Tropical Botanical Garden, located in Hawaii and Florida.

69–010

BACKGROUND AND NEED

The National Tropical Botanical Garden (originally the Pacific Tropical Botanical Garden) was chartered by Congress in 1964 to encourage and conduct research in basic and applied tropical botany; to foster and encourage fundamental research with respect to tropical plant life and to encourage research and study of the uses of tropical flora in agriculture, forestry, horticulture, medicine, and other sciences; to disseminate through publications and other media the knowledge acquired at the gardens relative to basic and applied tropical botany; to collect and cultivate tropical flora of every nature and origin and to preserve for the people of the United States species of tropical plant life threatened with extinction; and to provide a beneficial facility which will contribute to the education, instruction, and recreation of the people of the United States.

The National Tropical Botanical Garden includes several separate gardens in the State of Hawaii and one in southern Florida. Although the Garden is Congressionally chartered, it has not received regular Federal funding. Since its inception 43 years ago, the Botanical Garden has raised nearly $100 million in funding from non-Federal sources. In recognition of the increased costs associated with operating the five gardens, S. 2220 will authorize the Botanical Garden to receive limited Federal funding as a match to private funding.

LEGISLATIVE HISTORY

S. 2220 was introduced by Senators Akaka, Inouye, and Martinez on October 23, 2007. The Subcommittee on National Parks held a hearing on S. 2220 on November 8, 2007. (S. Hrg. 110–282.)

At its business meeting on January 30, 2008, the Committee on Energy and Natural Resources ordered S. 2220 favorably reported, with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on January 30, 2008, by a voice vote of a quorum present, recommends that the Senate pass S. 2220, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 2220, the Committee adopted an amendment in the nature of a substitute and an amendment to the title. As introduced, S. 2220 amended the Outdoor Recreation Act of 1963 (16 U.S.C. 460l et seq.). In lieu of amending that law, the substitute amendment adds a new section to chapter 1535 of title 36, United States Code, which is where the Congressional Charter for the National Tropical Botanical Garden is codified. The amendment also caps annual appropriations at no more than $500,000 and requires any Federal funds to be matched on a one-to-one basis with non-Federal funds.

SUMMARY OF S. 2220

S. 2220 amends chapter 1535 of title 36, United States Code, to add a new section which authorizes up to $500,000 to be appropriated for operation and maintenance expenses of the National Tropical Botanical Garden for each of fiscal years 2008 through 2017. Any Federal funds must be matched with non-Federal funds on a one-to-one basis.

COST AND BUDGETARY CONSIDERATIONS

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

S. 2220—A bill to authorize appropriations for the National Tropical Botanical Garden

S. 2220 would authorize the appropriation of $500,000 for each of fiscal years 2008 through 2017 to the National Tropical Botanical Garden, a nonprofit organization. The organization would use that funding to maintain the four gardens that it operates in Hawaii and Florida.

Assuming the availability of appropriated funds, CBO estimates that implementing S. 2220 would cost $2.5 million over the next five years and $5 million through fiscal year 2017. Enacting the legislation would not affect revenues or direct spending.

S. 2220 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 Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director of the Budget Analysis Division.

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. 2220. 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. 2220, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

In accordance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides the following information of congressionally directed spending items contained in S. 2220, as ordered reported:

Section: Sec. 1; Provision: Authorization of Appropriations; Member: Sen. Akaka.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the November 8, 2007 subcommittee hearing on S. 2220 follows:

STATEMENT OF KATHERINE H. STEVENSON, ACTING ASSISTANT DIRECTOR, BUSINESS SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before you to present the views of the Department of the Interior on S. 2220, to amend the Outdoor Recreation Act of 1963 to authorize certain appropriations. The bill would authorize funding for the National Tropical Botanical Garden for Fiscal Year 2009 and beyond.

The Department opposes S. 2220. We recognize the important contributions to scientific research, education, and conservation that are being made by the National Tropical Botanical Garden, a non-profit organization dedicated to discovering, saving, and studying the world's tropical plants. However, as critical as the Garden's work is, we believe that the use of limited National Park Service appropriations to fund the operation and maintenance costs of a private organization is inappropriate.

Since the mid-1990's, legislation has been passed and signed into law that authorized several hundreds of millions of dollars in grants to be passed through the NPS budget for non-Park System projects. Many of these bills provided support for very well-regarded organizations, similar to what is proposed in S. 2220. Each time this is done, it reduces the availability of NPS's limited amount of discretionary funds to address the needs of our national parks and other important national priorities. We believe funds are more appropriately directed at this time to reducing the long list of projects and needs that have been identified in our national parks.

Furthermore, the authorization of funding provided under S. 2220 is permanent, as it would authorize a grant to the Garden each year indefinitely, which is designed to increase with inflation. Over time, this authorization could draw considerable funding from the National Park Service's budget.

S. 2220 would amend the Outdoor Recreation Act of 1963 to authorize appropriations of $1 million for fiscal year 2009 and $500,000 for each subsequent fiscal year, adjusted for inflation, for the National Tropical Botanical Garden. The funding would be used to match public and private donations made for operating and maintaining the organization's five gardens.

The National Tropical Botanical Garden was chartered by Congress in 1964 [Public Law 88–449] as the Pacific Tropical Botanical Garden. Its name was changed in 1988 after the Garden expanded to include a donated site in Florida. The organization is based on the island of Kauai, and currently operates five distinct gardens—four in Hawaii and one in Florida—and several preserves, which together consist of about 1,800 acres. This network of gardens and preserves encompasses different ecosystems and environmental conditions, enabling the organization to grow and preserve a broad range of tropical plants. These

gardens are havens for imperiled plants and serve as living laboratories for staff scientists and visiting researchers from all over the world.

The National Tropical Botanical Garden is currently involved in the work that the National Park Service has undertaken to catalogue and provide long-term storage of seeds of threatened and endangered plant species in national park units, in case they are needed in the future for plant augmentation and restoration. The National Park Service has entered into a cooperative agreement with the Center for Plant Conservation (CPC), which is associated with the Missouri Botanic Garden, to coordinate the collection of seeds, other propagules, or plant parts of threatened and endangered plants in national park units. The National Tropical Botanical Garden is one of several entities the CPC is working with to obtain over 80 species from five national park units in Hawaii.

The bill as introduced would amend the Outdoor Recreation Act of 1963 and it is titled accordingly. There is no direct relationship between that Act and the National Tropical Botanical Garden. A free-standing authorization would be more appropriate legislatively and would make the purpose of the bill clearer.

Mr. Chairman, that concludes my prepared remarks. I would be happy to respond to questions from you or other members of the committee.

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 bill S. 2220 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):

TITLE 36—PATRIOTIC AND NATIONAL OBSERVANCES, CEREMONIES, AND ORGANIZATIONS

Subtitle II—Patriotic and National Organizations

PART B—ORGANIZATIONS

CHAPTER 1535—NATIONAL TROPICAL BOTANICAL GARDEN

§ 153501. Organization

(a) FEDERAL CHARTER.—National Tropical Botanical Garden (in this chapter, the "corporation") is a federally chartered corporation.

(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

§ 153502. Purposes

The purposes of the corporation are—

(1) to establish, develop, operate, and maintain for the benefit of the people of the United States an educational and scientific center in the form of one or more tropical botanical gardens, together with facilities such as libraries, herbaria, laboratories, and museums that are appropriate and necessary for encouraging and conducting research in basic and applied tropical botany;

(2) to foster and encourage fundamental research about tropical plant life and to encourage research and study of the uses of tropical flora in agriculture, forestry, horticulture, medicine, and other sciences;

(3) to disseminate through publications and other media the knowledge about basic and applied tropical botany acquired at the gardens;

(4) to collect and cultivate tropical flora of every nature and origin and to preserve for the people of the United States species of tropical plant life threatened with extinction; and

(5) to provide a beneficial facility that will contribute to the education, instruction, and recreation of the people of the United States.

* * * * * * *

§ 153514. Authorization of Appropriations

(a) IN GENERAL.—Subject to subsection (b), there is authorized to be appropriated to the corporation for operation and maintenance expenses $500,000 for each of fiscal years 2008 through 2017.

(b) LIMITATION.—Any Federal funds made available under subsection (a) shall be matched on a 1-to-1 basis by non-Federal funds.

○