

Committee on Natural Resources

Rob Bishop Chairman
Mark-Up Memorandum

September 19, 2016

To: All Natural Resources Committee Members

From: Majority Committee Staff – Spencer Kimball
Subcommittee on Federal Lands (x 6-7736)

Mark-Up: H.R. 5780 (Chairman Rob Bishop), To provide greater conservation, recreation, economic development and local management of Federal lands in Utah, and for other purposes.
September 21 & 22, 2016; 1334 Longworth House Office Building.

H.R. 5780 (Rep. Rob Bishop) “Utah Public Lands Initiative Act”

Summary of the Bill

H.R. 5780, introduced by Chairman Bishop (R-UT-1), designates and exchanges certain federal and non-federal land in the State of Utah for conservation, recreational, and economic development purposes in order to create land-use certainty for local communities and land users.

Cosponsor: Rep. Jason Chaffetz (R-UT-3)

Background

The Public Lands Initiative Act (PLI Act) represents a locally-driven effort to bring resolution and certainty to some of the most challenging land disputes in the State of Utah. The initiative is rooted in the belief that conservation and economic development can coexist and make Utah a better place to live, work, and visit. The bill is designed to benefit the State of Utah’s public education system as a result from increased energy and mineral production, protect and conserve certain lands for future generations, provide regulatory certainty for federal land users, increase revenue to local governments generated from multiple-uses of the land, and result in more opportunities for outdoor recreation and benefit the communities and businesses that support it.

Development History

The crafters of the bill received over 65 detailed proposals submitted by local governments, Native American tribes, and other interested stakeholders representing more than 120 different groups. These proposals informed the development of the bill and were combined into a single compromise plan. Further, the bill represents input received in over 1,200 meetings with local stakeholders over three years, thorough consultation with the U.S. Department of the Interior (DOI) the White House Council on Environmental Quality, over 50 detailed comments

to a previously-released discussion draft, and nearly 50 on-the-ground field trips carried out by Chairmen Bishop and Chaffetz, Senator Mike Lee and their staff. In addition, State legislators, whose districts include affected counties, participated in local discussions and planning. Other legislators with an interest in Utah's federal land management received briefings and information pertaining to the PLI Act as well.

The PLI Act creates a "PLI Planning and Advisory Committee" to oversee implementation of the bill with the same stakeholders and local officials who helped craft the legislation during the three-year planning process serving as members of Committee.

Federal Land Designations

The wilderness, National Monument, and other conservation and protective designations included in the bill are intended to end decades-long land use uncertainty and avoid unilateral presidential monument designations using authority under the Antiquities Act. The PLI Act covers 18 million acres of federal land in Summit, Duchesne, Carbon, Uintah, Grand, Emery, and San Juan Counties, with 4.6 million acres designated for conservation purposes and 1.15 million acres for new recreation or economic development opportunities. The bill also designates 360 miles of rivers as Wild and Scenic, expands Arches National Park by over 18,000 acres, designates one new National Monument (Jurassic National Monument), and releases 80,000 acres of Wilderness Study Areas back into multiple-use. The bill precludes BLM from designating National Conservation Areas (NCA) in the PLI Act as wilderness in the future. Further, the PLI Act does not limit the State of Utah's legal efforts to transfer other federal lands back to the State.

The PLI Act permanently protects 1.4 million acres of the Bears Ears region, including areas of cultural significance such as Cedar Mesa, Bears Ears Buttes, and Beef Basin as an NCA. Native Americans would represent 50% of the newly-created Bears Ears Management Commission, which is charged with developing a land management plan for the Bears Ears NCA.

In conjunction with the PLI Act, Chairman Bishop, with Congressman Chaffetz cosponsoring, recently introduced H.R. 5781, which provides Congress sole authority to designate any National Monument or increase the size of an existing National Monument on Federal land in the seven counties covered by the PLI Act, effectively preventing the President to do so using authority provided the Antiquities Act.

Land Exchanges and other Designations

The PLI Act will execute land transfers to local communities in the form of exchanges, direct conveyances, and management agreements and will convey 311,000 acres to the State of Utah School and Institutional Trust Lands Administration (SITLA) for a variety economic development purposes. It is important to note that the federal government or a state/local government, not private interests, will manage lands covered under the PLI Act. The bill will also create Utah's first state forest and expand several state parks.

Energy Provisions

The bill eliminates large-scale energy zones envisioned in previous working drafts of the PLI Act. Instead, the bill administratively reforms elements of the downstream energy permitting process. The energy section in the bill is modeled from the Interstate Oil and Gas Compact Commission proposal that increases state involvement in the permitting of oil and gas projects. Permitting backlogs delay projects and tapping into state resources will allow federal agencies to better focus their time and limited resources to leasing, environmental reviews, and conflict resolution. This approach does not affect current leasing procedures or environmental reviews required under the National Environmental Policy Act (NEPA).

Provisions regarding Economic Development on Tribal Lands

The bill includes a title regarding Native American economic development, including mineral transfers, land adjustments, and other provisions to help spur economic development in tribal communities. Specifically, the McCracken Mesa extension of the Navajo Reservation will receive ownership of the minerals located beneath the surface, boosting self-determination and economic development. The bill reverses the formula for the Utah Navajo Trust Fund, leaving 62.5% of the Aneth Extension oil and gas royalties in place for Utah Navajo school children (currently, 62.5% of the royalties are sent out-of-state to Window Rock and the Navajo Nation Capitol). The Uintah and Ouray Reservation and Hill Creek extension will receive ownership of the minerals located beneath the surface, boosting self-determination and economic development. Finally, the bill authorizes an assessment of the needs, opportunities and constraints in Uintah and Duchesne Counties related to the storage of Ute tribal water and the use of water rights currently held by that tribe.

Major Provisions of H.R. 5780 and Section-by-Section

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Administration Position

The U.S. Forest Service¹ and Bureau of Land Management² oppose the bill in its current form.

Anticipated Amendments

Chairman Bishop will offer an amendment that makes several corrections and changes to the bill.

Effect on Current Law (Ramseyer)

¹ Testimony of Leslie Weldon, Deputy Chief, National Forest System, United States Department of Agriculture Forest Service before the House Committee on Natural Resources Subcommittee on Federal Lands on H.R. 5780, the Utah Public Lands Initiative. September 14, 2016.

² Testimony of Neil Kornze, Director, Bureau of Land Management, U.S. Department of Interior before the House Committee on Natural Resources Subcommittee on Federal Lands on H.R. 5780, the Utah Public Lands Initiative. September 14, 2016.