

Subcommittee on Energy and Mineral Resources

Doug Lamborn, Chairman
Hearing Memorandum

November 15, 2016

To: All Subcommittee on Energy and Mineral Resources Members

From: Majority Committee Staff—Andrew Vecera, Joshua Hoffman
Subcommittee on Energy and Mineral Resources (x5-9297)

Hearing: **Legislative hearing on H.R. 1484 (Rep. Mark Amodei)**, To promote the development of renewable energy on public land, and for other purposes.
Tuesday, November 15, 2016, 11:30 AM, 1334 Longworth House Office Building.

H.R. 1484 (Rep. Mark Amodei, R-NV), “*Honor the Nevada Enabling Act of 1864 Act*”

Summary of the Bill

On March 19, 2015, Congressman Amodei introduced H.R. 1484, the “*Honor the Nevada Enabling Act of 1864 Act*.” This bill directs the Department of Agriculture (USDA) and the Department of the Interior to convey, in phases and without consideration, to the state of Nevada all interest of the United States in Federal lands owned, managed, or controlled by the Federal Government through the USDA or Interior for the purpose of permitting the state to use them to support select beneficiaries. The bill specifies exceptions, including components of the National Wilderness Preservation System, National Park System, and National Wildlife System, and federally recognized Indian reservations and lands.

Cosponsors

Rep. Hardy, Crescent [R-NV-4], Rep. Heck, Joseph [R-NV-3]

Invited Witnesses (in alphabetical order)

Mr. Demar Dahl
Elko County Commissioner
Deeth, NV

Professor Hillary Hoffman
Professor of Law
Vermont Law School
South Royalton, VT

Mr. Nick Loris
Research Fellow
Institute for Economic Freedom and Opportunity
The Heritage Foundation
Washington, D.C.

Background

Over eighty percent of the state of Nevada's land is owned by the Federal Government, curtailing Nevada's ability to develop its economy and provide for its citizens. This legislation would convey lands promised to the state of Nevada by the Federal Government when it became a state, putting it on par with 38 other states that received lands held by the Federal Government upon statehood.

In 2013, the Nevada Legislature passed Assembly Bill 227, creating a Nevada Land Management Task Force to write a report regarding transfer of Federally-held public lands to the state of Nevada. The Task Force issued its report in July 2014. The report found that the Federal Government had failed to convey lands to the state of Nevada upon statehood as it has, to date, with 38 other states. The report recommended conveyance of public lands held by the Federal Government to the state of Nevada in two phases. In the first phase, no less than 7.2 million acres of lands designated for disposal, checkerboard, and lands under certain leases and rights-of-way would be conveyed to the state.

This Act carries forward the Task Force's recommendations. It provides a framework for conveying land currently administered by the Departments of Agriculture and of the Interior to the state of Nevada in phases. It would not convey designated wilderness, national conservation areas, national monuments, wildlife refuges, lands managed by the Departments of Defense and Energy, Native American reservations, Bureau of Indian Affairs trust lands, and other similar specially-designated lands. It authorizes the state of Nevada to select not less than 7.2 million acres from certain categories of land, including checkerboard lands, lands identified as suitable for disposal in land use plans, and lands under certain categories of leases in the first phase. It includes surface, subsurface, and water rights in these conveyances, but honors valid existing rights, uses, permits, and public access, so that the lands can be accessible to and have economic benefit for the people of Nevada.

In subsequent phases, any other non-exempt lands managed by the Bureau of Land Management, Forest Service, and Bureau of Reclamation, would be conveyed upon request by the state or local governments. These lands shall not be sold by the state and shall be managed for multiple uses, ongoing net-revenue generation, and environmental health, function, productivity and sustainability.

As an additional condition for conveyances under this Act, the state shall agree to make payments to political subdivisions of the state using gross revenues derived from management of identified Federal lands conveyed under this Act to replace: 1) revenues lost through reduced

Federal payments on account of the conveyance of the lands, and 2) revenues that would otherwise have been shared with the political subdivisions by the Department of Interior from royalties, rents, and bonuses generated through energy and mineral leases on identified Federal lands had the lands remained in Federal ownership.

Major Provisions/Section-by-Section Analysis of H.R. 1484

Section 1: Short title; table of contents

This section defines the short title as the “*Honor the Nevada Enabling Act of 1864*”.

Section 2: Findings

The most notable findings of this section are:

- The Federal Government controls over 80 percent of Nevada’s land and this severely constrains the size and diversity of Nevada’s economy.
- States’ statehood enabling Acts contracts require the disposal of federally controlled public lands within the borders of those states and this has been honored by 38 states. The United States Supreme Court has declared that statehood enabling Act contracts are “solemn compacts” with enforceable rights and obligations.
- The Federal Government has failed to honor this promise with the states of Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Washington.
- Nevada could generate significant net revenue for the benefit of its lands and people if it were afforded the opportunity to manage an expanded state-controlled land portfolio.

Section 3: Definitions

This section defines terms used throughout this act. An important definition is made for "select beneficiaries" to include:

- public elementary and secondary education;
- public higher education;
- public specialized education;
- public mental and medical health services;
- social, senior, and veterans services;
- public programs for recovery plan development and implementation for candidate and threatened or endangered species; and
- political subdivisions of the state, but only with respect to payment for services and infrastructure on conveyed identified Federal lands that would otherwise be financed through property taxes or other revenues available to a political subdivision of the state.

Section 4: Conveyance of Identified Federal Lands to the State of Nevada

This section outlines the terms and conditions of the Federal lands conveyance. This conveyance is split between two phases outlined in Sections 5 and 6. The lands are to be used by the state to support the select beneficiaries as defined in Section 3.

Section 5: Initial Conveyance Phase

This section lays out the terms by which the initial conveyance phase will be carried out. Nevada may select 7.2 million acres of land from distinct categories during this phase.

Section 6: Subsequent Conveyance Phases

This section lays out the terms by which the subsequent conveyance phase will be carried out. This eligible lands not conveyed under Section 5 are conveyed during this phase.

Section 7: State Payments to Political Subdivisions of the State

This section outlines additional conditions on conveyances in relation to the payments of revenues generated from the management of lands conveyed. These payments replace revenues lost through reduced Federal payments on account of the land conveyance and payments to the Department of the Interior from royalties, rents, and bonuses from energy and mineral leases on conveyed lands. This section ensures the funds generated from conveyed lands remain paid to the same entities prior to the conveyance.

Effect on Current Law (Ramseyer):

No effect on current law.